



MEMO

To: ALL BOARD MEMBERS

**From: TIMOTHY M. CORCORAN
NEW MOTOR VEHICLE BOARD
(916) 445-1888**

Subject: UPCOMING EVENTS

Date: March 15, 2022

The following highlights the upcoming Board events:

- March 30, 2022, General Meeting (Zoom and teleconference)
- April 2022, tentative Special Meeting (date and location to be determined)
- June 15, 2022, General Meeting (Glendale)
- Industry Roundtable (date and location to be determined)

If you have any questions or concerns about any of the upcoming Board meetings, please do not hesitate to call me at (916) 445-1888.



R O S T E R
NEW MOTOR VEHICLE BOARD

P.O. Box 188680
Sacramento, California 95818-8680

<u>NAME</u>	<u>APPOINTING AUTHORITY</u>	<u>STATUS</u>
Ramon Alvarez C. Term exp. 1-15-22	Governor's Office	Dealer Member
Anne Smith Boland Term exp. 1-15-23	Governor's Office	Dealer Member
Kathryn Ellen Doi Term exp. 1-15-25	Governor's Office	Public Member
Ryan Fitzpatrick Term exp. 1-15-23	Governor's Office	Dealer Member
Ardashes (Ardy) Kassakhian Term exp. 1-15-26	Senate Rules Committee	Public Member
Bismarck Obando Term exp. 1-15-22	Governor's Office	Public Member
Jacob Stevens Term exp. 1-15-23	Governor's Office	Public Member

P.O. Box 188680
Sacramento, California 95818-8680
Telephone: (916) 445-1888
Board staff contact: Danielle Phomsopha
www.nmvb.ca.gov
DMV press contact: (916) 657-6438
dmvpublicaffairs@dmv.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
NOTICE OF GENERAL BOARD MEETING

Wednesday, March 30, 2022 at 10:30 a.m.
Via Zoom and Teleconference

On January 5, 2022, Governor Newsom issued Executive Order N-1-22, which suspends the sunset dates in Government Code section 11133 to March 31, 2022. Government Code section 11133 authorizes the New Motor Vehicle Board ("Board") to hold meetings through teleconference and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and address the Board. The requirements that each teleconference location be accessible to the public and that members of the public be able to address the Board at each teleconference location have temporarily been suspended.

The Board Meeting will be conducted via Zoom and teleconference. Board members will participate in the meeting from individual remote locations. Members of the public can attend the meeting remotely via one of several options listed below. Written comments, if any, can be submitted at nmvb@nmvb.ca.gov or during the meeting. Items of business scheduled for the meeting are listed on the attached agenda. Recesses may be taken at the discretion of the Chairperson and items may be taken out of order.

To request a reasonable modification or accommodation for individuals with disabilities at this or any future Board meeting or to request any modification or accommodation for individuals with disabilities necessary to receive agendas or materials prepared for Board meetings, please contact Danielle Phomsopha at danielle.phomsopha@nmvb.ca.gov or (916) 445-1888.

Join Zoom Meeting

<https://us02web.zoom.us/j/81651801388?pwd=TmJzaXVMSUd4M0tmMS9lTUUvZ1c1dz09>

Meeting ID: 816 5180 1388

Passcode: 099161

One tap mobile

+16699009128,,81651801388#,,, *099161# US (San Jose)

+12532158782,,81651801388#,,, *099161# US (Tacoma)

Dial by your location

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 816 5180 1388

Passcode: 099161

Find your local number: <https://us02web.zoom.us/j/kd5jzuY0ul>

P.O. Box 188680
Sacramento, California 95818-8680
Telephone: (916) 445-1888
Board staff contact: Danielle Phomsopha
www.nmvb.ca.gov
DMV press contact: (916) 657-6438
dmvpublicaffairs@dmv.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

A G E N D A

GENERAL MEETING

Wednesday, March 30, 2022 at 10:30 a.m.

Via Zoom and Teleconference

<https://us02web.zoom.us/j/81651801388?pwd=TmJzaXVMSUd4M0tmMS9lTUUvZ1c1dz09>

Please note that Board action may be taken regarding any of the issues listed below. As such, if any person has an interest in any of these issues, he or she may want to attend.

The Board provides an opportunity for members of the public to comment on each agenda item before or during the discussion or consideration of the item as circumstances permit. (Gov. Code § 11125.7)

1. **10:30 a.m. -- Meeting called to order.**
2. **Roll Call.**
3. **Presentation of Resolution to Peter Welch, retired President and CEO of the National Automobile Dealers Association (NADA).**
4. **Approval of the Minutes from the December 7, 2021, and January 12, 2022, General Meetings.**
5. **Appointment of Committee member to the Policy and Procedure Committee by the Board President.**
6. **Consideration of presentation of Resolution to Nanxi Liu, former Public Board Member.**
7. **Consideration of presentation of Resolution to Inder Dosanjh, former Dealer Board Member.**
8. **Annual update concerning the use of the Board's website - Administration Committee.**

9. **Consideration of the revised *Guide to the New Motor Vehicle Board* to include information on statutory and regulatory changes - Administration Committee.**
10. **Board member education concerning changes to the Administrative Procedure Act and Bagley-Keene Open Meeting Act - Board Development Committee.**
11. **Board member education concerning changes to the Political Reform Act and Public Records Act - Board Development Committee.**
12. **Discussion and consideration of the agenda and dates for the 2022 New Motor Vehicle Board Industry Roundtable - Government and Industry Affairs Committee and Ad Hoc Committee on Equity, Justice and Inclusion.**
13. **Discussion concerning pending legislation - Legislative Committee.**
 - a. Pending Legislation of Special Interest:
 - (1) Assembly Bill 1733 (Assembly Member Quirk) – State bodies: open meetings
 - (2) Assembly Bill 1795 (Assembly Member Fong) – Open meetings: remote participation
 - (3) Assembly Bill 1996 (Assembly Member Cooley) – State government: administrative regulations: review
 - b. Pending Legislation of General Interest:
 - (1) Assembly Bill 2600 (Assembly Member Dahle) – State agencies: letters and notices: requirements
 - (2) Senate Bill 361 (Senator Umberg) – Electronic transactions: motor vehicle finance
 - c. Pending Federal Legislation of General Interest:
 - (1) United State Senate Bill 2118 (Senator Wyden) – Clean Energy for America Act
14. **Consideration of the *Export or Sale-For-Resale Prohibition Policy Protest Guide* (Vehicle Code section 3085, et seq.) - Policy and Procedure Committee.**

15. **Consideration of revisions to the *Informational Guide for Manufacturers and Distributors*, which outlines their obligations to provide notices, schedules, and formulas mandated by the California Vehicle Code and Civil Code to the New Motor Vehicle Board and/or impacted dealers - Policy and Procedure Committee.**
16. **Executive Director's Report.**
 - A. Administrative Matters.
 - B. Case Management.
 - C. Judicial Review.
 - D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
 - E. Other.
17. **Public Comment. (Gov. Code § 11125.7)**
18. **Closed Executive Session.**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

Consideration of annual performance review for Executive Director - Executive Committee.
19. **Open Session.**
20. **Adjournment.**

<p>To request special accommodations for persons with disabilities at this or any future Board meeting or to request any accommodation for persons with disabilities necessary to receive agendas or materials prepared for Board meetings, please contact Danielle Phomsopha at (916) 445-1888 or danielle.phomsopha@nmvb.ca.gov.</p>
--



New Motor Vehicle Board RESOLUTION

WHEREAS, Mr. Peter Welch was appointed by the National Automobile Dealers Association (NADA) in January 2013 as its President and CEO, and under his leadership, NADA strengthened its core mission of advocating on behalf of franchised dealers in the federal legislative, regulatory, industry relations and public affairs arenas; and,


WHEREAS, prior to joining NADA, Mr. Welch served in several positions with the California New Car Dealers Association (CNCDA), the nation's largest state auto dealer association. From 1990 to 2003, Mr. Welch served as CNCDA's Director of Government and Legal Affairs, and then served as its president and CEO for 10 years. He was instrumental in the formation of CNCDA, and during his tenure oversaw and influenced the enactment of numerous laws affecting consumer protection rights, emissions and environmental matters, and dealer franchising and licensing laws.

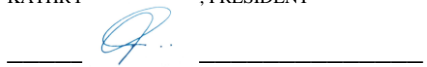
WHEREAS, during his career, Mr. Welch has capably assisted and supported the New Motor Vehicle Board (Board) throughout the years in many ways, such as guiding important legislation impacting the Board through the California legislature; advocating the importance of the Board to elected officials, the auto industry and new vehicle dealers; actively participating as a speaker and presenter at Board Industry Roundtables; and organizing support and advocacy to prevent legislation to abolish the Board and curtail a Sunset Review; and


WHEREAS, Mr. Welch has given with great unselfishness and dedication his time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State and others, thereby enhancing the respect of the auto industry; and,

THEREFORE, **BE IT RESOLVED** that each member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Mr. Peter Welch for his contribution to the Board, to the motor vehicle industry and to the people of the State of California.

Dated this 16th day of February 2021

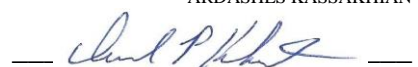

KATHRYN ELLENBOGEN, PRESIDENT



RAMON ALVAREZ, VICE PRESIDENT


ANN


INDER DOSANJH


ARDASHES KASSAKHIAN


NERT


NANXI LIU


BISMARCK OBANDO

P.O. Box 188680
Sacramento, California 95818-8680
Telephone: (916) 445-1888
Contact Person: Robin Parker
www.nmvb.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board (“Board”) held a General meeting on December 7, 2021, via Zoom and teleconference. Bismarck Obando, President and Public Member, called the meeting of the Board to order at 9:33 a.m.

President Obando welcomed everyone to the meeting and stated that the meeting materials are available on the Board’s website and hard copies of the materials can be requested by contacting the Board’s legal staff at (916) 445-1888 or nmvb@nmvb.ca.gov. President Obando also set forth the parameters for the meeting.

2. **ROLL CALL**

Board Members Present:	Ramon Alvarez C. (left at 12:07 p.m.) Anne Smith Boland Kathryn Ellen Doi Inder Dosanjh (left at 11:55 a.m.) Ryan Fitzpatrick Ardashes “Ardy” Kassakhian (arrived at 11:47 a.m.) Bismarck Obando Jacob Stevens
------------------------	---

Board Members Not Present:	Nanxi Liu
----------------------------	-----------

Board Staff Present:	Timothy M. Corcoran, Executive Director Dawn Kindel, Assistant Executive Officer Robin P. Parker, Chief Counsel Danielle R. Phomsopha, Senior Staff Counsel Suzanne Luke, Administrative Services Analyst Holly Victor, Mediation Analyst Lee Moore, Mediation Analyst Garrett Porter, (former) Legal Assistant Anthony M. Skrocki, Administrative Law Judge
----------------------	--

Mr. Corcoran noted that a quorum was established for general business and case management matters.

3. **APPROVAL OF THE MINUTES FROM THE FOLLOWING MEETINGS:**

- a. February 16, 2021, General Meeting;
- b. February 16, 2021, April 7, 2021, August 27, 2021, and September 15, 2021, Special Meetings;
- c. March 17, 2021, May 20, 2021, June 23, 2021, and August 24, 2021, meetings of the Government and Industry Affairs Committee; and
- d. July 21, 2021, meeting of the Ad Hoc Committee on Equity, Justice and Inclusion.

Member Stevens moved to adopt the minutes listed in items 3.a. through d. on the agenda. Member Alvarez seconded the motion. The motion carried unanimously.

4. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO DANIEL P. KUHNERT, FORMER PUBLIC BOARD MEMBER**

Member Alvarez moved to present a Resolution to Daniel P. Kuhnert, former Public Member, in recognition of his contribution to the New Motor Vehicle Board. Member Doi seconded the motion. The motion carried unanimously. President Obando noted that resolution will be mailed to the members for their signatures.

5. **ANNUAL REVIEW OF NEW MOTOR VEHICLE BOARD MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

The members were provided with a memo from Tim Corcoran concerning the Board's current mission and vision statements. Mr. Corcoran reported that these statements were last adopted two years ago and prior to that, the previous mission and vision statements were in place for approximately eight years. When the statements were amended two years ago, Committee members worked in conjunction with the Department of Motor Vehicles on a strategy session and the resulting draft was considered by the full Board.

There was no Board action as this matter was for information only.

6. **REPORT ON NON-SUBSTANTIVE CHANGES TO PROPOSED REGULATORY AMENDMENTS IN TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS - EXECUTIVE COMMITTEE**

- a. Definitions. (13 CCR § 550)
- b. Dismissals of Petitions and Protests. (13 CCR § 551.8)
- c. Notice of Assignment of Administrative Law Judges; Peremptory Challenges. (13 CCR § 551.12)
- d. Filing Fees. (13 CCR § 553.40)
- e. Form and Filing of Petition. (13 CCR § 556)
- f. Answer-Time of Filing; Form and Content. (13 CCR § 558)

- g. Filing of Protest, Schedules of Compensation for Preparation and Delivery Obligations, Warranty Reimbursement Schedules or Formulas, and Franchisor Incentive Program Reimbursement Pursuant to Vehicle Code Sections 3064, 3065, 3065.1, 3074, 3075, and 3076. (13 CCR § 586)
- h. Filing of Protest Pursuant to Vehicle Code Section 3065.3 (13 § 586.5)
- i. Hearings by Board or by Administrative Law Judge. (13 CCR § 590)

The members were provided with a memo from Tim Corcoran, Robin Parker, and Danielle Phomsopha regarding non-substantive changes to the proposed regulatory text that implement Assembly Bill 179, which was effective January 1, 2020. Ms. Phomsopha indicated that the final rulemaking packets were reviewed by the Office of Administrative Law and as notes in the memo it suggested the following non-substantive changes:

- For all authority and reference sections, OAL suggested the Board remove references to all subsections. For example, Note: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code; Rule 3.1362, California Rules of Court; and Section 284, Code of Civil Procedure.
- For Section 550(u), OAL suggested additional language in the definition of Protestant as follows: “For protests filed pursuant to Vehicle Code section 3085, an association, which is defined as an organization primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interests of dealers, is a protestant.”

The Executive Committee approved these changes so the staff could proceed with the proposed rulemaking. Pursuant to the Board adopted policy, this matter was brought to the attention of the full Board.

President Obando asked if there is additional rulemaking that must be done to complete the implementation of AB 179. Ms. Phomsopha indicated there is one more set of amendments to the regulations pertaining to Certified Mail and the repeal of appeals to complete, which will be considered by the Board later in this meeting.

There was no Board action as this matter was for information only.

7. **ANNUAL UPDATE ON TRAINING PROGRAMS ATTENDED BY STAFF - ADMINISTRATION COMMITTEE**

Dawn Kindel and Lee Moore provided the members with a memo on training programs attended by the staff. Miss Kindel reviewed the training and indicated that staff training is now provided to the members on a bi-monthly basis via the Administrative Matters Update so this annual report will be discontinued. The staff, including Miss Kindel and Mr. Corcoran, took implicit bias training.

Miss Kindel also indicated that Ms. Moore is now the training coordinator for staff. She has coordinated the training for the last six months. In addition, all training completed last year was done virtually.

President Obando was pleased the staff took implicit bias training and hopes it will assist the work of the Ad Hoc Committee on Equity, Justice and Inclusion with the upcoming workshop.

Member Doi was pleased that all training was cost-effective, and staff took advantage of the available resources.

There was no Board action as this matter was for information only.

8. **DISCUSSION AND CONSIDERATION OF OPTIONS TO MOVE THE BOARD'S OFFICES - ADMINISTRATION COMMITTEE**

The members were provided with a memo from Tim Corcoran, Dawn Kindel, and Suzanne Luke regarding options to move the Board's offices. Mr. Corcoran indicated that the Board's office has been in its current location for many years. The property owner is no longer interested in continuing our long-term lease and the Board is currently in a soft-term lease, which can be ended by either party at any time. Therefore, the Board must look for a long-term solution, knowing the current building isn't an option.

Additionally, Mr. Corcoran indicated that telework has been embraced by all staff, so the Board can look for a smaller space than it currently has. Staying close to the current location for the convenience of staff and Board Members who arrive at the nearby airport is important.

As indicated in the memo, three options were presented to the Board for consideration:

(1) **Relocate to the DMV Headquarters' Campus**

DMV has a private space available to house the Board's offices within the DMV's main headquarters building at 2415 1st Avenue, in Sacramento. The space will require one-time tenant improvements, including construction and modular furniture, of approximately \$1,228,000 in order to make the space useable. This one-time cost would be paid for out of the Board's reserve funds which can be allocated for this purpose via a Budget Change Proposal. This location has 24/7 security and Board staff would have on-site access to human resources and information technology assistance. Parking is available and affordable, and the location is only one mile from the current location so staff commutes would not be negatively affected. DMV has numerous modern conference rooms to accommodate our meeting and hearing needs. The preliminary costs are:

Estimated Expenses	Sq. Ft.	Price/Sq. Ft	Per Month
Rent (including janitorial and utilities)	4,479	\$2.55	\$11,421

DGS Lease Fees			\$219
Telecom			\$3,039
Total Ongoing Expense			\$14,679

(2) Relocate to a DGS owned facility in the Sacramento region

The estimate below is based on a general market search for a DGS owned facility within the Sacramento region. The square footage is based on the Board's current footprint with the elimination of our on-site conference space. Based on the rate quoted, the Board would have to increase its fees in order to afford a higher lease payment.

Estimated Expenses	Sq. Ft.	Price/Sq. Ft	Per Month
Rent	6,941	\$6.63	\$46,019
DGS Lease Fees			\$884
Janitorial, Utilities, security, etc.			\$9,318
Total Ongoing Expense			\$56,221

(3) Remain in current location if agreed upon by the lessor.

The current costs are noted below:

Current Expenses	Sq. Ft.	Price/Sq. Ft	Per Month
Cost for Existing Office (janitorial, maintenance, utilities included)	8,613	\$1.53	\$13,178
DGS Lease Fees			\$253
Total Current Expense			\$13,431

President Obando indicated that the Board has been anticipating the need to move for many years now. He inquired as to when the Board will relocate once the Board approves of the move and Miss Kindel indicated that if the Board were to approve a move to the DMV location, a Budget Change Proposal request would go to the Department of Finance to begin the process of allocating the Board's reserve money for the move. The Board would also need to complete construction on the new facility to set it up its offices. Therefore, the timeframe would be approximately 12-14 months.

Miss Kindel confirmed that the Board will have the ability to utilize and reserve conference rooms at DMV headquarters for hearings and meetings. There is the possibility that the Board may have one conference room dedicated to it to hold settlement conferences, merits hearings, Board meetings and industry roundtables. There will also be parking for visitors.

Mr. Corcoran indicated that staff also inquired about hoteling space if the Board were able to limit in-office days. That is what led to considering the unutilized space at DMV. This

move, if approved would allow the Board to move out of a dedicated space and be co-located.

Mr. Corcoran also indicated that the cost estimate to move and build-out the space to make it suit the Board's needs is on the high-end to ensure all costs are covered. Despite that, Mr. Corcoran would not anticipate a need to increase the Board fees to cover this cost since it has a couple years' operating costs in our reserves.

Although there are COVID-related impacts, as well as supply and chip shortage issues affecting vehicle sales, this is something the staff will proactively monitor, separate from the move, in order to determine if the Board needs to explore a fee increase to maintain a healthy reserve balance.

Mr. Corcoran stated that staff have been updated on the potential move and the DMV location meets their needs since the new location would be within a five-mile radius of the current location and there is affordable parking.

In response to Member Doi's questions, Mr. Corcoran shared that the Board will have access to all conference rooms at the DMV at no additional charge. There is a reservation system that allows people to reserve rooms in advance. Mr. Corcoran looks forward to working with DMV on setting up a formal hearing room, either with the Board's current furniture or an alternative setup.

In response to Member Alvarez's inquiry, Mr. Corcoran and Miss Kindel indicated that they believe since the construction is being worked on internally, the Board would not be going through the bidding process since there is not an outside contractor. Staff will monitor this as the process continues and advise the Board if there are any cost or bidding changes.

Staff will also monitor the costs to buildout and construct the new location to meet the Board's needs with the hope that costs come in lower than the estimate provided. Staff have visited the space and are able to see that the space generally meets the Board's needs, using modular offices to save money. More details will be forthcoming if the Board approves this move.

In response to Member Doi's inquiry, Mr. Corcoran explained that the Board will have a sufficient number of cubicles or offices for each staff member, plus drop-in spaces for judges who may want to use space.

Member Stevens noted he appreciates the efficiency that will be gained by the new location and staff's diligence in coming up with this path forward.

Member Alvarez moved to direct staff to proceed with looking at the DMV space. Member Fitzpatrick seconded the motion. Member Doi offered a friendly amendment to the motion that would be to adopt the Committee's recommendation to move the Board's offices to

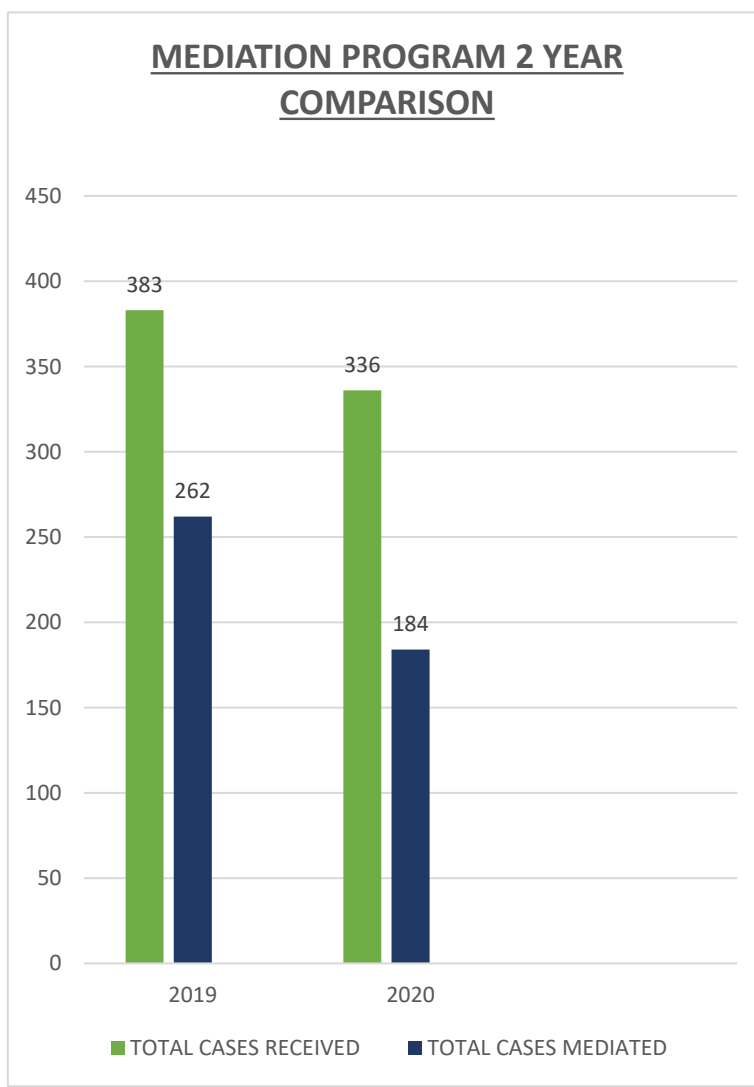
the DMV headquarters campus. Mr. Alvarez accepted the amendment. The motion carried unanimously.

9. **ANNUAL UPDATE ON BOARD CONSUMER MEDIATION SERVICES PROGRAM - ADMINISTRATION COMMITTEE**

The members were provided with a memo from Dawn Kindel, Holly Victor, and Lee Moore regarding the annual update on the Board Consumer Mediation Services Program. Ms. Victor noted that, as indicated in the memo, in 2020 there were 336 mediation cases received. Of those, 184 were completely mediated; 152 were not mediated due to lack of jurisdiction, no response from the dealer or manufacturer, or the consumer abandoned the case.

Ms. Victor indicated that out of the 184 cases, 73% were mediated successfully and 27% were closed because a successful resolution was not reached. Eighty of these cases were dealer-related and 79% of those were successfully mediated, 21% were closed because a successful resolution could not be reached. Out of the 184 cases, 104 were manufacturer-related and 69% of those were mediated successfully. Thirty-one percent were closed because a successful resolution could not be reached.

As shown on the chart in the memo, as indicated below, there is a two-year comparison. In 2019, there were 383 mediation cases received and 262 were mediated successfully.



Mr. Corcoran commended staff for having a greater than 70% success rate, especially given that the Board's mediation program is 100% voluntary.

President Obando inquired whether there was anything the Board Members could do to better improve the relationship between dealers and manufacturers to increase the success rate. Mr. Corcoran indicated staff would keep that offer in mind for 2022.

There was no Board action as this matter was for information only.

10. **CONSIDERATION OF NOMINEE FOR THE SOLON C. SOTERAS EMPLOYEE RECOGNITION AWARD RECIPIENT AS RECOMMENDED BY THE BOARD DEVELOPMENT COMMITTEE**

At the July 18, 2000, General Meeting, the members adopted an Employee Recognition Award Program to recognize staff for their accomplishments. The program was renamed the Solon C. Soteris Employee Recognition Award. The Board Development Committee recommended this year's Solon C. Soteris Employee Recognition Award be awarded to Staff Services Analyst, Holly Victor, in recognition of her service to the State of California's COVID-19 Contact Tracing Program.

Mr. Corcoran commented that he is appreciative and proud to have had Holly represent the New Motor Vehicle Board on the contact tracing assignment. This award is a small token of appreciation for her service.

Ms. Victor shared that she is thankful for the nomination for this award. She worked as a case investigator, contact tracer and vaccine coordinator during her assignment. She received approximately 10-25 cases per day, and provided information for people during their isolation period as well as resources to families without access to food or needed temporary housing to be able to separate from other members of their household during isolation. Ms. Victor found the experience rewarding as she was able to help people during a scary and unknown time.

Member Doi expressed her appreciation for all staff during this trying time. Member Doi believes Holly deserves to be recognized for her sacrifice and her efforts in contact tracing.

President Obando also reiterated his appreciation for Holly's commitment to the Board and the State of California. It is because of people like Holly and her work that has helped us move forward in the pandemic.

Member Doi moved to adopt the Committee's recommendation. Member Smith Boland seconded the motion. The motion carried unanimously.

11. **ANNUAL REPORT ON BOARD DEVELOPMENT PROGRAM - BOARD DEVELOPMENT COMMITTEE**

Tim Corcoran and Danielle Phomsopha provided the members with a memo regarding

the Board education and development for 2022. Ms. Phomsopha noted that at the January 12, 2022, General Meeting there will be education concerning Statement of Incompatible Activities by John T. McGlothlin, the Deputy Attorney General assigned to the Board. Some of the other speakers listed for January may be pushed to later meetings depending on whether their preference is to appear via Zoom or in-person.

Member Doi reiterated that if other Board Members have ideas for Board development, especially the newer Board Members, it would be helpful to share those ideas for consideration.

President Obando shared that he has learned through the pandemic that while there is tremendous value to in-person relationship building, we are also able to expand our wings regarding technology and our virtual capabilities. President Obando thinks this is good opportunity to bring in speakers on a national level if we can do so virtually. The Board may want to continue to meet in a hybrid approach, both in-person and virtually.

Member Doi mentioned that once the Board Members are able to meet in-person, the Board may want to have a meeting at DMV Headquarters in order to view the new space. Mr. Corcoran thought this was a good idea.

There was no Board action as this matter was for information only.

12. **REPORT ON THE BOARD'S FINANCIAL CONDITION AND RELATED FISCAL MATTERS - FISCAL COMMITTEE**

- a. Quarterly Fiscal Report for the 4th quarter of fiscal year 2020-2021.
- b. Status report concerning the Board's collection of the Arbitration Certification Programs' annual fee.
- c. Discussion and consideration of the Board's proposed budget for the next fiscal year, and whether any dealer/manufacturer fee adjustments are necessary.

The members were provided with a memo from Tim Corcoran, Dawn Kindel, and Suzanne Luke regarding the Board's financial condition and related fiscal matters. Ms. Luke indicated that through the end of Fiscal Year 2020-2021, the Board began with a budget appropriation of \$1.67 million ending with current reserve balance of \$2.6 million. The Board has expended 95% of its appropriated budget for the fourth quarter. The staff does not anticipate the need for fee adjustment.

With regard to the Arbitration Certification (ACP) annual fee collection, Ms. Luke indicated that \$1.5 million was collected and deposited directly into the ACP's account. The ACP fee collection is complete.

Ms. Luke commented that the Board's annual fee collection for manufacturers and distributors began in August. Staff have collected \$715,000 out of approximately \$800,000 from those manufacturers and distributors.

Lastly, the Board's total budget allotment for Fiscal Year 2021/2022 is \$1.78 million.

In response to President Obando's question, Ms. Luke explained that there was a 10% increase in expenditures compared to the fourth quarter for last fiscal year and that was due to personnel services. Mr. Corcoran clarified that the Board upgraded some staff classifications so there has been an increase in personnel costs associated with that. In addition, the Board has seen savings in other areas this year, like contract spending and travel. Next year, staff will be mindful to ensure there isn't an overrun that exceeds this year's cost savings.

President Obando supports the idea of making modifications to the budget to ensure the Board does not go into the red next year.

Member Doi inquired, and Ms. Luke confirmed, that in January the Board will get a final update on the expenditures for the current fiscal year.

There was no Board action as this matter was for information only.

13. **REPORT ON THE NEW MOTOR VEHICLE BOARD'S RECENT INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

The members were provided with a memo from Tim Corcoran and Danielle Phomsopha regarding the Board's recent Industry Roundtable on September 8-9, 2021. Ms. Phomsopha noted that 178 people attended Day One and 137 people attended Day Two, in addition to several Board members and staff. A survey was created in order to identify who attended and solicit feedback on the topics presented.

As noted in the memo, the attendees represented attorneys, vendors, automakers, dealers, government regulators and the general public, with most attendees being attorneys, dealers and government regulators.

In regard to the virtual format, a slight majority preferred a virtual event.

General feedback and comments included suggestions for topics/speakers for future Roundtable events including: franchise litigation issues, smog industry emission topics, online vehicle sales and continued ZEV discussion.

Members Stevens and Alvarez expressed their appreciation for staffs' work in putting on the Roundtable event. Member Smith Boland also expressed her appreciation and acknowledge of the excellent speakers.

President Obando was pleased to see attendees that wouldn't typically engage with the Board and believes the virtual environment allows continued outreach of stakeholder development. He also expressed his appreciation to Member Doi for her assistance in hosting Day Two.

There was no Board action as this matter was for information only.

14. **DISCUSSION REGARDING THE UPCOMING WORKSHOPS ON EQUITY, JUSTICE AND INCLUSION IN THE MOTOR VEHICLE INDUSTRY - AD HOC COMMITTEE ON EQUITY, JUSTICE AND INCLUSION**

Mr. Corcoran and Ms. Phomsopha discussed the upcoming Workshops on Equity, Justice and Inclusion in the motor vehicle industry and advised one more manufacturer representative has been added to the agenda for Day One.

Ms. Phomsopha reviewed the following draft agenda of the 2022 Workshop on Equity, Justice and Inclusion in the Motor Vehicle Industry as follows:

Day 1:

10:00 a.m. Introduction of Board Members, staff, and attendees by the California New Motor Vehicle Board President

10:10 a.m. Keynote address from representative, California State Transportation Agency

10:20 a.m. State of the Industry, with Respect to Diversity in the Automotive Franchise Network

- ❖ Representative, National Association of Minority Automobile Dealers (NAMAD)
- ❖ Representative, Crane Automotive Resources

11:00 a.m. Automaker Discussion of Women, Minorities and other Members of Historically Excluded Groups in the Automotive Franchise Network

- ❖ Representative, Ford Motor Company
- ❖ Representative, General Motors, LLC
- ❖ Representative, Nissan North America, Inc.
- ❖ Representative, Stellantis
- ❖ Representative, Toyota Motor Sales USA Inc.

11:40 a.m. Q & A Session moderated by New Motor Vehicle Board President
All presenters

Day 2:

10:00 a.m. Introduction of Board Members, staff, and attendees by the California New Motor Vehicle Board President

10:15 a.m. Welcoming remarks from Representative California State Transportation Agency

10:30 a.m. Presentations on Equity and EVs

- ❖ Representative, Greenlining Institute
- ❖ Representative, Access Clean California
- ❖ Representative, National Association of Minority Automobile Dealers (NAMAD)
- ❖ Representative, California New Car Dealers Association (CNCDA)

11:40 a.m. Q & A Session moderated by New Motor Vehicle Board President
All presenters

President Obando indicated he is looking at the calendar for scheduling and anticipates as early January or February timeframe to hold the event. Staffs' workload calendar will be utilized to determine a final date.

Mr. Corcoran suggested that this workshop may be ripe for being the Board's next industry roundtable event where the Board may be able to garner a larger audience size and bring more people into this important discussion.

Member Alvarez agreed with this idea. President Obando wanted to continue this discussion at the next Board Meeting.

There was no Board action as this matter was for information only.

15. **CONSIDERATION OF PROPOSED REGULATORY AMENDMENTS TO ELIMINATE REFERENCES TO REGISTERED MAIL BY REPEALING SECTION 550.20 (USE OF CERTIFIED MAIL IN LIEU OF REGISTERED MAIL) AND AMENDING SECTION 564 (DECISION) OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning regulatory amendments. Ms. Parker remarked that this is for cleanup as there is no longer any statutory authority that requires the Board to send anything via registered mail. Section 550.20 needs to be repealed because we no longer need to have the regulation that allows us to send via certified mail in lieu of registered mail. The amendment to Section 564 also just eliminates the reference to registered mail.

Member Doi moved to adopt the proposed regulations. Member Stevens seconded the motion. The motion carried unanimously.

President Obando read the following statement into the record:

Given the Board's decision to go forward with the proposed regulations, I hereby delegate to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. Notice of the proposed rulemaking will be published in the California Regulatory Notice Register and will be sent to the Public Mailing List. During the public comment period, I want to invite and

encourage written and oral comments. Additionally, a public hearing at the Board's offices may be held to accept oral and written comments.

By the Board instructing staff to go forward with the proposed regulations, this does not necessarily indicate final Board action. If any written or oral comments are received, the full Board will consider the comments and reconsider the text of the proposed regulations. Furthermore, if the staff decides that substantive modifications to the proposed text are necessary, the Board will consider those modifications at a noticed meeting. However, non-substantive changes involving format, grammar, or spelling suggested by the Office of Administrative Law or the staff will not be considered by the Board because they are non-regulatory in nature. They will be considered by the Executive Committee and ultimately reported to the Board at a future meeting. If there are no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

16. **DISCUSSION CONCERNING ENACTED AND PENDING LEGISLATION -
LEGISLATIVE COMMITTEE**

a. Enacted Legislation of Special Interest:

- (1) Assembly Bill 361 (Assembly Member Rivas) - Open meetings: state and local agencies: teleconferences
- (2) Assembly Bill 1291 (Assembly Member Frazier) - State bodies: open meetings

b. Pending Legislation of Special Interest:

- (1) Assembly Bill 29 (Assembly Member Cooper) - State bodies: meetings
- (2) Assembly Bill 885 (Assembly Member Quirk) - Bagley-Keene Open Meeting Act: teleconferencing

c. Pending Legislation of General Interest:

- (1) Assembly Bill 1211 (Assembly Member Muratsuchi) - Electric mobility manufacturers
- (2) Senate Bill 361 (Senator Umberg) - Electronic transactions: motor vehicle finance

d. Enacted Legislation of General Interest:

- (1) Assembly Bill 473 (Assembly Member Chau) - California Public Records Act
- (2) Senate Bill 339 (Senator Wiener) - Vehicles: road usage charge pilot program
- (3) Senate Bill 500 (Senator Min) - Autonomous Vehicles: zero emissions

e. Pending Federal Legislation of General Interest:

- (1) United States Senate Bill 2118 (Senator Wyden) - Clean Energy for America Act

The members were provided with a memorandum from Tim Corcoran and Danielle Phomsopha concerning pending legislation. Ms. Phomsopha mentioned the bills of special interest to the Board that have been enacted as listed above. Ms. Phomsopha referred the Board Members to the memorandum for other enacted bills of general interest. She also mentioned that the staff will continue to track the other bills listed since we are in the middle of a two-year legislative session. The legislature is in recess until January 3, 2022.

President Obando indicated that the main bill of impact to the Board is AB 361 relating to virtual meetings. It is likely that further changes regarding in-person meetings may be forthcoming and we will keep the Board Members updated in this regard.

Member Doi inquired as to whether the authorization of remote meetings can be done by executive order or only legislatively. Ms. Phomsopha confirmed that it can be done by executive order and it was done by executive order prior to this statute being amended.

There was no Board action as this matter was for information only.

17. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Corcoran provided the members with a report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status. Mr. Corcoran provided a wrap up of 2021:

- The Board transitioned to holding virtual merits hearings. No significant issues occurred, and the Board staff fine-tuned anything that needed to be addressed. The virtual merits hearing format allowed parties and witnesses additional flexibility and efficiencies not always provided for in an in-person format.
- The Board has prevailed substantively on four petitions for writ of mandate this year, with one returned for changes to one finding in the Board's decision.
- The Board set a record by holding 12 public meetings this year, with the majority of those being committee meetings. This allowed for more discussion and engagement of Board Members as well as provided transparency to the public. All meetings are recorded and posted online.

- Attendance of the Board's virtual Industry Roundtable also set a record. Mr. Corcoran shared he received many inquiries from legislators who wanted to view the event indicating the popularity of the event discussing electric vehicles.
- This is also the first full year of distributing all meeting materials electronically to Board Members. This has resulted in savings on costs for paper and equipment and allows for easier transparency online as well. This transition was a result of Board Member recommendation.
- Mr. Corcoran expressed congratulations to Member Doi on her reappointment and to new Members Stevens and Fitzpatrick.
- Mr. Corcoran also acknowledged the completion of staff retention and succession planning as well as the addition of securing additional support to complement our organizational structure.
- Mr. Corcoran will be providing the Board Members an expansion on the Board's achievements in preparing for his review. He also indicated his appreciation for the Board Member's leadership and support in allowing the staff to seize opportunities to grow, transform and be more efficient.

Member of the public, Lisa Gibson, shared that she participated in at least one of the virtual merits hearings and felt it was done professionally and applauded staff in how it was conducted.

Ms. Parker reported that there is no update to the judicial review portion of the report. The appeal is pending in the *Barber* case.

Ms. Parker provided some year-end statistics, including the following: There have been 35 protests have been filed this year. In comparison, 60 protests were filed in 2020. The average is approximately 45-50. Although the number of protests filed is on the low side this year, the workload has still been tremendous with 31 virtual merits hearing days.

In regard to notices of termination, there have only been 22 with 13 of those being for recreational vehicles leaving only nine notices dealing with cars or other types of vehicles. Ms. Parker indicated that this is also a lot lower than normal.

Ms. Parker introduced the Board's new legal assistant, Garrett Porter. Mr. Porter indicated he is enjoying working with Board staff so far. [Subsequent to the meeting, Mr. Porter resigned.]

Ms. Phomsopha indicated that for case management, two protests were dismissed and the merits hearing in the consolidated establishment protests involving *Airport Marina Ford* and *Central Ford* have been assigned to Judge Pipkin. Counsel will have a conference call on December 20 to determine if they are going forward with the merits hearing on January 18, 2022. In addition, another potential merits hearing is set for February 21, 2022.

Ms. Doi expressed her appreciation for Mr. Corcoran's highlights of the Board and staffs' accomplishments for the year.

There was no Board action as this matter was for information only.

18. **SELECTION OF BOARD MEETING DATES FOR 2022**

The members were provided with a memorandum from Tim Corcoran concerning Board meeting dates for 2022. The members went off the record for this discussion. President Obando indicated that the following meeting dates have been selected:

- January 12, 2022, General Meeting via Zoom and teleconference
- March 30, 2022, General Meeting from 10:30 a.m. to 2:30 p.m. in Sacramento
- June 15, 2022, General Meeting from 10:30 a.m. to 2:30 p.m. in Glendale

19. **PUBLIC COMMENT (Gov. Code § 11125.7)**

No additional public comment was presented.

20. **ORAL PRESENTATION BEFORE THE PUBLIC MEMBERS OF THE BOARD**

President Obando noted that Judge Skrocki, the assigned Administrative Law Judge that was involved in this matter, was observing the Board Meeting but dropped off the meeting prior to this Agenda Item and is no longer observing the meeting.

President Obando noted for the record that Vice President Kassakhian joined the meeting.

Mr. Corcoran confirmed a quorum of the Public Members were present.

President Obando reminded the Dealer Members in attendance, that they may not participate in, hear, comment or advise other members upon or decide Agenda Items 20-21.

President Obando read the following statement “comments by the parties or by their counsel that are made regarding any proposed decision, ruling, or order must be limited to matters contained within the administrative record of the proceedings. No other information or argument will be considered by the Board.” Furthermore, he indicated that since this is an adjudicative matter as described in Government Code section 11125.7(e) and (f), members of the public may not comment on this matter.

PUTNAM AUTOMOTIVE, INC., dba PUTNAM SUBARU v. SUBARU OF AMERICA, INC.
Protest No. PR-2542-17

Oral comments were presented before the Public Members of the Board. Gavin M. Hughes, Esq. and Robert A. Mayville, Jr., Esq. of the Law Offices of Gavin M. Hughes represented Protestant. Lisa M. Gibson, Esq. of Nelson Mullins Riley & Scarborough LLP represented Respondent.

21. **CLOSED EXECUTIVE SESSION DELIBERATIONS**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CONSIDERATION OF PROPOSED ORDER

PUTNAM AUTOMOTIVE, INC., dba PUTNAM SUBARU v. SUBARU OF AMERICA, INC.

Protest No. PR-2542-17

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss Protest, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Member Doi moved to adopt the Administrative Law Judge's Proposed Order. Member Stevens seconded the motion. The motion carried unanimously.

22. **OPEN SESSION**

The Public Members returned to Open Session. Ms. Parker announced the decision in Agenda Item 21.

23. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 12:38 p.m.

Submitted by

TIMOTHY M. CORCORAN
Executive Director

APPROVED: _____
Bismarck Obando
President
New Motor Vehicle Board

P.O. Box 188680
Sacramento, California 95818-8680
Telephone: (916) 445-1888
Board staff contact: Robin Parker
www.nmvb.ca.gov
DMV press contact: (916) 657-6438
dmvpublicaffairs@dmv.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held a General meeting on January 12, 2022, via Zoom and teleconference. Bismarck Obando, President and Public Member, called the meeting of the Board to order at 9:32 a.m.

Member Obando welcomed everyone and set forth the parameters for the meeting.

2. **ROLL CALL**

Board Members Present:	Ramon Alvarez C. Anne Smith Boland Kathryn Ellen Doi Ryan Fitzpatrick (joined at 9:35 a.m.) Ardashes "Ardy" Kassakhian Bismarck Obando (absent 9:34 a.m. to 10:44 a.m.) Jacob Stevens
Board Members Not Present:	Inder Dosanjh
Board Staff Present:	Timothy M. Corcoran, Executive Director Dawn Kindel, Assistant Executive Officer Robin P. Parker, Chief Counsel Danielle R. Phomsopha, Senior Staff Counsel Suzanne Luke, Administrative Services Analyst Holly Victor, Mediation Analyst Lee Moore, Mediation Analyst Garrett Porter, (former) Legal Assistant Anthony M. Skrocki, Administrative Law Judge Stephen Smith, Administrative Law Judge

Mr. Corcoran noted that a quorum was established for general business and case management matters.

President Obando indicated that due to a conflict he would be absent for about an hour so Vice President Kassakhian would preside over a portion of the meeting. (Vice President Kassakhian presided over Agenda Items 3-4, 8-14, 18.a., and 19.a. President Obando presided over Agenda Items 5-7, 18.b., 19.b., and 20-21.)

3. **PRESENTATION OF RESOLUTION TO DANIEL P. KUHNERT, FORMER PUBLIC BOARD MEMBER**

At the December 7, 2021, General Meeting, the members unanimously moved to present Dan Kuhnert, former Public Member, with a Resolution in appreciation for his dedication and service to the State.

Vice President Kassakhian read the Resolution into the record:

Whereas, Member Daniel P. Kuhnert was appointed to the Board in February 2020, by Governor Gavin Newsom, to serve as a public member of the New Motor Vehicle Board; and,

Whereas, Member Kuhnert served on several committees and has served as Chair of the Policy and Procedure Committee and member of the Administration Committee, and distinguished himself thereby; and

Whereas, Member Kuhnert actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and

Whereas, the foremost concern of Member Kuhnert is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of his fellow citizens, which merits the highest praise and recognition, and

Whereas, Member Kuhnert has given with great unselfishness and dedication of his time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

Therefore, be it resolved that each and every member of the New Motor Vehicle Board joins in expressing their profound appreciation to Member Daniel P. Kuhnert for his contribution to the Board, to the motor vehicle industry and to the people of the State of California.

Vice President Kassakhian indicated that the Resolution was dated December 7, 2021, and it is the Board's pleasure and privilege to present it to former Public Member Dan

Kuhnert. Mr. Kuhnert remarked that although his time on the Board was short, he appreciated his time, has an extreme appreciation for the hard work each Board Member is willing to put forward, and he is honored.

Member Doi commented that it was a pleasure to serve on the Board with Dan and as Board President at the time, she greatly appreciated Dan's enthusiastic and thoughtful participation in all of the Board matters heard. Dan's many contributions were appreciated.

Member Alvarez thanked Dan for his time and effort given to the Board.

Member Smith Boland remarked it was a pleasuring doing orientation with Dan, getting to know him, and serving on the Board together.

In closing, Vice President Kassakhian noted that he learned a great deal from Dan's perspective and experience.

4. **BOARD MEMBER EDUCATION CONCERNING STATEMENT OF INCOMPATIBLE ACTIVITIES (GOV. CODE § 19990; FISHER V. STATE PERSONNEL BD. (2018) 25 CAL. APP. 5th 1) BY JOHN T. MCGLOTHLIN, DEPUTY ATTORNEY GENERAL ASSIGNED TO THE BOARD - BOARD DEVELOPMENT COMMITTEE**

John McGlothlin, the Deputy Attorney General assigned to represent the Board, provided Board member education on statement of incompatible activities and Government Code section 19990. The message is that using public positions for personal benefit would abuse and harm the public trust.

By statute, each agency can also identify additional activities that would be incompatible with fulfilling its public mission. And for this purpose, the Board utilizes the DMV's Statement of Incompatible Activities, which discusses grounds for disciplinary action under Government Code section 19572. A violation of the incompatible activities can actually be grounds for disciplinary action that could include suspensions, demotions, and even dismissals.

The Incompatible Activities Statement that is used by the Board includes excerpts from section 19990 that lays out the specific enumerated activities that the statute identifies. Mr. McGlothlin identified the following examples: (1) Using the prestige of the office to obtain private gain; (2) Using State resources for personal use; (3) Disclosing confidential information without authorization; or (4) Accepting money or services from those doing business with Board.

Next, Mr. McGlothlin reviewed real-life examples taken from published court decisions that highlight how the courts have addressed certain issues that have come up with individuals working for California state agencies (not the New Motor Vehicle Board).

- The take away from the *Fisher v. State Personnel Board* case is that ignorance of the law is not a defense to Section 19990 and it does not matter if the misconduct does not become a subject of public knowledge and notoriety for disciplinary action to result.
- In *Orlandi v. State Personnel Board* the court found that some actions are so obviously incompatible with proper duties that it does not matter if it was not expressly prohibited in a written policy.
- In *Byrne v. State Personnel Board* the court frowned on accepting gratuities like a free drink in a bar by an Alcoholic Beverage Control Agent.
- Lastly, in *Nightingale v. State Personnel Board* the court found that you cannot intercede in the process to help friends obtain special treatment.

In closing, Mr. McGlothlin emphasized the importance of the public duties and expectations in Section 19990 as stated in the Statement of Incompatible Activities. He suggested that if members have a question or there is a gray area to reach out to the Board's Chief Counsel or Executive Director to obtain guidance and information.

Vice President Kassakhian thanked Mr. McGlothlin for his presentation and for putting everyone on notice. The takeaway here is not that we shouldn't have friends, but we should separate our official duties from any of our relationships that we may have outside of the Board.

Member Doi inquired as to whether all of the members have signed the Statement of Incompatible Activities. Mr. Corcoran indicated that staff would verify this and reach out individually if any member needed to sign the statement.

Ms. Parker thanked Mr. McGlothlin and his team for putting this presentation together. She noted that he took over for Michael Gowe (the former Deputy Attorney General assigned to the Board) and has been providing the Board with great counsel and advice.

5. **2022 ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT - EXECUTIVE COMMITTEE**

This matter was postponed until after Agenda Item 20.

6. **ANNUAL REVIEW AND APPOINTMENT OF COMMITTEE MEMBERS TO THE ADMINISTRATION COMMITTEE, BOARD DEVELOPMENT COMMITTEE, FISCAL COMMITTEE, GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE, LEGISLATIVE COMMITTEE, AND POLICY AND PROCEDURE COMMITTEE, AND AD HOC COMMITTEE (IF APPLICABLE), BY THE INCOMING BOARD PRESIDENT**

This matter was postponed until after Agenda Item 20.

7. **APPOINTMENT OF BOARD MEMBER DESIGNEE IN COMPLIANCE WITH THE BOARD'S 1997 "REVISED BOARD POLICY REGARDING REPRESENTATION IN COURT ACTIONS" BY THE INCOMING BOARD PRESIDENT**

This matter was postponed until after Agenda Item 20.

8. **STATUS REPORT ON THE BOARD'S INTENDED MOVE TO DMV'S HEADQUARTERS IN SACRAMENTO - ADMINISTRATION COMMITTEE**

Miss Kindel provided an update on the Board's intended move to DMV's headquarters in Sacramento. She noted that the Board's offices will be moving to DMV's headquarters campus in Sacramento sometime early in 2023 before the current lease expires. DMV Facilities Operations recently hired a contractor to renovate the space and is working with Board staff on this project.

Miss Kindel indicated that any further information on the move will be in late spring or early summer when the contractor has an opportunity to identify what needs to be done with the space. At the next general meeting in Sacramento, Miss Kindel will try to set up a site visit so the members can visit the new space.

In response to Vice President Kassakhian's question, Miss Kindel indicated that the new location (4,000 sq. ft.) will have half the space as the current location (8,000 sq. ft.). In lieu of having large conference rooms for meetings, settlement conferences and hearings in the new space, the Board will utilize the conference rooms available on DMV's campus. They already have Wi-Fi, audio, and video so that is why it is possible to move to a smaller space.

There was no Board action as this matter was for information only.

9. **REPORT ON THE BOARD'S FINANCIAL CONDITION FOR THE 1st QUARTER OF FISCAL YEAR 2021-2022 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tim Corcoran, Dawn Kindel and Suzanne Luke concerning the Board's financial condition for the 1st quarter of 2021-2022. Ms. Luke indicated that the Board started with an appropriation of \$1.87 million, ending with the current reserve balance of \$2.7 million. Ms. Luke reported that the Board expended 23% of its appropriated budget for the first quarter. Furthermore, there is no need for an adjustment to the fee structure at this time with the current reserve balance. However, as a result of the pandemic and resulting computer-chip shortages and shipping backlogs, new vehicle sales have slowed. Additionally, since a large portion of the Board's reserve fund will be allocated for construction and moving costs related to moving the Board's offices, staff will continue to closely monitor and report any need for adjustments of industry fees.

Invoices for the fee collection for the Arbitration Certification Program will begin once the pending regulations with the Office of Administrative Law have been approved. The fee

will be \$1.00 per vehicle.

In addition, the Board's annual manufacturer/distributor fee collection began in August of 2021. Ms. Luke reported that \$807,000 was collected from manufacturers and distributors.

As a follow up to the December 7, 2021, General Meeting question raised regarding the higher than usual budget expenditure, the following was presented in the memo as a comparison between last fiscal year 20-21 and the previous fiscal year 19-20 which show the areas with the most significant increase in expenses.

- Expenditures Fiscal Year 19-20
Salaries – Part Time Staff (Administrative Law Judges): +3,815 balance remaining
Facilities Planning: +6,196 balance remaining
Professional Services (Attorney General): -11,473
- Expenditures Fiscal Year 20-21
Salaries – Part Time Staff (Administrative Law Judges): -53,140
Facilities Planning: -13,019
Professional Services (Attorney General): -22,535

Ms. Luke noted that the increase to part time staff salaries is attributed to the increase in workload for the Administrative Law Judges (ALJs). Facilities Planning cost increases are associated with the Board's relocation efforts. Attorney General expenses are the result of various writs, appeals, and litigation brought against the Board.

In response to Member Doi's question, Mr. Corcoran indicated that the staff has tried to include projections to the best of its ability and additional information in its fiscal memos to provide clarity along with an ADA-compatible document for ease of posting online.

With regards to the increase of \$53,000 for ALJ salaries in Fiscal Year 20-21, Member Doi inquired about how many additional hearing days there were. Ms. Phomsopha noted that there were three merits hearings with 31 hearing days; the average is one hearing a year. Member Doi remarked that it might be good at each meeting to have these expenditures with the budgeted amount, expended amount, and the amount remaining. And, if there are areas like the ALJs salaries where there are significant overruns justified, that is also something to mention in the report. Mr. Corcoran indicated the staff would provide this.

There was no Board action as this matter was for information only.

10. **DISCUSSION REGARDING THE 2022 NEW MOTOR VEHICLE BOARD INDUSTRY ROUNDTABLE TO ENCOMPASS THE WORKSHOP ON EQUITY, JUSTICE AND INCLUSION - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

Mr. Corcoran indicated that typically the Government and Industry Affairs Committee handles the Industry Roundtable. And, he does not necessarily suggest departing from that, but would suggest proceeding with a joint committee meeting of the Ad Hoc Committee on Equity, Justice and Inclusion and the Government and Industry Affairs Committee. This meeting would be open to the public and held via Zoom. This would allow the plans for the 2022 Industry Roundtable (focused on equity, justice and inclusion in the motor vehicle industry) to be worked on.

Member Alvarez thought this would make the meetings more efficient since there are members on both committees. Member Boland Smith commented that by combining those two events, the Board can get high-quality speakers and participation. Also, the staff can focus on one event versus trying to put together two big events. She was in support of this idea. Member Doi also supports the topic for the Industry Roundtable and combining the committees so that event can move forward.

Mr. Corcoran indicated that he expected that the joint committee meeting could be held before the March 30th General Meeting so the committees could come back to the full Board with the plans for the Industry Roundtable.

Member Doi clarified that the committees would just be combined for purposes of the Industry Roundtable but there might be other issues that either committee might want to consider separate and apart from that activity so she did not want to foreclose that. Vice President Kassakhian and Mr. Corcoran agreed.

There was no Board action as this matter was for information only.

11. **ANNUAL REPORT CONCERNING BOARD ADOPTED POLICIES - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning the annual review of Board adopted policies. As indicated in the memo, the new policies that were approved in 2021 pertain to:

- The Board Delegations were updated to reflect legislative changes (Assembly Bill 179; effective January 1, 2020) and staff promotions.
- The Board policy requiring the periodic publication of The In-Site was eliminated.
- The *Guide to the New Motor Vehicle Board*, *Informational Guide for Manufacturers and Distributors*, and *Export or Sale-for-Resale Prohibition Policy Protest Guide* were updated.
- The mission and visions statements were reviewed.

There was no Board action as this matter was for information only.

12. **CONSIDERATION OF 2022 RULEMAKING CALENDAR - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum and 2022 Rulemaking Calendar from Tim Corcoran and Danielle Phomsopha. Ms. Phomsopha reported that the Rulemaking Calendar has already been approved by California State Transportation Agency in anticipation of this meeting. Ms. Phomsopha indicated that if the calendar is approved by the Board, it will be submitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. The Rulemaking Calendar reports on proposed regulations the Board will promulgate that were approved at the last Board Meeting

Member Stevens moved to adopt the 2022 Rulemaking Calendar. Member Doi seconded the motion. The motion carried unanimously.

13. **ANNUAL REPORT ON THE ASSIGNMENT OF CASES TO BOARD ADMINISTRATIVE LAW JUDGES - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tim Corcoran and Danielle Phomsopha concerning the assignment of cases to Board ALJs in 2021. Ms. Phomsopha reported that there were five law and motion hearings, seven discovery hearings (rulings on objections), five mandatory settlement conferences, and three merits hearings for a total of 31 days. The merits hearings were all conducted virtually and went smoothly.

Member Stevens remarked that the ALJs are very busy, do a lot of work, and that he is grateful for them. Member Doi seconded that and also thanked Robin and Danielle because she knows they work really hard on all of these matters logistically as well as providing assistance to the ALJs.

There was no Board action as this matter was for information only.

14. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Corcoran provided the members with a report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status.

Ms. Parker reported that she did not have any case management updates but provided a year-end wrap up of 2021 as follows: (1) There were 22 (60-day) notices of termination and no 15-day notices of termination; (2) Other notices for modification, establishments,

and relocations were light. It is not unusual for Board to get 300-to-400 modification notices and it only received 23; and (3) A total of 41 protests were filed, predominantly warranty, franchisor incentive program, performance standard, and retail labor rate and retail parts rate.

Ms. Phomsopha indicated that the hearing in two Ford establishment protests (*Airport Marina Ford* and *Central Ford*) set for January 18, 2022 did not go forward as the protests were dismissed at the Protestants' request. The related performance standard protest for *Central Ford* was also dismissed at Protestant's request. Three new protests were filed since the members received this written report. Two were establishment protests and one was a retail labor rate reimbursement protest.

There was no Board action as this matter was for information only.

15. **PUBLIC COMMENT (Gov. Code § 11125.7)**

No additional public comment was presented.

16. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

CONSIDERATION OF ANNUAL PERFORMANCE REVIEW FOR EXECUTIVE DIRECTOR - EXECUTIVE COMMITTEE

This matter was postponed until the March 30, 2022, General Meeting.

17. **OPEN SESSION**

The members remained in open session.

After a brief break, Mr. Corcoran confirmed a quorum of the Public Members were still present.

18. **ORAL PRESENTATION BEFORE THE PUBLIC MEMBERS OF THE BOARD**

Vice President Kassakhian reminded the Dealer Members in attendance, that they may not participate in, hear, comment or advise other members upon or decide Agenda Items 18-19.

Vice President Kassakhian read the following statement "comments by the parties or by their counsel that are made regarding any proposed decision, ruling, or order must be limited to matters contained within the administrative record of the proceedings. No other information or argument will be considered by the Board. These are adjudicated matters that will be deliberated on in closed Executive Session. Therefore, pursuant to subdivision

(e) of Government Code section 11125.7, members of the public may not comment on this matter.

- a. SANTA MONICA MOTOR GROUP dba SANTA MONICA CHRYSLER JEEP DODGE RAM v. FCA US LLC
Protest Nos. PR-2652-20, PR-2653-20, PR-2654-20, and PR-2655-20

Oral comments were presented before the Public Members of the Board. Robert Mayville, Esq. and Gavin Hughes, Esq. of the Law Offices of Gavin M. Hughes represented Protestant. Blake Gansborg, Esq., Mark Clouatre, Esq. and John Streelman, Esq. of Nelson Mullins Riley & Scarborough LLP represented Respondent.

After conclusion of the oral comments, Ms. Parker noted that President Obando rejoined the meeting after the oral comments began and missed approximately 10 minutes. Therefore, absent a stipulation of counsel for both sides it is prudent if President Obando did not participate in this particular matter. Vice President Kassakhian asked if counsel have an issue with President Obando's participation. Mr. Gansborg indicated that he would defer to Ms. Parker's recommendation. Ms. Parker noted that she has no recommendation; it is strictly the parties' choice. The standard would be that if President Obando was not present for all of the oral comments then he should not participate absent the parties' agreement. Vice President Kassakhian asked counsel if they have a strong opinion either way. Mr. Mayville remarked that President Obando is very involved in Board actions, is always prepared, and Protestant has no problem stipulating to his involvement in the discussions concerning the Proposed Decision. Mr. Gansborg's concern is that President Obando missed the beginning of Respondent's presentation and inquired whether President Obando's participation was necessary to create a quorum. Ms. Parker indicated that the Board has a quorum without President Obando's participation. Vice President Kassakhian erred on the side of caution and President Obando was excluded from participation in the Proposed Decision.

President Obando presided over the Agenda Item 18.b.

- b. WESTERN TRUCK PARTS & EQUIPMENT COMPANY LLC DBA WESTERN TRUCK CENTER, a California limited liability company v. VOLVO TRUCKS NORTH AMERICA, a division of VOLVO GROUP NORTH AMERICA, LLC, a Delaware limited liability company
Protest No. PR-2740-21

Oral comments were presented before the Public Members of the Board. Franjo Dolenac, Esq. and Victor Danhi, Esq. of Arent Fox LLP represented Protestant. Billy Donley, Esq. Will Geise, Esq., and Marcus McCutcheon, Esq. of Baker & Hostetler LLP represented Respondent.

Ms. Parker noted that Judge Skrocki, the assigned Administrative Law Judge that heard and considered this matter, was observing the Board Meeting but dropped off the meeting prior to this Agenda Item and is no longer observing the meeting.

19. **CLOSED EXECUTIVE SESSION DELIBERATIONS**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Pursuant to Government Code section 11517(c)(2), the Board could adopt the proposed decision, make technical or other minor changes, reject the proposed decision and remand the case, or reject the proposed decision and decide the case upon the record.

a. **CONSIDERATION OF PROPOSED DECISION**

SANTA MONICA MOTOR GROUP dba SANTA MONICA CHRYSLER
JEEP DODGE RAM v. FCA US LLC
Protest Nos. PR-2652-20, PR-2653-20, PR-2654-20, and PR-2655-20

Consideration of the Administrative Law Judge's Proposed Decision, by the Public Members of the Board.

The Public Members of the Board, excluding President Obando, deliberated in closed Executive Session. Member Stevens moved to adopt the Administrative Law Judge's Proposed Decision. Member Kassakhian seconded the motion. Member Doi agreed with the outcome but will write a concurrence on the burden of proof issue. This matter carried by a 2-to-1 vote.

b. **CONSIDERATION OF PROPOSED ORDER**

WESTERN TRUCK PARTS & EQUIPMENT COMPANY LLC DBA
WESTERN TRUCK CENTER, a California limited liability company v.
VOLVO TRUCKS NORTH AMERICA, a division of VOLVO GROUP
NORTH AMERICA, LLC, a Delaware limited liability company
Protest No. PR-2740-21

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss, by the Public Members of the Board.

The Public Members of the Board including President Obando deliberated in closed Executive Session. Member Doi moved to adopt the Administrative Law Judge's Proposed Order. Member Obando seconded the motion. The motion carried unanimously.

20. **OPEN SESSION**

The Public Members returned to Open Session. Ms. Parker announced the decisions in Agenda Item 19.

Mr. Corcoran noted for the record that President Obando did not participate in the closed Executive Session for Agenda Item 19.a. (*Santa Monica Motor Group dba Santa Monica Chrysler Jeep Dodge RAM v. FCA US LLC*).

Mr. Gansborg asked for clarification as to the outcome. Ms. Parker indicated that the outcome of the Proposed Decision was unanimously approved by the Board. Member Doi would like to write a concurrence with regards to the Burden of Proof issue. The Decision may not be final and to counsel until the end of this week or next week depending on Member Doi's schedule. With regard to *Western Truck*, the Decision will be final either today or tomorrow.

5. **2022 ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT - EXECUTIVE COMMITTEE**

Mr. Corcoran confirmed the Board still had a quorum for general business.

Member Obando read the following statement from the Board adopted Parliamentary Procedures:

The election of officers shall be a specific item of business on the agenda for the first General Meeting of each calendar year. At the time the matter is considered, any member may nominate any other member for the office of President and/or Vice-President. There are no restrictions on the number of members who may be nominated for either position during this process. At any time after at least one Board Member is nominated for each office, any member may move that the nomination of officers be closed. If the motion is seconded and carried by majority vote, the nominating process shall be deemed concluded. After the nominating process is concluded, the Members of the Board shall cast their vote for a nominated Member for each office. No Board Member may vote for more than one nominated Member for each office. The voting shall be done by oral poll. Any Board Member may abstain from voting for a nominated Member for either office.

Vice President Kassakhian moved to nominate Member Obando as President. Member Obando accepted this nomination. No other nominations for President were made. Vice President Kassakhian moved to close the nominations, with Member Fitzpatrick seconding the motion. This motion to close the nominations carried unanimously. Member Doi seconded the motion to nominate Member Obando as President. The motion to nominate Member Obando as President carried unanimously.

Member Alvarez moved to nominate Member Kassakhian as Vice President. Member Kassakhian accepted this nomination. No other nominations for Vice President were made. Member Stevens moved to close the nominations, with Member Doi seconding the motion. This motion to close the nominations carried unanimously. Member Fitzpatrick seconded the motion to nominate Member Kassakhian as Vice President. The motion to nominate Member Kassakhian as Vice President carried unanimously.

6. **ANNUAL REVIEW AND APPOINTMENT OF COMMITTEE MEMBERS TO THE ADMINISTRATION COMMITTEE, BOARD DEVELOPMENT COMMITTEE, FISCAL COMMITTEE, GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE, LEGISLATIVE COMMITTEE, AND POLICY AND PROCEDURE COMMITTEE, AND AD HOC COMMITTEE (IF APPLICABLE), BY THE INCOMING BOARD PRESIDENT**

After a brief discussion off the record, Mr. Obando made the following committee appointments:

ADMINISTRATION COMMITTEE

Ardy Kassakhian, Chair
Ryan Fitzpatrick, Member

BOARD DEVELOPMENT COMMITTEE

Kathryn Ellen Doi, Chair
Ramon Alvarez C., Member

EXECUTIVE COMMITTEE

Bismarck Obando, President
Ardy Kassakhian, Vice President

FISCAL COMMITTEE

Anne Smith Boland, Chair
Ardy Kassakhian, Member

GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE

Anne Smith Boland, Chair
Ramon Alvarez C., Member
Kathryn Ellen Doi, Member
Ryan Fitzpatrick, Member

LEGISLATIVE COMMITTEE

Bismarck Obando, Chair
Ardy Kassakhian, Member

POLICY AND PROCEDURE COMMITTEE

Inder Dosanjh, Chair
Jake Stevens, Member

AD HOC DELEGATED COMMITTEE ON EQUITY, JUSTICE AND INCLUSION

Jake Stevens, Chair
Ramon Alvarez C., Member
Anne Smith Boland, Member
Kathryn Ellen Doi, Member
Inder Dosanjh, Member
Bismarck Obando, Member

7. **APPOINTMENT OF BOARD MEMBER DESIGNEE IN COMPLIANCE WITH THE BOARD'S 1997 "REVISED BOARD POLICY REGARDING REPRESENTATION IN COURT ACTIONS" BY THE INCOMING BOARD PRESIDENT**

This matter was pulled from the agenda since the incoming President is a Public Member and the incoming Vice President is a Public Member. If both the incoming President and Vice President were Dealer Members this designation would be necessary to comply with the Board adopted policy.

21. **ADJOURNMENT**

Prior to adjourning the meeting, President Obando asked if any members of the public had any comments for the Board. No comments were made.

With no further business to discuss, the meeting was adjourned at approximately 1:04 p.m.

Submitted by

TIMOTHY M. CORCORAN
Executive Director

APPROVED: _____
Bismarck Obando
President
New Motor Vehicle Board

STATE OF CALIFORNIA



MEMO

To: NEW MOTOR VEHICLE BOARD

Date: March 15, 2022

From: BISMARCK OBANDO
PRESIDENT

Subject: COMMITTEE ASSIGNMENTS

At the March 30, 2022, General Meeting, we are going to review committee assignments so the member vacancy on the Policy and Procedure Committee can be filled. The current committee assignments are as follows:

ADMINISTRATION COMMITTEE

Ardy Kassakhian, Chair
Ryan Fitzpatrick, Member

BOARD DEVELOPMENT COMMITTEE

Kathryn Ellen Doi, Chair
Ramon Alvarez C., Member

EXECUTIVE COMMITTEE

Bismarck Obando, President
Ardy Kassakhian, Vice President

FISCAL COMMITTEE

Anne Smith Boland, Chair
Ardy Kassakhian, Member

GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE

Anne Smith Boland, Chair
Ramon Alvarez C., Member
Kathryn Ellen Doi, Member
Ryan Fitzpatrick, Member

LEGISLATIVE COMMITTEE

Bismarck Obando, Chair
Ardy Kassakhian, Member

POLICY AND PROCEDURE COMMITTEE

Jake Stevens, Chair
Vacant, Member

AD HOC DELEGATED COMMITTEE ON EQUITY, JUSTICE AND INCLUSION

Jake Stevens, Chair
Ramon Alvarez C., Member
Anne Smith Boland, Member
Kathryn Ellen Doi, Member
Bismarck Obando, Member

The description of the standing committees are as follows:

- **Executive Committee** – comprised of the Board President and Vice President includes approval of Board meeting Agendas, meeting with Department and Agency Directors, monitoring the Business, Transportation & Housing Agency audit of Board activities, and other matters requiring Board representation.
- **Administration Committee** – personnel, hiring, internal operations (as they relate to administration), office forms (including letterhead) and the Board's website.
- **Board Development Committee** – Board Member education, welcoming new Board Members, meeting with the CNCDA (all Board members, as their schedules allow, may volunteer for this activity) and the employee recognition program.
- **Fiscal Committee** – budget and finance matters related to Board operation.
- **Government and Industry Affairs Committee** – expanding efforts related to government and industry outreach, including the Industry Roundtable. (The term of the new Committee Chair is two years [expires December 2004] and thereafter the Chair serves a one-year term; the remaining committee member is selected by the Chair from among the Board Members on an Ad-Hoc basis, depending on the issue at hand and the members' availability).
- **Legislative Committee** – comprised of the Board President and Vice President unless otherwise designated by the President. Provides analyses on legislation that directly affects the Board's laws and functions.
- **Policy and Procedure Committee** – regulations, Board protocol (including parliamentary procedures and meeting minutes), legal action participation, case management and internal operations (as they relate to policy and procedure).

If you have any questions, please do not hesitate to contact me or Tim Corcoran at (916) 445-1888.



New Motor Vehicle Board

RESOLUTION

W*HEREAS*, Ms. Nanxi Liu was appointed to the Board in April 2019, by Speaker of the Assembly Anthony Rendon, to serve as a public member of the **NEW MOTOR VEHICLE BOARD**; and,

W*HEREAS*, Ms. Liu served on several committees and has served as Chair of the Board Development Committee and member of the Fiscal Committee as well as the Ad Hoc Committee to Review Industry-Related Advertising Laws, and distinguished herself thereby; and,

W*HEREAS*, Ms. Liu actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and,

W*HEREAS*, the foremost concern of Ms. Liu is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of her fellow citizens, which merits the highest praise and recognition; and,

W*HEREAS*, Ms. Liu has given with great unselfishness and dedication of her time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

T*HEREFORE, BE IT RESOLVED* that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Ms. Nanxi Liu for her contribution to the Board, to the motor vehicle industry and to the people of the State of California.

Dated this 30th day of March 2022

BISMARCK OBANDO, PRESIDENT

ARDASHES KASSAKHIAN, VICE PRESIDENT

RAMON ALVAREZ C.

ANNE SMITH BOLAND

KATHRYN ELLEN DOI

RYAN FITZPATRICK

JACOB STEVENS



New Motor Vehicle Board

RESOLUTION

W*HEREAS*, Mr. Inder Dosanjh was appointed to the Board in June 2019, by Governor Gavin Newsom, to serve as a dealer member of the **NEW MOTOR VEHICLE BOARD**; and,

W*HEREAS*, Mr. Dosanjh served on several committees and has served as Chair of the Policy and Procedure Committee as well as member of the Legislative Committee, Policy and Procedure Committee, and Ad Hoc Committee on Equity, Justice and Inclusion, and distinguished himself thereby; and,

W*HEREAS*, Mr. Dosanjh actively engaged in the Board's business by providing sound advice and leadership, was thoughtful, friendly and outgoing to staff and fellow members; and,

W*HEREAS*, the foremost concern of Mr. Dosanjh is public service to the people of the State of California, being active in political and community affairs, with exemplary service and dedication in the best interest of his fellow citizens, which merits the highest praise and recognition; and,

W*HEREAS*, Mr. Dosanjh has given with great unselfishness and dedication of his time and expertise to matters concerning the motor vehicle industry and helped direct and protect the welfare of the automotive industry in this State, which is vital to California's economy and public welfare, thereby enhancing the respect of the auto industry and public for the Board; and,

T*HEREFORE, BE IT RESOLVED* that each and every member of the **NEW MOTOR VEHICLE BOARD** joins in expressing their profound appreciation to Mr. Inder Dosanjh for his contribution to the Board, to the motor vehicle industry and to the people of the State of California.

Dated this 30th day of March 2022

BISMARCK OBANDO, PRESIDENT

ARDASHES KASSAKHIAN, VICE PRESIDENT

RAMON ALVAREZ C.

ANNE SMITH BOLAND

KATHRYN ELLEN DOI

RYAN FITZPATRICK

JACOB STEVENS

STATE OF CALIFORNIA

MEMO



**To: ADMINISTRATION COMMITTEE
ARDY KASSAKHIAN, CHAIR
RYAN FITZPATRICK, MEMBER**

Date: February 25, 2022

**From : DAWN KINDEL
HOLLY VICTOR
LEE MOORE**

**Subject: ANNUAL UPDATE CONCERNING THE USE OF THE BOARD'S
WEBSITE**

The Board has requested an annual update concerning the utilization of its website.

Board staff monitors the website traffic on a monthly basis and makes content revisions as needed throughout the year. Visitors to the site can subscribe to board publications, make document requests and view all public documents provided at board meetings.

Staff from the Department of Motor Vehicles ("DMV") maintain and update the site with direction from Board staff. DMV provides the Board with a team of web technicians who provide us with a high level of customer support.

The chart below shows a comparison of the top 10 pages that were viewed during visits to the website during 2020 and 2021.

Total hits to the site in 2020 were 37,627. That increased to 40,736 in 2021.

	Website Pages	2020 Annual Hits		Website Pages	2021 Annual Hits
1	Home Page	13,041		Home Page	11,988
2	Mediation Request Form	7,725		Mediation Request Form	8,623
3	Mediation Program	3,614		Mediation Program	4,230
4	Meetings and Agendas	996		Contact Us	1,333
5	Forms	928		Meetings and Agendas	1,092
6	Contact Us	920		Forms	944

7	Board Members	847		Disability Information	870
8	Final Decisions	569		Search	816
9	Search	569		Board Members	778
10	Publications and Reports	524		All Meetings	553

Since website activity is now reported on the Administrative Matters Report, this annual report to the Board has now become obsolete and will be discontinued.

This matter is for information only. If you have any comments or questions, please contact Holly Victor at (916) 327-7258 or Lee Moore at (916) 323-7205.

cc: Bismarck Obando, President

STATE OF CALIFORNIA



MEMO

**To: ADMINISTRATION COMMITTEE
ARDY KASSAKHIAN, CHAIR
RYAN FITZPATRICK, MEMBER**

Date: February 18, 2022

**From: TIMOTHY M. CORCORAN
ROBIN P. PARKER**

Subject: CONSIDERATION OF THE REVISED *GUIDE TO THE NEW MOTOR VEHICLE BOARD* TO INCLUDE INFORMATION ON STATUTORY AND REGULATORY CHANGES

The *Guide to the New Motor Vehicle Board* was most recently approved at the February 16, 2021, General Meeting. Each year it is thoroughly reviewed for accuracy.

This year, the table of contents and all page references were updated. The section entitled “New as of 2022” on page 3 was updated to reflect recently promulgated regulations that were effective January 1, 2022. The following additional edits are highlighted yellow in underline and strikeout font:

- On pages 9 and 71 under the heading “Challenge to Presiding Officer,” a sentence was added to clarify that if a Board Administrative Law Judge (ALJ) is unavailable to preside over the merits hearing after the filing of a peremptory challenge, an ALJ from the Office of Administrative Hearings will be assigned.
- Footnote 16 on page 45 was revised because Section 586 of the Board’s regulations now references Vehicle Code section 3065.4 protests (Retail Labor Rate or Retail Parts Rate).
- New Section 586.5 of the Board’s regulations provides the content requirements for filing Section 3065.3 performance standard protests so references to Section 586 on page 60 were changed to Section 586.5 and footnote 22 was deleted.
- On page 68, a sentence was added to reflect newly amended Section 556 of the Board’s Regulations that requires a petition to clearly identify the facts, legal authority, and relief sought and include declarations or other evidence or documents that support the petition.
- On page 69, a sentence was added to specify the procedure by which the respondent can file evidence in its answer to a petition.

This topic is being agendized for discussion and consideration at the March 30, 2022, General Meeting. If you have any questions or require additional information, please do not hesitate to contact us at (916) 445-1888.

Attachment

cc: Bismarck Obando

State of California

NEW MOTOR VEHICLE BOARD

GUIDE
TO THE
NEW MOTOR VEHICLE BOARD

March 2022

STATE OF CALIFORNIA

NEW MOTOR VEHICLE BOARD

P.O. Box 188680
Sacramento, California 95818-8680
Phone: (916) 445-1888
Facsimile: (916) 323-1632
Email: nmvb@nmvb.ca.gov
Web site: <http://www.nmvb.ca.gov>

State of California
GAVIN NEWSOM, GOVERNOR

California State Transportation Agency
TOKS OMISHAKIN, SECRETARY

BOARD MEMBERS

Public Members
KATHRYN ELLEN DOI
ARDASHES (ARDY) KASSAKHIAN
BISMARCK OBANDO
JACOB STEVENS

Dealer Members
RAMON ALVAREZ C.
ANNE SMITH BOLAND
RYAN FITZPATRICK

EXECUTIVE STAFF

TIMOTHY M. CORCORAN
Executive Director

LEGAL STAFF

ROBIN P. PARKER
Chief Counsel
DANIELLE R. PHOMSOPHA
Senior Staff Counsel

TABLE OF CONTENTS

PREAMBLE	i
PREFACE	ii
INTRODUCTION	1
Purpose	1
Organization	1
Meetings	2
Jurisdiction	2
NEW AS OF 2022	3
Legislation	3
Case Law	3
Regulations	3
POWERS AND DUTIES IN GENERAL	4
Enforcement of Board Orders	4
Mandatory Settlement Conferences	4
DISPUTES BETWEEN THE DEALER AND THE FRANCHISOR	5
PROTESTS IN GENERAL	7
Statutory Authority	7
Statutory Bases for Protest	7
Separate Protests	8
Filing Protest	8
Franchisor's Notice of Appearance	8
Filing Fee	8
Interested Individuals	9
Motion for Intervention	9
Challenge to Presiding Officer	9
Amicus Curiae Briefs	9
Table of Contents for Protest Section	10
TERMINATION OF FRANCHISE	11
Statutory Authority for Protest	11
Franchisor's Notice of Termination	11
Time for Filing a Protest	12
Required Elements of Protest	14
Good Cause	15
Determination of Protest	15
MODIFICATION OF FRANCHISE	16
Statutory Authority for Protest	16
Franchisor's Notice of Modification	16
Time for Filing a Protest	16
Required Elements of Protest	18
Good Cause	18
Determination of Protest	19
ADDITIONAL OR RELOCATED FRANCHISE	20
Statutory Authority for Protest	20
Franchisor's Notice of Additional or Relocated Franchise	20

TABLE OF CONTENTS -continued-

Exceptions to the Right to Protest.....	21
New Motor Vehicle Dealers (including RVs).....	21
Recreational Vehicle Dealers Only	22
Time for Filing a Protest.....	22
Required Elements of Protest	23
Good Cause.....	24
Determination of Protest	24
ADDITIONAL OR RELOCATED SATELLITE WARRANTY FACILITY	25
Statutory Authority for Protest.....	25
Franchisor's Notice of Additional or Relocated Satellite Warranty Facility	25
Time for Filing a Protest.....	25
Required Elements of Protest	27
Good Cause.....	27
Determination of Protest	28
COMPENSATION FOR DELIVERY AND PREPARATION	29
Statutory Authority	29
Franchisor's Notice of Compensation for Delivery and Preparation.....	29
Time for Filing a Protest.....	29
Required Elements of Protest	30
Determination of Protest	30
WARRANTY CLAIMS - Motor Vehicle Dealers.....	31
Franchisor's Notice of Compensation for Warranty Reimbursement	31
Reasonableness of the Warranty Reimbursement Schedule	31
Protest of Pre-Repair Challenges to the Reduction in Time and Compensation (Labor Time Guides) Applicable to Specific Parts or Labor Operations	31
Approval of Warranty Claims	32
Disapproval of Warranty Claims for a Defective Part.....	32
Disapproval of Warranty Claims.....	32
Protest of Initial Disapproval of Warranty Claims	33
Franchisor Provided "Reasonable" Appeal Process	33
Final Denial of Warranty Claim	33
Protest of Final Denial of Warranty Claim Following a Franchisor's Appeal Process..	33
Audits of Franchisee Warranty Records	33
Disapproval of Previously Approved Warranty Claims.....	34
Protest of Warranty Claim Disapproval of a Previously Approved Claim Following an Audit.....	34
Franchisor Provided "Reasonable" Appeal Process	34
Final Denial of Warranty Claim Following an Audit	35
Protest of Final Denial of Warranty Claim following an Audit Following the Franchisor's Appeal Process	35
Franchisor Chargeback for Warranty Claims	35
Required Elements of a Protest	36
Warranty Claims Protests Chart.....	37

TABLE OF CONTENTS -continued-

RETAIL LABOR RATE OR RETAIL PARTS RATE - Motor Vehicle Dealers	38
Establishment or Modification of a Franchisee's Retail Labor Rate or Retail Parts Rate	
Rate	38
How a Franchisee Calculates its Retail Labor Rate?	38
How a Franchisee Calculates its Retail Parts Rate?	38
Statutorily Required Notice to the Franchisor by the Franchisee of its Retail Labor Rate and Retail Parts Rate	38
How Repair Orders are Submitted Pursuant to Section 3065.2	38
What Types of Charges Included in a Repair Order Should be Omitted in Calculating a Franchisee's Retail labor Rate and Retail Parts Rate	39
A Franchisor may Contest to the Franchisee the "Material Accuracy" of the Retail Labor Rate or Retail Labor Parts Rate by Submitting a "Notification" to the Franchisee	40
The Franchisor's Proposed Adjusted Retail Labor Rate or Retail Parts Rate is Effective if the Franchisee Agrees	40
If the Franchisee does not Agree with the Proposed Adjusted Rate then a Protest can be Filed with the Board	41
If the Franchisor Determines that the Franchisee's Retail Labor Rate or Retail Parts Rate is "Substantially Higher" than the Franchisee's Current Warranty Rate, the Franchisor can Request Supplemental Repair Orders	41
What if the Franchisor does not Contest the Retail Labor Rate or Retail Parts Rate	41
Considerations in Calculating the Retail Labor Rate and Retail Parts Rate	42
Considerations when the Franchisor is Compensating the Franchisee for the Retail Parts Rate	42
The Method of Establishing or Modifying a Franchisee's Retail Labor Rate, Retail Parts Rate, or Both	43
What Actions Franchisors are Precluded from Undertaking	43
Protest for Franchisor's Failure to Comply with Section 3065.2 or if Franchisee Disputes the Franchisor's Proposed Adjusted Retail Labor Rate or Retail Parts Rate	44
Time for Filing a Protest	44
Required Elements of Protest	45
Determination of Protest	45
Retail Labor Rate or Retail Parts Rate Protests Chart	47
WARRANTY CLAIMS - RV Dealers	48
Statutory Authority	48
Franchisor's Notice of Compensation for Warranty Reimbursement	48
Approval of Warranty Claims	48
Disapproval of Warranty Claims	48
Audits of Franchisee Warranty Records	48
Time for Filing a Protest	49
Required Elements of a Protest	49
Good Cause	50
Determination of Protest	50
FRANCHISOR INCENTIVE PROGRAM CLAIMS - Motor Vehicle Dealers	51
Statutory Authority	51
Franchisor's Notice of Denial of Franchisor Incentive Program Reimbursement	51

TABLE OF CONTENTS -continued-

Approval/Disapproval of Franchisor Incentive Program Reimbursement.....	51
Disapproval of Franchisor Incentive Program Claims	51
Protest of Initial Disapproval of Franchisor Incentive Program Claims.....	51
Franchisor Provided “Reasonable” Appeal Process	52
Final Denial of Franchisor Incentive Program Claim	52
Protest of Final Denial of Franchisor Incentive Program Claim Following a Franchisor’s Appeal Process	52
Audits of Franchisee Incentive Program Records	52
Disapproval of Previously Approved Franchisor Incentive Program Claims	53
Protest of Franchisor Incentive Program Claim Disapproval of a Previously Approved Claim Following an Audit	53
Franchisor Provided “Reasonable” Appeal Process	53
Final Denial of Franchisor Incentive Program Claim Following an Audit	54
Protest of Final Denial of Franchisor Incentive Program Claim Following an Audit Following the Franchisor’s Appeal Process	54
Franchisor Chargeback for Incentive Program Claims.....	54
Required Elements of Protest	55
Franchisor Incentive Program Protests Chart	56
FRANCHISOR INCENTIVE PROGRAM CLAIMS - RV Dealers	57
Statutory Authority	57
Franchisor’s Notice of Denial of Franchisor Incentive Program Reimbursement	57
Approval/Disapproval of Franchisor Incentive Program Reimbursement.....	57
Audits of Franchisee Incentive Program Records	57
Time for Filing a Protest.....	57
Required Elements of Protest	58
Good Cause.....	58
Determination of Protest	58
PERFORMANCE STANDARDS, SALES OBJECTIVES, OR PROGRAMS FOR MEASURING A DEALER’S SALES, SERVICE, OR CUSTOMER SERVICE	
PERFORMANCE - Motor Vehicle Dealers	59
Statutory Authority	59
Franchisor’s Performance Standard, Sales Objective or Program.....	59
Time for Filing a Protest.....	60
Required Elements of Protest	60
Determination of Protest	61
HEARING PROCEDURES	62
Pre-Hearing Procedure	62
Discovery	62
Subpoenas.....	62
Summary of Board Action	64
Stipulation of Fact	65
Stipulated Decisions	65
Hearings Open to the Public; Protective Orders	65
Failure to Appear at a Hearing	65
Decision of the Board.....	65
Court Reporting and Transcripts of Board Proceedings.....	66
PETITIONS	68
Statutory Authority for Petitions.....	68
Filing a Petition with the Board.....	68
Time for Filing a Petition	69

TABLE OF CONTENTS -continued-

Petition Filing Fee	69
Required Elements of Petition.....	70
First Consideration.....	71
Resolution of Petitions without a Hearing	71
Challenge to Presiding Officer	71
Motion for Intervention	71
Amicus Curiae Briefs	72
Summary of Board Action	72
Hearing Procedures	72
Informal Mediation	72
Members of the Public in Relation to New Recreational Vehicle Transactions	73
JUDICIAL REVIEW	74
Appeal to Superior Court.....	74
APPENDIX	A-1
Sample Form A - Pleading Format of Protest	A-2
Sample Form B1 - Pleading Format of Petition (Veh. Code § 3050(b)(2)).....	A-4
Sample Form B2 - Pleading Format of Petition (Veh. Code § 3050(b)(1) or (3))	A-6

PREAMBLE

This publication provides general information only as to the most pertinent Vehicle Code sections as they relate to practice before the New Motor Vehicle Board ("Board"). There are many other important Vehicle Code sections and Department of Motor Vehicles ("Department") regulations not covered in this publication. The materials contained herein are intended to be informative and not advisory, limited in scope, and are not intended to be a substitute for careful reading of the specific statutes and regulations that may apply to your particular situation. Practitioners as well as the general public are invited to comment on the forms and contents of procedures. Please note the Board's address is different from the address of the Department. The Board only has one office in Sacramento. All correspondence, protests, and petitions should be sent to:

New Motor Vehicle Board
ATTN: Legal Department
P.O. Box 188680
Sacramento, California 95818-8680

Correspondence can also be sent via email at nmvpb@nmvpb.ca.gov or facsimile at (916) 323-1632. The telephone number of the Board is (916) 445-1888 and the website address is www.nmvpb.ca.gov. Detailed information can be found on the Board's website. Please feel free to contact the Board's staff for further information.

PREFACE

The purpose of this publication is to familiarize the reader with the organization and jurisdiction of the Board, including the Board's operations and procedures. All statutory references are to pertinent sections of the Vehicle Code unless otherwise specified. The full text of pertinent sections of the Vehicle Code is available on the Board's website or at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>. References to regulations are to Title 13 of the California Code of Regulations (CCR). The referenced sections will be noted in the following manner, for example, 13 CCR § 550, et seq. The regulations are also available on the Board's website or at the Office of Administrative Law's ("OAL") website (www.oal.ca.gov). Once you reach the OAL site, select California Code of Regulations. You will be taken to the California Code of Regulations and can search by title; the Board's regulations are in Title 13. As the Board is a quasi-judicial agency that holds administrative hearings, statutes comprising the administrative adjudication provisions of the Administrative Procedure Act ("APA"; Gov. Code §§ 11400 through 11529) are applicable. Citations to relevant court decisions are interspersed throughout. The provisions of the APA are available at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

The Board also publishes the *Informational Guide for Manufacturers and Distributors* to assist manufacturers and distributors in clarifying California's vehicle franchise laws. It is designed for personnel in manufacturer or distributor market representation departments, dealer development departments, or legal departments. The *Informational Guide for Manufacturers and Distributors* is available free from the Board's offices at the above address, or can be accessed and downloaded from the Board's website at www.nmvb.ca.gov.

INTRODUCTION

Purpose

The Board is a program within the Department. The Board was originally created in 1967 as the New Car Dealers Policy and Appeals Board. At that time, the Board's only function was hearing appeals¹ from final decisions of the Director of the Department adverse to the occupational license of a new motor vehicle dealer, manufacturer, distributor, or representative.² In 1973, the Legislature passed the California Automobile Franchise Act (Stats. 1973, ch. 966, § 1, p. 2), which gave the Board its present name and created a broad statutory framework and a forum for regulating and settling disputes in the new vehicle industry. The constitutionality of this regulatory scheme has survived a due process challenge in the United States Supreme Court (*New Motor Vehicle Board v. Orrin W. Fox Co.* (1978) 439 U.S. 96, 58 L.Ed.2d 361, 99 S.Ct. 403).

Organization

The organization of the Board is prescribed in Vehicle Code sections 3000 to 3016. The Board is comprised of nine members. The chart below identifies the composition of the Board.

Who	Qualifications	Appointment
Four licensed new motor vehicle dealers. (Dealers that deal exclusively in motorcycles, ATVs, or recreational vehicles are excluded from membership on the Board.)	Must have been licensed as a new motor vehicle dealer for not less than five years.	All by the Governor.
Five members from the general public.	One must be an attorney who has been a member of the California Bar for at least 10 years.	Three by the Governor. One by the Senate Rules Committee. One by the Speaker of the Assembly.

¹ Effective January 1, 2020, the Board's jurisdiction to hear appeals was repealed. (Assembly Bill 179, ch. 796)

² Throughout this Guide, the terms dealer, protestant, and franchisee are used interchangeably, as are the terms manufacturer/distributor, respondent, and franchisor.

Meetings

The Board meets at least twice during each calendar year, with supplemental meetings held as necessary. Board meetings are open to the public with the exception of executive sessions, which are held to deliberate on pending matters before the Board. As public meetings conducted by a state entity, the Bagley-Keene Open Meeting Act (Gov. Code §§ 11120 through 11132) covers all requirements for public notice, agendas, public testimony and the conduct of Board meetings. To the extent practicable, the Board conducts business at meetings using a modern interpretation of procedures set forth in *Robert's Rules of Order*.

Jurisdiction

The Board's statutory jurisdiction under Vehicle Code section 3050(b) extends over any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative. In the past, the courts construed this jurisdiction as primary and exclusive, meaning an aggrieved licensee must bring any dispute arising out of the franchise relationship before the Board prior to seeking judicial relief (*Yamaha Motor Company v. Superior Court* (1986) 185 Cal.App.3d 1232; *Yamaha Motor Company v. Superior Court* (1987) 195 Cal.App.3d 652; *Ray Fladeboe Lincoln-Mercury, Inc. v. New Motor Vehicle Board* (1992) 10 Cal.App.4th 51; *Mathew Zaheri Corp. v. Mitsubishi Motor Sales of America, Inc.* (1993) 17 Cal.App.4th 288.) However, subsequent court decisions have held otherwise (*Miller v. Superior Court* (1996) 50 Cal.App.4th 1665; *Hardin Oldsmobile v. New Motor Vehicle Board* (1997) 52 Cal.App.4th 585; *Tovas v. American Honda Motor Company, Inc.* (1997) 57 Cal.App.4th 506; *Kemp v. Nissan Motor Corporation in U.S.A.* (1997) 57 Cal.App.4th 1527.) As a consequence of these judicial decisions, subdivision (e) of Vehicle Code section 3050 was added by the Legislature in 1997 and became effective in 1998. It provides that the courts have jurisdiction over all common law and statutory claims originally cognizable in the courts. For those claims, a party may initiate an action directly in any court of competent jurisdiction.

In 2003, the Board's petition jurisdiction was further narrowed by the Third District Court of Appeal in *Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Buick-Pontiac, Inc., Real Party in Interest* (2003) 110 Cal.App.4th 1451. The court held that the Board's jurisdiction for licensee versus licensee petitions is limited to those in which the petitioner seeks relief under Vehicle Code section 3050, subdivision (c)(1) or (3) [Effective January 1, 2020, this relief is now in subdivision (b)(1) and (b)(3)]. Subdivision (c)(1) allows the Board to direct the Department to conduct an investigation of matters that the Board deems reasonable. Subdivision (c)(3) permits the Board to order the Department to "exercise any and all authority or power that the department may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation" of the occupational license of a manufacturer or distributor. The Board's jurisdiction under Vehicle Code section 3050, subdivision (c)(2) [Effective January 1, 2020, this relief is now in subdivision (b)(2)], which provides that the Board may "undertake to mediate, arbitrate, or otherwise resolve any honest difference of opinion or viewpoint [i.e., hold a hearing] existing between any member of the public and any new motor vehicle dealer, manufacturer, ... distributor ...", is now limited to petitions brought by members of the public, and does not include licensees as petitioners.

Effective January 1, 2004, the Vehicle Code was amended to bring new recreational vehicles (“RVs”) as defined in Health and Safety Code section 18010(a) under the jurisdiction of the Board for purposes of dispute resolution and fee collection (Senate Bill 248, Stats. 2003, ch. 703 § 11). This Guide integrates current Board processes and procedures to the extent they can be used to resolve disputes in the RV segment of the new motor vehicle industry and sets forth unique procedures that pertain to RV issues exclusively.

Effective January 1, 2020, the Board’s jurisdiction over appeals was repealed.

NEW AS OF 2022

Legislation

There was no new legislation that impacts the Board’s jurisdiction.

Case Law

There were no new opinions impacting the Board’s jurisdiction that were final in 2021.

Regulations

The Board recently promulgated several regulatory amendments pertaining to case management that are operative January 1, 2022. The Board’s regulations, Sections 550 through 598, are under Title 13 (Motor Vehicles), Division 1 (Department of Motor Vehicles), Chapter 2 (New Motor Vehicle Board) of the California Code of Regulations (“CCR”). There are separate and different regulation provisions for petitions (Articles 2 and 4) and protests (Article 5). The following summarizes, in part, these regulatory changes:

13 CCR § 550(t) - Amends the definition of protest to include references to Vehicle Code section 3065.3, 3065.4 and 3085.

13 CCR § 550(u) - Amends the definition of protestant to reflect a Vehicle Code section 3085 “export or sale-for-resale prohibition policy” protest filed by an association. For purposes of Vehicle Code section 3085, an association (an organization primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interests of dealers) is a protestant.

13 CCR § 556 - Clarifies that a petition shall clearly identify the facts, legal authority, and relief sought and include declarations or other evidence or documents that support the petition.

13 CCR § 558 - Specifies the procedure by which respondent can file evidence in its answer to a petition.

13 CCR § 586 - Adds references to Vehicle Code section 3065.4 protests (Retail Labor Rate and Retail Parts Rate) in the content requirements for filing a protest and deletes all references to “formulas.”

13 CCR § 586.5 - New provision providing the content requirements for filing a Vehicle Code section 3065.3 protest (Performance Standard).

13 CCR § 590 - Adds reference to Vehicle Code section 3065.3. and 3065.4 pertaining to hearings by the Board or by an Administrative Law Judge.

POWERS AND DUTIES IN GENERAL

The powers and duties of the Board are set out in Vehicle Code sections 3050 and 3051. New motor vehicle dealers, manufacturers, and distributors under the jurisdiction of the Board are charged fees to fund the Board's activities. (Veh. Code § 3016; 13 CCR § 553) In addition to delegating rulemaking authority to the Board, Vehicle Code section 3050 empowers the Board to resolve disputes arising in the form of protest or petitions.

As a quasi-judicial body, the Board has authority under Vehicle Code section 3050.1(a) to:

- Administer oaths;
- Take depositions;
- Certify to official acts; and,
- Issue subpoenas to compel attendance of witnesses and the production of documents.

Enforcement of Board Orders

There are provisions for sanctions and penalties for violating orders of the Board or the requirements of those sections of the Vehicle Code within the Board's authority. Obedience to subpoenas and the compliance with discovery procedures can be enforced by application to the Superior Courts. (Veh. Code § 3050.2(a)) Vehicle Code section 3050.2(b) gives the Executive Director authority, at the direction of the Board, upon a showing of failure to comply with authorized discovery without substantial justification, to dismiss a protest or petition or suspend the proceedings pending compliance. Vehicle Code section 11726 provides for enforcement of Board orders by permitting any licensee to recover damages, attorney fees, and injunctive relief in any court of competent jurisdiction for a willful failure to comply with a Board order.

Mandatory Settlement Conferences

In any protest or petition filed with the Board, the Board, its Executive Director, or an Administrative Law Judge ("ALJ") may order a mandatory settlement conference. (Veh. Code § 3050.4) For any proceeding, the settlement conference judge is precluded from hearing the proceeding on the merits or other motions in the case without stipulation by the parties. (13 CCR § 551.11) The failure of a party to appear, to be prepared, or to have the authority to settle the matter at such a conference may result in the Board taking action adverse to that party. (Veh. Code § 3050.4)

DISPUTES BETWEEN THE DEALER AND THE FRANCHISOR

The Vehicle Code gives the Board jurisdiction to resolve disputes involving the following:

Type of Case	Vehicle Code Authority	Page Nos.
Attempts by the franchisor to terminate, modify, or refuse to continue (renew) the franchise.	3060, 3070	11-19
Attempts by the franchisor to establish a new, or relocate an existing, dealer (of the “same line-make”) if the current franchisee is within a radius of 10 air miles of the proposed location (called the “relevant market area”).	3062(a)(1), 3072(a)(1)	20-24
Attempts by the franchisor to establish a satellite warranty facility at, or relocate an existing satellite warranty facility to, a location that is within 2 miles of any dealership of the same line-make. (<u>Note</u> : there are no comparable provisions for RV dealers.)	3062(a)(2)	25-28
Disputes relating to the dealers’ delivery and preparation obligations, and compensation for such services.	3064, 3074	29-30
Disputes relating to reimbursement for warranty work performed by motor vehicle dealers.	3065	31-37
Disputes relating to a franchisee’s retail labor rate or retail parts rate. (Note: there are no comparable provisions for RV dealers.)	3065.4	38-47
Disputes relating to reimbursement for warranty work performed by RV dealers.	3075	48-50
Disputes relating to reimbursement for franchisor incentive programs by motor vehicle dealers.	3065.1	51-56
Disputes relating to reimbursement for franchisor incentive programs by RV dealers.	3076	57-58
Disputes relating to a franchisor’s compliance with subdivision (g) of Section 11713.13. (Note: there are no comparable provisions for RV dealers.)	3065.3	59-61
All other disputes concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, or distributor submitted by any member of the public ³ or disputes between a franchisor and a franchisee seeking an investigation or a licensing action by the Department.	3050(b)	68-73

³ Members of the public have the option to seek informal mediation of their disputes (13 CCR § 551.14 et seq.) as well as administrative hearings on the merits pursuant to the Board’s petition process.

NOTE: Vehicle Code section 3050(c) prohibits a dealer member from participating, hearing, commenting, advising other members upon, or deciding any matter that involves a protest filed “pursuant to Article 4 (commencing with Section 3060), unless all parties to the protest stipulate otherwise.”

Vehicle Code section 3066(f) states: “[a] member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, a matter involving a protest filed pursuant to this article [Article 4, i.e., protests involving motor vehicles other than RVs] unless all parties to the protest stipulate otherwise.” These constraints ensure procedures that preclude any suggestion of bias or partiality of Board decisions.

The dealer members may participate in those matters not involving a dispute between a franchisee and franchisor such as a petition filed by a member of the public. For matters before the Board in which relief is sought pursuant to Vehicle Code section 3050(b), dealer members may not participate and there are no provisions to allow parties to stipulate and permit participation.

In Article 4 protests (involving cars, motorcycles, and ATVs), dealer members may participate if both parties so stipulate. Dealer members participate in Article 5 recreational vehicle protests unless the dealer Board member also owns and/or has a financial interest in a recreational vehicle dealership. Both parties can stipulate to allow the dealer member to participate in this instance.

PROTESTS IN GENERAL

Statutory Authority

Vehicle Code section 3050(c) provides for the Board to hear and decide any protest presented by a franchisee against a franchisor.

Statutory Bases for Protest

A protest can arise as a result of disputes contemplated by the following statutory provisions:

Vehicle Code Section	Provision
3060, 3070	The franchisor attempts to terminate, modify, or refuses to continue the franchise.
3062(a)(1), 3072(a)(1)	The franchisor attempts to establish an additional dealer or relocate an existing dealer within the relevant market area (any area within a radius of 10 miles from the site of a potential new dealership) where the same line-make is already represented.
3062(a)(2)	The franchisor attempts to establish an additional satellite warranty facility or relocate an existing satellite warranty facility within 2 miles of any dealership of the same line-make. (Note: there are no comparable provisions for RV dealers.)
3064, 3074	Disputes relating to the dealer's delivery and preparation obligations, and compensation for such services.
3065, 3075	Disputes relating to reimbursement for warranty work performed by the dealer.
3065.4	Disputes relating to a franchisee's retail labor rate or retail parts rate or its franchisor's proposed adjusted retail labor rate or retail parts rate. (Note: there are no comparable provisions for RV dealers.)
3065.1, 3076	Disputes relating to reimbursement for franchisor incentive programs.
3065.3	Disputes relating to a franchisor's performance standard, sales objective or program for measuring a dealer's sales, service, or customer service performance. Disputes relating to whether a franchisor complied with subdivision (g) of Section 11713.13. (Note: there are no comparable provisions for RV dealers.)

Separate Protests

A separate protest is required if there is more than one franchise.⁴ For example, if a franchised dealer files a single protest to the attempted termination of its Chrysler, Dodge, Jeep, and RAM franchises, consistent with Vehicle Code section 3050 and 13 CCR § 583, the Board would require the dealer to file an amended protest for one of its franchises, i.e., Chrysler, and new protests for the other three franchises, i.e., Dodge, Jeep, and RAM.

Filing Protest

Most protests have specific statutorily imposed time limits for filing. A protest is deemed filed upon its receipt by the Board via regular mail, email or facsimile, or upon mailing of the protest, if it is sent by either certified or registered mail. Accordingly, it is suggested that all protests be emailed to the Board at nmvp@nmvp.ca.gov or mailed by certified or registered to P.O. Box 188680, Sacramento, CA 95818-8680.

Franchisor's Notice of Appearance

The respondent shall file a written notice of appearance within 15 days of receipt of the protest (13 CCR § 585.1). Failure to timely file a notice of appearance shall result in the proceedings being suspended until such time as a notice of appearance is filed.

Filing Fee

A filing fee of \$200, which should be in the form of a check, money order or an authorized credit card charge payable to the New Motor Vehicle Board, must accompany the protest and notice of

⁴ Vehicle Code section 331 defines a "franchise" in part as follows: "a written agreement between two or more persons having all of the following conditions:

- (1) A commercial relationship of definite duration or continuing indefinite duration.
- (2) The franchisee is granted the right to offer for sale or lease, or to sell or lease at retail new motor vehicles or new trailers subject to identification pursuant to Section 5014.1 manufactured or distributed by the franchisor or the right to perform authorized warranty repairs and service, or the right to perform any combination of these activities.
- (3) The franchisee constitutes a component of the franchisor's distribution system.
- (4) The operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor.
- (5) The operation of a portion of the franchisee's business is substantially reliant on the franchisor for a continued supply of new vehicles, parts, or accessories."

A recreational vehicle franchise is defined in Vehicle Code section 331.3 as "... a written agreement between two or more persons having both of the following conditions: (a) A commercial relationship of definite duration or continuing indefinite duration; and (b) The franchisee is granted the right to offer for sale or lease, or to sell or lease at retail, new recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, that are manufactured or distributed by the franchisor, or the right to perform authorized warranty repairs and service, or the right to perform any combination of these activities."

appearance. In the event of a financial hardship, either the protestant or respondent may submit a request for a fee waiver, requesting that the Executive Director, upon a showing of good cause, waive the \$200 filing fee (13 CCR § 553.40). (Samples are available on the Board's website.)

Interested Individuals

Per Vehicle Code sections 3066 and 3080, any interested individual may apply to the Board for permission to appear at the hearing on any protest for the purpose of submitting direct evidence concerning the issues raised in the protest.

Motion for Intervention

Any person, including a Board member, concerned with the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative may file a motion to intervene in a pending protest subject to the conditions set forth in 13 CCR § 551.13.

Challenge to Presiding Officer

A party may request disqualification of a Board member or an ALJ for cause prior to the taking of evidence by filing an affidavit stating the grounds for the request (13 CCR § 551.1). Further, 13 CCR § 551.12(b) entitles a party, excluding an intervenor, in a protest to one disqualification without cause (peremptory challenge) of the assigned merits ALJ by filing the peremptory challenge with the Board no later than either 20 days from the date of the order of time and place of hearing identifying the merits ALJ or 20 days prior to the date scheduled for commencement of the merits hearing, whichever is earlier (13 CCR § 551.12(b)(1)). In the event a Board ALJ is unavailable to preside over the merits hearing, an ALJ from the Office of Administrative Hearings will be assigned. A peremptory challenge of the assigned administrative law judge is not authorized for law and motion hearings, settlement conferences, and rulings on discovery disputes. Except for the convenience of the Board or for good cause shown, no merits hearing shall be continued by the filing of a peremptory challenge.

Amicus Curiae Briefs

The Board, its Executive Director, or an ALJ may, in his or her discretion, allow the filing of amicus curiae briefs. (13 CCR § 551.13)

Table of Contents for Protest Section

The chart below identifies the section and page numbers for procedural requirements particular to each type of protest but should be relied on only as a guide.

Protest Section of Guide	Page Nos.
Termination of the Franchise	11-15
Modification of the Franchise	16-19
Additional or Relocated Franchise	20-24
Additional or Relocated Satellite Warranty Facility (Motor Vehicle Dealers)	25-28
Compensation for Delivery and Preparation	29-30
Compensation for Warranty Reimbursement (Motor Vehicle Dealers)	31-37
Retail Labor Rate or Retail Parts Rate	38-47
Compensation for Warranty Reimbursement (RV Dealers)	48-50
Compensation for Franchisor Incentive Program Reimbursement (Motor Vehicles Dealers)	51-56
Compensation for Franchisor Incentive Program Reimbursement (RV Dealers)	57-58
Franchisor Compliance with Section 11713.13(g)	59-61
Hearing Procedures	62-67

TERMINATION OF FRANCHISE

Statutory Authority for Protest

Vehicle Code sections 3060 and 3070 give the dealer the right to protest an attempt by the manufacturer or distributor to terminate or refuse to continue an existing franchise agreement.

Franchisor's Notice of Termination

Vehicle Code sections 3060 and 3070 provide that no franchisor (manufacturer or distributor) shall terminate or refuse to continue a franchise (sales and service agreement) unless written notice of the franchisor's intent to terminate has been received by both the franchisee (dealer) and the Board. The notice must set forth the specific grounds for termination and must contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, one of the following statements:

(When a 60-day notice of termination or refusal to continue is given.)

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.

(When a 15-day notice of termination is given.)

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.

Termination notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make. For example, if American Honda seeks to terminate a motorcycle/ATV/scooter dealership and has a separate franchise for each line-make, then there should be three separate termination notices sent to the franchisee and the Board.

Time for Filing a Protest

It is essential not to confuse the time within which to file a protest with the Board with the time at which a termination becomes effective. The time at which the termination will become effective is governed by the reasons for termination. The chart below identifies the reasons for termination, corresponding protest filing periods, and effective dates of termination.

Reason for Termination	Filing Period	Effective Date of Termination
Transfer of any ownership or interest in the franchise without the consent of the franchisor. The consent shall not be unreasonably withheld.	10 days from dealer's receipt of notice or 10 days after the end of any appeal procedure provided by the franchisor.	15 days after dealer's receipt of notice.
Misrepresentation by the franchisee in applying for the franchise.	As above.	As above.
Insolvency of the franchisee, or the filing of any petition by or against the franchisee under any bankruptcy or receivership law.	As above.	As above.
Any unfair business practice after written warning thereof.	As above.	As above.
Failure of the motor vehicle dealer to conduct its customary sales and service operations during its customary hours of business for seven consecutive business days, giving rise to a good faith belief on the part of the franchisor that the motor vehicle (recreational vehicle) dealer is in fact going out of business, except for circumstances beyond the direct control of the motor vehicle (recreational vehicle) dealer or by order of the Department.	As above.	As above.
Any other reason.	30 days from dealer's receipt of notice or 30 days after the end of any appeal procedure provided by the franchisor.	60 days after dealer's receipt of notice.

The protest shall be considered filed on the date of receipt via regular mail, email or facsimile by the Executive Director of the Board or on the date of certified or registered mailing. A document which purports to be a protest will not be “filed” until the Executive Director has reviewed it for compliance with the Board’s enabling statutes and regulations. If the Executive Director deems the document complies, it shall be filed as a protest (13 CCR § 598).

Failure of a dealer to file a timely protest with the Board will result in a loss of the right to a hearing before the Board. This could result in automatic termination of the franchise as of the time indicated in the notice of termination. Filing a timely protest will prevent the termination from becoming effective until the protest is resolved by the Board.

Required Elements of a Protest

The required content of a protest under Vehicle Code sections 3060 and 3070 is described in 13 CCR § 585. A protest to the proposed termination or non-renewal of a franchise must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ⁵	13 CCR § 583
Must be responsive to the specific grounds of the termination set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

⁵ If the franchisee is a natural person, not a corporation or other legal entity, the protest shall be signed by that person or by the franchisee's attorney or representative. If the franchisee is a corporation or other legal entity, the protest shall be signed by an attorney representing the entity, or by an authorized representative of the entity (13 CCR § 583).

Good Cause

If a timely protest is filed, the manufacturer or distributor cannot terminate the franchise until a hearing has been held and the Board acts on the proposed decision. At a hearing, the manufacturer or distributor will have the burden of proving “good cause” for termination. In making a determination of good cause under Vehicle Code sections 3061 or 3071, the Board shall take into consideration the existing circumstances, including, but not limited to all of the following:

Circumstances	Vehicle Code Section
Amount of business transacted by the franchisee, as compared to the business available to the franchisee.	3061(a), 3071(a)
Investment necessarily made and obligations incurred by the franchisee to perform its part of the franchise.	3061(b), 3071(b)
Permanency of the investment.	3061(c), 3071(c)
Whether it is injurious or beneficial to the public welfare for the franchise to be modified or replaced or the business of the franchisee disrupted.	3061(d), 3071(d)
Whether the franchisee has adequate motor vehicle or recreational vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumers for the motor vehicles or recreational vehicles handled by the franchisee and has been and is rendering adequate services to the public. (Note: In the case of RVs, not all franchise agreements require service facilities, equipment, vehicle parts, and qualified service personnel.)	3061(e), 3071(e)
Whether the franchisee fails to fulfill the warranty obligations of the franchisor to be performed by the franchisee. (Note: In the case of RVs, not all franchise agreements require franchisees to have warranty obligations.)	3061(f), 3071(f)
Extent of the franchisee’s failure to comply with the terms of the franchise.	3061(g), 3071(g)

Determination of Protest

If the franchisor, having the burden, cannot establish good cause for terminating the franchise, the protest will be sustained, and the termination will not be permitted.

MODIFICATION OF FRANCHISE

Statutory Authority for Protest

Vehicle Code sections 3060(b) and 3070(b) give the dealer the right to protest an attempt by the manufacturer or distributor to modify or replace an existing franchise such that the modification substantially affects the dealer's sales or service obligations or investment.

Franchisor's Notice of Modification

Vehicle Code sections 3060 and 3070 provide that no franchisor shall modify or replace an existing franchise with a succeeding franchise if the modification or replacement would substantially affect the existing franchisee's sales or service obligations or investment, unless written notice of modification or replacement is given to each affected franchisee and the Board at least 60 days prior to the modification or replacement.⁶

The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, the following statement:

NOTICE TO DEALER: Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest rights will be waived.

Modification notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make.

Time for Filing a Protest

Filing a timely protest will prevent the modification from becoming effective until the protest is resolved by the Board. It is essential not to confuse the time within which to file a protest with the Board with the time at which a modification becomes effective. The chart below identifies the protest filing period and effective date of modification:

⁶ Despite the franchisor's decision that the notices to the franchisee and the Board are not required, to avoid a claim that it has violated any of the Vehicle Code provisions, a franchisor may decide to issue notices that comply with the statutes. The franchisor also may at the same time expressly state, along with the notices or in the notices themselves, that the franchisor believes that the notices were not required and also claim that there is no right in the franchisee to file a protest despite the notices stating to the contrary (as required by the statutory language).

Reason for Modification	Filing Period	Effective Date of Modification
As stated by franchisor.	30 days from dealer's receipt of notice or 30 days after the end of any appeal procedure provided by the franchisor.	60 days after dealer's receipt of notice.

The protest shall be considered filed on the date of receipt via regular mail, email or facsimile by the Executive Director of the Board or on the date of certified or registered mailing. A document which purports to be a protest will not be "filed" until the Executive Director has reviewed it for compliance with the Board's enabling statutes and regulations. If the Executive Director deems the document complies, it shall be filed as a protest (13 CCR § 598).

Failure of a dealer to file a timely protest with the Board will result in a loss of the right to a hearing before the Board. This could result in the modification becoming effective as stated in the notice. Filing a timely protest will prevent the modification or replacement from becoming effective until the protest is resolved by the Board.

Required Elements of Protest

The required content of a protest under Vehicle Code sections 3060 and 3070 is described in 13 CCR § 585. A protest of modification or replacement of an existing franchise must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ⁷	13 CCR § 583
Must be responsive to the specific grounds of the modification or replacement set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

Good Cause

If a timely protest is filed, the manufacturer or distributor cannot modify the franchise if such modification would substantially affect a dealer's sales or service obligations or investment until a hearing has been held by the Board. At the hearing, the dealer has the initial burden to establish that there is a proposed modification, which would substantially affect the dealer's sales or service obligations or investment. If the dealer meets this burden, the burden of proof shifts to the manufacturer or distributor to prove "good cause" for the modification. In making a determination of good cause pursuant to Vehicle Code sections 3061 or 3071, the Board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

⁷ See footnote 5.

Circumstances	Vehicle Code Section
Amount of business transacted by the franchisee, as compared to the business available to the franchisee.	3061(a), 3071(a)
Investment necessarily made and obligations incurred by the franchisee to perform its part of the franchise.	3061(b), 3071(b)
Permanency of the investment.	3061(c), 3071(c)
Whether it is injurious or beneficial to the public welfare for the franchise to be modified or replaced or the business of the franchisee disrupted.	3061(d), 3071(d)
Whether the franchisee has adequate motor vehicle or recreational vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumers for the motor vehicles or recreational vehicles handled by the franchisee and has been and is rendering adequate services to the public. (<u>Note:</u> In the case of RVs, not all franchise agreements require service facilities, equipment, vehicle parts, and qualified service personnel.)	3061(e), 3071(e)
Whether the franchisee fails to fulfill the warranty obligations of the franchisor to be performed by the franchisee. (<u>Note:</u> In the case of RVs, not all franchise agreements require franchisees to have warranty obligations.)	3061(f), 3071(f)
Extent of the franchisee's failure to comply with the terms of the franchise.	3061(g), 3071(g)

Determination of Protest

The modification will not be permitted if the Board decides the manufacturer or distributor failed to establish good cause for the intended modification.

If a replacement franchise is the successor franchise to an expiring or expired term franchise, the prior franchise shall continue in effect until resolution of the protest by the Board. In the event of multiple protests, hearings shall be consolidated to expedite the disposition of the issue.

ADDITIONAL OR RELOCATED FRANCHISE

Statutory Authority for Protest

Vehicle Code sections 3062(a)(1) and 3072(a)(1) give a dealer the right to protest the establishment of an additional dealership or relocation of an existing dealership of the same line-make within a ten-mile radius of the proposed new or relocating dealership. Any protest filed pursuant to this section is, by statute, filed against the manufacturer or distributor that is attempting to establish or relocate one of its dealers.

NOTE: The proposed new dealer, or the existing dealer seeking to relocate, may appear in the proceedings as an interested individual. The rights of an interested individual to participate in the proceedings are somewhat limited, and subject to the ALJ's management of the hearing. In general, interested individuals have no right to formal discovery or right of cross-examination at the hearing.

Franchisor's Notice of Additional or Relocated Franchise

Vehicle Code sections 3062(a)(1) and 3072(a)(1)⁸ require that the manufacturer or distributor must first give written notice to the Board and to dealerships of the "same line-make" within the "relevant market area" of the proposed new or relocating dealership.

The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, the following statement:

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.

Establishment and relocation notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make. For example, if General Motors LLC seeks to establish an additional Buick/Cadillac/GMC dealership and has a separate franchise for each line-make, then there should be separate establishment notices sent to each franchisee of any of the three line-makes within the relevant market area of the proposed new location (as defined in Vehicle Code section 507) and the Board.

For motor vehicles other than RVs, "line-make" is not defined in the code. What is or is not a same

⁸ The last sentence in the "Notice to Dealer" language in Section 3072(a) contains commas as follows: "If, within this time, you file with the board..."

“line-make” is obvious in most situations. However, gray areas can exist. In this Guide, the working definition of “line-make” for the automobile industry corresponds to that used by the Department as a classification system for registering vehicles, licensing dealers, and resolving questions related to OL-124 Form (Certificate of Proposed Franchise) relevant market area requirements. For instance, in the automotive industry, a manufacturer such as General Motors would have several “makes” including Buick, Chevrolet, and Cadillac. Each “make”, in turn, would be comprised of several “lines” or models, e.g., Chevrolet has Silverado, Impala, and Tahoe “lines” or models.

For the RV industry, which lacks uniformity, “recreational vehicle line-make” is defined in Vehicle Code section 3072.5 as: “a group or groups of recreational vehicles defined by the terms of a written agreement that complies with Section 331.3.” It is essential that RV franchisors are precise when defining a line-make in RV franchise agreements and ensure that their makes are registered with the Department.

Relevant market area is defined in Vehicle Code section 507 as “any area within a radius of 10 miles from the site of a potential new dealership.” The distance is determined by a straight-line measurement between the nearest points of the new dealership’s location and the protesting dealership’s location. There are times when a survey will be necessary to determine whether a dealer desiring to protest is within the relevant market area.

Exceptions to the Right to Protest

New Motor Vehicle Dealers (including RVs)

There are exceptions to the requirement of notice to existing dealers within the relevant market area of a franchisor’s intent to establish or relocate a dealership. These exceptions are located in Vehicle Code sections 3062 and 3072, and provide that no notice is required to be given, and there is no right to protest, if:

1. The relocation is of an existing dealership to a location that is both within the same city as, and is within one mile from, the existing (relocating) dealership location;
2. The establishment of a dealership at the same location of a dealership that has been out of operation for less than one year;
3. The relocation entails the establishment at a location of a dealership that is both within the same city as, and is within one-quarter mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days; or
4. The establishment entails a display of vehicles at fairs, expositions, or similar exhibits provided that no actual sales are made at the event and the display does not exceed 30 days.

Vehicle Code sections 3062 and 3072 require that if an “off-site sale” is intended, the manufacturer or distributor must give notice to all dealers of the same line-make within 10 miles of the proposed site. Such dealers would have a right to protest the off-site sale, even though a financial institution and a licensed dealer sponsor the event.

Recreational Vehicle Dealers Only

For RVs, the exceptions to notice requirements are found in Vehicle Code section 3072. The exceptions are essentially the same as provided in Vehicle Code 3062 as stated above with the addition of one more exception. That one exception is for an annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with all of the requirements of subdivision (d) of Vehicle Code section 11713.15.⁹ (Veh. Code § 3072(b)(4))

Time for Filing a Protest

Filing a timely protest will preclude the manufacturer or distributor from establishing or relocating the dealership until the Board resolves the protest.

The chart below identifies the protest filing period and effective date of the relocation or establishment of a dealership.

Type of Notice	Filing Period	Effective Date of Relocation/ Establishment
A notice by franchisor of intent to establish or relocate franchisee.	20 days from dealer's receipt of notice or 20 days after the end of any appeal procedure provided by the franchisor, whichever is later.	As stated by franchisor.

If, within the above filing period, a franchisee files with the Board a request for additional time to file a protest, the Board or its Executive Director, on a showing of good cause, may grant an additional 10 days to file the protest.

If no protest is filed, or if the protest is not filed within the statutory filing period, the manufacturer or distributor will be able to establish the proposed dealership or relocate the existing dealership without proceeding before the Board.

⁹ Effective September 19, 2018, subdivision (d) of Vehicle Code section 11713.15 was amended to except a recreational vehicle dealer being issued a temporary branch license from the notice requirements if the show is located in a county with a population of 9,000,000 or more persons, or at a location within 30 miles from the prior approved location of the show, and at least 10 manufacturers are participating in the show. (Assembly Bill 2330, Stats. 2018, ch. 537)

Required Elements of Protest

The required content of a protest pursuant to Vehicle Code sections 3062 and 3072 is set forth in detail in 13 CCR § 585. A protest of the relocation or establishment of a franchise must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ¹⁰	13 CCR § 583
Must be responsive to the specific grounds of the establishment or relocation set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

¹⁰ See footnote 5.

Good Cause

If a timely protest is filed, the manufacturer or distributor cannot establish an additional franchise or relocate an existing franchise until the protest is resolved by the Board. At the hearing, the protesting dealer has the burden of proving that there is good cause to prevent the establishment of the additional dealer or relocation of an existing dealership. In making a determination of good cause pursuant to Vehicle Code sections 3063 or 3073, the Board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

Circumstances	Vehicle Code Section
Permanency of the investment.	3063(a), 3073(a)
Effect on the retail motor vehicle (recreational vehicle) business and the consuming public in the relevant market area.	3063(b), 3073(b)
Whether it is injurious to the public welfare for an additional franchise to be established or an existing dealership to be relocated.	3063(c), 3073(c)
Whether the franchisees of the same line-make or same recreational vehicle line-make in the relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line-make or recreational vehicle line-make in the market area. This includes the adequacy of motor vehicle or recreational vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel. (Note: For RVs, adequate sales shall be considered, however, not all RV franchise agreements require service facilities, equipment, supply of vehicle parts, and qualified service personnel.)	3063(d), 3073(d)
Whether the establishment of an additional franchise would increase competition and therefore be in the public interest.	3063(e), 3073(e)

Determination of Protest

If the Board decides the protesting dealer cannot prove good cause to prevent the establishment or relocation, the manufacturer or distributor will be permitted to proceed with its intended action.

ADDITIONAL OR RELOCATED SATELLITE WARRANTY FACILITY

Statutory Authority for Protest

Vehicle Code section 3062(a)(2) gives a new motor vehicle dealer the right to protest an additional satellite warranty facility or the relocation of an existing satellite warranty facility within 2 miles of any dealership of the same line-make. Satellite warranty facility is defined as “a facility operated by a franchisee where authorized warranty repairs and service are performed and the offer for sale or lease, the display for sale or lease, or the sale or lease of new motor vehicles is not authorized to take place.” (Veh. Code § 3062(e)(2)) Any protest filed pursuant to this section is, by statute, filed against the manufacturer or distributor that is attempting to establish or relocate one of its satellite warranty facilities. There are no comparable statutory provisions for RV dealers for such protests.

Franchisor’s Notice of Additional or Relocated Satellite Warranty Facility

Vehicle Code section 3062(a)(2) requires that the manufacturer or distributor must first give written notice to the Board and to dealerships of the same line-make within 2 miles of the proposed location.

The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line, the following statement:

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.

The notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and 13 CCR § 593.1. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make.

Time for Filing a Protest

Filing a timely protest will preclude the manufacturer or distributor from establishing or relocating the satellite warranty facility until the protest is resolved by the Board. The chart on the next page identifies the protest filing period and effective date of the relocation or establishment of a satellite warranty facility.

If, within the filing period set forth in the table, a franchisee files with the Board a request for additional time to file a protest, the Board or its Executive Director, on a showing of good cause, may grant an additional 10 days to file the protest.

If no protest is filed, or if the protest is not filed in time, the manufacturer or distributor will be able to establish the proposed satellite warranty facility or relocate the existing satellite warranty facility without proceeding before the Board.

Type of Notice	Filing Period	Effective Date of Relocation/ Establishment
A notice by franchisor of intent to establish or relocate franchisee.	20 days from dealer's receipt of notice or 20 days after the end of any appeal procedure provided by the franchisor, whichever is later.	As stated by franchisor.

Required Elements of Protest

The required content of a protest under Vehicle Code section 3062(a)(2) is described in 13 CCR § 585. A protest of the relocation or establishment of a satellite warranty facility must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ¹¹	13 CCR § 583
Must be responsive to the specific grounds of the establishment or relocation of the satellite warranty facility set forth in the notice and set forth clearly and concisely the factual contentions of the franchisee with respect to the matter referred to in the notice.	13 CCR § 585(b)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 585(d)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 585(e)
Franchisee shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 585(f)
Franchisee shall request a pre-hearing conference if one is desired.	13 CCR § 585(g)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 585(c)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

Good Cause

If a timely protest is filed, the manufacturer or distributor cannot establish an additional satellite warranty facility or relocate an existing satellite warranty facility until the protest is resolved by the Board. At the hearing, the protesting dealer has the burden of proving that there is good cause to prevent the establishment of the additional satellite warranty facility or relocation of an existing satellite warranty facility.

¹¹ See footnote 5.

In making a determination of good cause pursuant to Vehicle Code section 3063, the Board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

Circumstances	Vehicle Code Section
Permanency of the investment.	3063(a)
Effect on the retail motor vehicle business and the consuming public in the relevant market area.	3063(b)
Whether it is injurious to the public welfare for an additional franchise to be established or an existing dealership to be relocated.	3063(c)
Whether the franchisees of the same line-make in the relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line-make in the market area, which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel.	3063(d)
Whether the establishment of an additional franchise would increase competition and therefore be in the public interest.	3063(e)

Determination of Protest

If the Board decides the protesting dealer is unable to prove good cause not to allow the establishment or relocation of the satellite warranty facility, the manufacturer or distributor will be permitted to proceed with its intended action.

COMPENSATION FOR DELIVERY AND PREPARATION

Statutory Authority

Vehicle Code sections 3064 and 3074 require every new motor vehicle or recreational vehicle manufacturer and distributor to specify the dealer's delivery and preparation obligations prior to the delivery of new motor vehicles or new recreational vehicles to retail buyers.

Franchisor's Notice of Compensation for Delivery and Preparation

Manufacturers and distributors are required to file with the Board a copy of the delivery and preparation obligations and a schedule of compensation to be paid to the dealers for the work and services they shall be required to perform in connection with the delivery and preparation obligations. The schedule of compensation must be reasonable with the issue of reasonableness being subject to the approval of the Board. In order to initiate Board action, a franchisee must file a protest with the Board.

Time for Filing a Protest

There is no specific statutory time period in the Vehicle Code within which to file a protest involving delivery and preparation obligations and compensation. Failure to file a protest within a reasonable time, however, could result in a dealer losing the right to a hearing by the Board.

Required Elements of Protest

The required content of a protest under Vehicle Code sections 3064 and 3074 is described in 13 CCR § 586. A protest involving delivery and preparation obligations must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ¹²	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

Determination of Protest

If a dealer files a protest challenging the reasonableness of the schedule, the Board will resolve the dispute in light of all the relevant circumstances including, but not limited to, the time required to perform each function.

If there is a hearing, the dealer has the burden of proving that the schedule of compensation is not reasonable (Veh. Code §§ 3066(c) and 3080(c)).

¹² See footnote 5.

WARRANTY CLAIMS - Motor Vehicle Dealers

Franchisor's Notice of Compensation for Warranty Reimbursement

Vehicle Code section 3065(a) requires every new motor vehicle manufacturer or distributor (franchisor) to properly fulfill every warranty agreement made by it and to adequately and fairly compensate its dealers (franchisees) for labor and parts used to satisfy the warranty obligations of the franchisor, including but not limited to diagnostics, repair, service, and all other conditions of the obligation, including costs directly associated with the disposal of hazardous materials that are associated with a warranty repair. (Veh. Code § 3065(a))

Franchisors are required to use time allowances for the diagnosis and performance of work and service that are reasonable and adequate for a qualified technician to perform the work or services. (Veh. Code § 3065(a)(1))

Additionally, “[a] franchisor shall not unreasonably deny a written request submitted by a franchisee for modification of a franchisor’s uniform time allowance for a specific warranty repair, or a request submitted by a franchisee for an additional time allowance for either diagnostic or repair work on a specific vehicle covered under warranty, provided the request includes any information and documentation reasonably required by the franchisor to assess the merits of the franchisee’s request.” (Veh. Code § 3065(a)(1))

Manufacturers and distributors are required to file copies of their warranty reimbursement schedules with the Board, which must be reasonable with respect to the time and compensation allowed to the dealer for the performance of warranty diagnostics, repair, and service. (Veh. Code § 3065(a))

Reasonableness of the Warranty Reimbursement Schedule

Subdivision (b) of Section 3065 was amended to clarify what constitutes a reasonable warranty reimbursement schedule: “a franchisor shall compensate each of its franchisees for parts and labor at rates equal to the franchisee’s retail labor rate and retail parts rate, as established pursuant to Section 3065.2.” Effective January 1, 2020, a franchisee no longer has a protest right to contest the reasonableness of its franchisor’s warranty reimbursement schedule or formula. (Veh. Code § 3065(b))

A franchisee and a franchisor can enter into a “voluntary written agreement signed by both parties that compensates for labor and parts used to satisfy the warranty obligations of the franchisor at rates other than the franchisee’s retail rates, provided that the warranty reimbursement schedule adequately and fairly compensates the franchisee.” (Veh. Code § 3065(b))

Protest of Pre-Repair Challenges to the Reduction in Time and Compensation (Labor Time Guides) Applicable to Specific Parts or Labor Operations

Manufacturers and distributors are prohibited from imposing a fixed percentage or other reduction in the time or compensation allowed to the dealer for warranty repairs not attributable to a specific

repair. (Veh. Code § 3065(a)(2))

The time or compensation applicable to a specific warranty repair may be reduced only upon 15 days' prior written notice to the dealer. (Veh. Code § 3065(a)(2))

A franchisee can file a protest to challenge the reduction in time or compensation applicable to specific parts or labor operations. The protest needs to be filed within 6 months "following the franchisee's receipt of notice of the reduction." If there is a hearing, the franchisor has the burden of "establishing the reasonableness of the reduction and adequacy and fairness of the resulting reduction in time or compensation." (Veh. Code § 3065(a)(3))

Approval of Warranty Claims

Vehicle Code section 3065(d)(1) requires that warranty claims be approved or disapproved within 30 days after their receipt by the franchisor. Any claim not specifically disapproved in writing within 30 days from receipt by the franchisor shall be deemed approved on the 30th day.

Approved warranty claims must be paid within 30 days of approval. However, Vehicle Code section 3065(d)(5) provides that failure to approve or pay within these time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not violate Article 4 (pertains to motor vehicles other than RVs).

Disapproval of Warranty Claims for a Defective Part

Vehicle Code section 3065(c) requires the franchisor that disallows a franchisee's warranty claim for a defective part on the basis that the part was not defective must return the part to the franchisee at the franchisor's expense, or reimburse the franchisee for the part, at the franchisor's option.

Disapproval of Warranty Claims

A franchisor shall not disapprove a claim unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. Repairs were not properly made;
4. Repairs were inappropriate to correct a warranty failure due to an improper act or omission of the franchisee; or
5. Material noncompliance with reasonable and nondiscriminatory documentation and administrative claims submission requirements. (Veh. Code § 3065(d)(2))

A franchisor who disapproves a claim is required to notify the franchisee in writing of the disapproval 30 days after receipt by the franchisor and each notice shall state the specific grounds upon which the disapproval is based. (Veh. Code § 3065(d)(3))

Protest of Initial Disapproval of Warranty Claims

A franchisee can file a protest of the initial disapproval of a warranty claim within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(d)(6))

Franchisor Provided “Reasonable” Appeal Process

Vehicle Code section 3065(d)(3) requires franchisors to provide a reasonable appeal process that allows the franchisee at least 30 days after receipt of the written disapproval notice to provide additional supporting documentation or information rebutting the disapproval.

If the disapproval is based upon noncompliance with documentation or administrative claims submission requirements, the franchisor shall allow the franchisee at least 30 days from the date of receipt of the notice to cure any material noncompliance.

If the disapproval is rebutted and material noncompliance is cured before the applicable deadline, the franchisor shall approve the claim.

There are potentially two 30-day time periods: (1) reasonable appeal; and (2) opportunity to cure.

Final Denial of Warranty Claim

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state “Final Denial” on the first page. (Veh. Code § 3065(d)(4))

Protest of Final Denial of Warranty Claim following a Franchisor’s Appeal Process

A franchisee can file a protest of the final denial of a warranty claim following a franchisor’s appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(d)(6))

Audits of Franchisee Warranty Records

Audits of franchisee warranty records may be conducted by the franchisor on a reasonable basis, and for a period of 9 months after a claim is paid or a credit issued.

A franchisor shall not select a franchisee for an audit, or perform an audit, in a punitive, retaliatory, or unfairly discriminatory manner.

A franchisor may conduct no more than one random audit of a franchisee in a 9-month period.

The franchisor’s notification to the franchisee of any additional audit within a 9-month period shall

be accompanied by written disclosure of the basis for that additional audit. (Veh. Code § 3065(e)(1))

If a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for audit and any resulting chargeback may be permitted if the franchisor obtains an order from the Board. (Veh. Code § 3065(f))

Disapproval of Previously Approved Warranty Claims

Previously approved claims shall not be disapproved or charged back to the dealer unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. Repairs were not properly made;
4. Repairs were inappropriate to correct a warranty failure due to an improper act or omission of the franchisee; or
5. Material noncompliance with reasonable and nondiscriminatory documentation and administrative claims submission requirements. (Veh. Code § 3065(e)(2))

A franchisor shall not disapprove or chargeback a claim based upon an extrapolation from a sample of claims, unless the sample of claims is selected randomly, and the extrapolation is performed in a reasonable and statistically valid manner.

If the franchisor disapproves of a previously approved claim following an audit, within 30 days after the audit, the franchisor shall provide to the franchisee a written disapproval notice stating the specific grounds upon which the claim is disapproved. (Veh. Code § 3065(e)(3))

Protest of Warranty Claim Disapproval of a Previously Approved Claim Following an Audit

A franchisee can file a protest of the warranty claim disapproval of a previously approved claim following an audit within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(e)(6))

Franchisor Provided “Reasonable” Appeal Process

Vehicle Code section 3065(e)(3) requires franchisors to provide a reasonable appeal process that allows the franchisee a reasonable period of not less than 30 days after receipt of the written disapproval notice to respond to any disapproval with additional supporting documentation or information rebutting the disapproval and to cure noncompliance, with the period commensurate with the volume of claims under consideration.

If the franchisee rebuts any disapproval and cures any material noncompliance relating to a claim before the applicable deadline, the franchisor shall not chargeback the franchisee for that claim.

Final Denial of Warranty Claim Following an Audit

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state “Final Denial” on the first page. (Veh. Code § 3065(e)(4))

Protest of Final Denial of Warranty Claim Following an Audit Following the Franchisor’s Appeal Process

A franchisee can file a protest of the final denial of a warranty claim following an audit following the franchisor’s appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065(e)(6))

Franchisor Chargeback for Warranty Claims

Vehicle Code section 3065(e)(5) provides that the franchisor shall not chargeback the franchisee until 45 days after receipt of the written disapproval of a previously approved claim following an audit or final denial of warranty claim following an audit following the franchisor’s appeal process, whichever is later.

Any chargeback to a franchisee for warranty parts or service compensation shall be made within 90 days of receipt of that written notice.

If the franchisee files a protest pursuant to this subdivision prior to the franchisor’s chargeback for denied claims, the franchisor shall not offset or otherwise undertake to collect the chargeback until the Board issues a final order on the protest.

If the Board sustains the chargeback or the protest is dismissed, the franchisor shall have 90 days following issuance of the final order or the dismissal to make the chargeback, unless otherwise provided in a settlement agreement.

In summary, days 45-90 are the only days to chargeback a dealer for warranty claims. A manufacturer or distributor cannot chargeback a dealer before day 44, or after day 91. But if a protest is filed prior to a chargeback, then the franchisor cannot chargeback the dealer during the above time period. It must wait until the Board decides the protest and if the protest is dismissed or the Board sustains the chargeback, then the franchisor can chargeback the dealer but must do so within 90 days after the Board action (or within time period allowed by settlement agreement, if any).

However, if a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for an audit and any resulting chargeback may be permitted if the franchisor obtains an order from the Board. (Veh. Code § 3065(f))

Required Elements of Protest

The required content of a protest under Vehicle Code section 3065 is described in 13 CCR § 586. A protest involving warranty claims must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ¹³	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

¹³ See footnote 5.

WARRANTY CLAIMS PROTESTS
Motor Vehicle Dealers

Vehicle Code Section	Type of Protest	Notice to Dealer	Time to File Protest	Burden of Proof if there is a Hearing
3065(a)	Pre-Repair Challenge to the reduction in time and compensation (labor time guides) applicable to specific parts or labor operations	Written notice of reduction provided by the franchisor to the franchisee.	Within 6 months following the franchisee's receipt of the written notice of reduction	Franchisor has burden to establish the reasonableness of the reduction and adequacy and fairness of the resulting compensation (3065(a))
3065(d)(3)	Post-Repair Initial disapproval of warranty claims	Franchisor provides a written notice of disapproval within 30 days after the franchisor's receipt of a warranty claim submitted by a franchisee.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(d)(6))
3065(d)(4)	Post-Repair/Post-Appeal Final denial of warranty claim following franchisor's appeal process	Notice of Final Denial to the franchisee.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(d)(6))
3065(e)(3)	Post-Audit Warranty claim disapproval of a previously approved claim following an audit	Franchisor provides a written Notice of Disapproval within 30 days after the audit stating the specific grounds.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(e)(6))
3065(e)(4)	Post-Audit/Post-Appeal Final denial of warranty claim following an audit following franchisor's appeal process	Notification of the Final Denial to the franchisee.	Within 6 months after receipt of the written notice	Franchisor has the burden (3065(e)(6))

RETAIL LABOR RATE OR RETAIL PARTS RATE - Motor Vehicle Dealers

Establishment or Modification of Franchisee's Retail Labor Rate or Retail Parts Rate

A franchisee can establish or modify its retail labor rate or retail parts rate no more often than once per calendar year by submitting in writing to its franchisor whichever of the following is **fewer** in number:

- 100 sequential qualified repair orders, including any nonqualified repair orders in the same time period.¹⁴
- All repair orders completed during any 90-consecutive-day period.

(Veh. Code § 3065.2(a)(1)(A)-(B))

How a Franchisee Calculates its Retail Labor Rate?

To calculate its **retail labor rate**, a franchisee shall determine the total charges for labor from the qualified repairs orders submitted as indicated above in Vehicle Code section 3065.2(a)(1)(A)-(B) and divide that amount by the total number of hours. (Veh. Code § 3065.2(a)(2))

How a Franchisee Calculates its Retail Parts Rate?

To calculate its **retail parts rate**, a franchisee shall determine the total charges for parts from the qualified repair orders submitted as indicated above in Vehicle Code section 3065.2(a)(1)(A)-(B) and divide that amount by the franchisee's total cost of the purchase of those parts, then subtract one, and multiply by 100 to produce a percentage. (Veh. Code § 3065.2(a)(3))

Statutorily Required Notice to the Franchisor by the Franchisee of its Retail Labor Rate and Retail Parts Rate

The franchisee is statutorily required to provide its franchisor with **notice** of its retail labor rate and retail parts rate as calculated above. (Veh. Code § 3065.2(a)(4))

How Repair Orders are Submitted Pursuant to Section 3065.2?

A franchisee may submit any of the following to its franchisor:¹⁵

1. For calculating both its retail labor rate and retail parts rate, a franchisee can submit

¹⁴ As used in Vehicle Code section 3065.2(a), a "qualified repair order" is defined as "a repair order, closed at the time of submission, for work that was performed outside of the period of the manufacturer's warranty and paid for by the customer, but that would have been covered by a manufacturer's warranty if the work had been required and performed during the period of the warranty." (Veh. Code § 3065.2(j)) Qualified repair orders submitted under Vehicle Code section 3065.2(a) shall be from a period occurring not more than 180 days before the submission. (Veh. Code § 3065.2(b))

¹⁵ For purposes of Vehicle Code section 3065.2, a franchisee may submit its repair orders electronically to its franchisor. (Veh. Code § 3065.2(b))

a single set of qualified repair orders; or

2. For calculating only its retail labor rate or only its retail parts rate, a franchisee can submit a set of qualified repair orders.

(Veh. Code § 3065.2(b)(1)-(2))

What Types of Charges included in a Repair Order should be Omitted in Calculating a Franchisee's Retail Labor Rate and Retail Parts Rate?

In calculating its retail labor rate and retail parts rate, the franchisee shall omit any charges included in a repair order from the calculation that do not reflect the franchisee's retail customer-pay labor and parts rates including, but not limited to, any of the following:

1. Manufacturer, manufacturer branch, distributor, or distributor branch special events, specials, or promotional discounts for retail customer repairs.
2. Parts sold, or repairs performed, at wholesale.
3. Routine maintenance, including, but not limited to, the replacement of bulbs, fluids, filters, batteries, and belts that are not provided in the course of, and related to, a repair.
4. Items that do not have individual part numbers including, but not limited to, nuts, bolts, and fasteners.
5. Vehicle reconditioning.
6. Accessories.
7. Repairs of conditions caused by a collision, a road hazard, the force of the elements, vandalism, theft, or owner, operational, or third-party negligence or deliberate act.
8. Parts sold or repairs performed for insurance carriers.
9. Vehicle emission inspections required by law.
10. Manufacturer-approved goodwill or policy repairs or replacements.
11. Repairs for government agencies or service contract providers.
12. Repairs with aftermarket parts, when calculating the retail parts rate, but not the retail labor rate.
13. Repairs with aftermarket parts.

14. Replacement of or work on tires, including front-end alignments and wheel or tire rotations.
15. Repairs of motor vehicles owned by the franchisee or an employee thereof at the time of the repair.

(Veh. Code § 3065.2(c)(1)-(15))

A Franchisor may Contest to the Franchisee the “Material Accuracy” of the Retail Labor Rate or Retail Parts Rate by Submitting a “Notification” to the Franchisee

A franchisor may contest to the franchisee the “material accuracy” of the retail labor rate or retail parts rate within 30 days after receiving the statutorily required notice from the franchisee discussed above or, if the franchisor requests supplemental repair orders pursuant to paragraph (4) of Vehicle Code section 3065.2(d), within 30 days after receiving the supplemental repair orders. (Veh. Code § 3065.2(d)(1))

If the franchisor seeks to contest the retail labor rate, retail parts rate, or both, it shall submit no more than one **notification** to the franchisee. (Veh. Code § 3065.2(d)(1))

The notification is limited to the assertion that the rate is “materially inaccurate” or fraudulent, and **shall** include the following:

1. A full explanation of any and all reasons for the allegation;
2. Evidence substantiating the franchisor’s position;
3. A copy of all calculations used by the franchisor in determining the franchisor’s position; and,
4. A proposed **adjusted retail labor rate or retail parts rate**, as applicable, on the basis of the repair orders submitted by the franchisee, or if applicable, on the basis of supplemental repair orders submitted pursuant to Vehicle Code section 3065.2(d)(5).

After submitting the notification, the franchisor shall not add to, expand, supplement, or otherwise modify any element of that notification, including, but not limited to, its grounds for contesting the retail parts rate, retail labor rate, or both under Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(1))

The Franchisor’s Proposed Adjusted Retail Labor Rate or Retail Parts Rate is Effective if the Franchisee Agrees

If the franchisee agrees with the conclusions of its franchisor and any corresponding adjustment to the retail labor rate or retail parts rate then no further action is required. The new adjusted rate is effective as of the 30th calendar day after the franchisor’s receipt of the notice submitted

pursuant to Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(2))

If the Franchisee does not Agree with the Proposed Adjusted Rate then a Protest can be Filed with the Board

In the event the franchisor provides all of the information required in its notification as indicated above, and the franchisee does not agree with the adjusted rate proposed by the franchisor, the franchisor shall pay the franchisee at the franchisor's proposed adjusted retail labor rate or retail parts rate until the Board issues a decision on a protest filed pursuant to Vehicle Code section 3065.4, or until any mutual resolution between the franchisor and the franchisee.

The franchisor's proposed adjusted rate shall be deemed to be effective as of the 30th day after the franchisor's receipt of the notice submitted pursuant to Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(3))

If the Franchisor Determines that the Franchisee's Retail Labor Rate or Retail Parts Rate is "Substantially Higher" than the Franchisee's Current Warranty Rate, the Franchisor can Request Supplemental Repair Orders

Based on the franchisee's set of repair orders submitted, if the franchisor determines that the franchisee's submission for a retail labor rate or retail parts rate is substantially higher than the franchisee's current warranty rate, the franchisor may request, in writing, all repair orders closed within the period of 30 days immediately preceding, or 30 days immediately following, the set of repair orders submitted by the franchisee. The written request should be made within 30 days after the franchisor's receipt of the notice submitted pursuant to Vehicle Code section 3065.2(a). (Veh. Code § 3065.2(d)(4))

If the franchisee fails to provide the ***supplemental repair orders***, all time periods under this section shall be suspended until the supplemental repair orders are provided. (Veh. Code § 3065.2(d)(4))

If the franchisor requests supplemental repair orders, the franchisor may calculate a ***proposed adjusted retail labor rate or retail parts rate***, as applicable, based upon any set of the qualified repair orders submitted by the franchisee, if the franchisor complies with the requirements outlined in Vehicle Code section 3065.2(d)(5)(A)-(C)

What if the Franchisor does not Contest the Retail Labor Rate or Retail Parts Rate?

If the franchisor does not contest the retail labor rate or retail parts rate, or if the franchisor fails to timely contest the rate submitted by the franchisee, the uncontested retail labor rate or retail parts rate takes effect on the 30th day after the franchisor's receipt of the notice.

The franchisor shall use the new retail labor rate or retail parts rate, or both, if applicable, to determine compensation to fulfill warranty obligations by the franchisee. (Veh. Code § 3065.2(e))

Considerations in Calculating the Retail Labor Rate and Retail Parts Rate

When calculating the retail parts rate and retail labor rate, all of the following shall apply:

1. Promotional reward program cash-equivalent pay methods shall not be considered discounts.
2. The franchisor is prohibited from establishing or implementing a special part or component number for parts used in warranty work, if the result of the special part or component lowers compensation to the franchisee below that amount calculated pursuant to this section.

This paragraph does not apply to parts or components that are subject to a recall and are issued a new special part or component number.

This paragraph does not prohibit a franchisor from changing prices of parts in the ordinary course of business.

(Veh. Code § 3065.2(f)(1)-(2)(A)-(B))

Considerations when the Franchisor is Compensating the Franchisee for the Retail Parts Rate

When the franchisor is compensating the franchisee for the **retail parts rate**, all of the following shall apply:

1. If the franchisor furnishes a part to a franchisee at no cost for use in performing warranty obligations, the franchisor shall compensate the franchisee the amount resulting from multiplying the wholesale value of the part by the franchisee's retail parts rate determined pursuant to Vehicle Code section 3065.2.
2. If the franchisor furnishes a part to a franchisee at a reduced cost for use in performing warranty obligations, the franchisor shall compensate the franchisee the amount resulting from multiplying the wholesale value of the part by the franchisee's retail parts rate determined pursuant Vehicle Code section 3065.2, plus the franchisee's cost of the part.
3. The **wholesale value of the part**, for purposes of Vehicle Code section 3065.2(g), shall be the greater of:
 - A. The amount the franchisee paid for the part or a substantially identical part if already owned by the franchisee.
 - B. The cost of the part shown in a current franchisor's established price schedule.

- C. The cost of a substantially identical part shown in a current franchisor's established price schedule.

(Veh. Code § 3065.2(g)(1)-(3)(A)-(C))

The Method for Establishing or Modifying a Franchisee's Retail Labor Rate, Retail Parts Rate, or Both

A franchisee's retail labor rate, retail parts rate, or both shall be calculated only using the method prescribed in Vehicle Code section 3065.2.

A franchisor shall not use or require a franchisee to use any other method including, but not limited to, any of the following:

1. Substituting any other "purported repair sample" for that submitted by a franchisee.
2. Imposing any method related to the establishment of a retail labor rate or retail parts rate that is unreasonable or time consuming, or require the use of information that is unreasonable or time consuming to obtain, including part-by-part or transaction-by-transaction calculations or utilization of the franchisee's financial statement.
3. Unilaterally calculating a retail labor rate or retail parts rate for a franchisee, except as provided in Vehicle Code section 3065.2(d).
4. Using a franchisee's sample, submitted for establishing or increasing its retail parts rate, to establish or reduce the franchisee's retail labor rate or using a franchisee's sample, submitted for establishing or increasing its retail labor rate, to establish or reduce the franchisee's retail parts rate.

(Veh. Code § 3065.2(h)(1)-(4))

What Actions Franchisors are Precluded from Undertaking?

Subdivision (i) of Vehicle Code section 3065.2 precludes a franchisor from:

1. Attempting to influence a franchisee to implement or change the prices for which the franchisee sells parts or labor in retail repairs because the franchisor is seeking compensation or exercising any right pursuant to this section.
2. Directly or indirectly, taking or threatening to take any adverse action against a franchisee for seeking compensation or exercising any right pursuant to Vehicle Code section 3065.2, by any action including, but not limited to, the following:
 - A. Assessing penalties, surcharges, or similar costs to a franchisee.
 - B. Transferring or shifting any costs to a franchisee.

- C. Limiting allocation of vehicles or parts to a franchisee.
- D. Acting or failing to act other than in good faith.
- E. Hindering, delaying, or rejecting the proper and timely payment of compensation due under Vehicle Code section 3065.2 to a franchisee.
- F. Establishing, implementing, enforcing, or applying any discriminatory policy, standard, rule, program, or incentive regarding compensation due under Vehicle Code section 3065.2.
- G. Conducting or threatening to conduct nonroutine or nonrandom warranty, nonwarranty repair, or other service-related audits in response to seeking compensation or exercising any right pursuant to Vehicle Code section 3065.2.

(Veh. Code § 3065.2(i)(1)-(2)(A)-(G))

Subdivision (i) does not prohibit a franchisor from increasing prices of vehicles or parts in the ordinary course of business. (Veh. Code § 3065.2(i)(3))

Protest for Franchisor's Failure to Comply with Section 3065.2 or if Franchisee Disputes the Franchisor's Proposed Adjusted Retail Labor Rate or Retail Parts Rate

If a franchisor ***fails to comply*** with Vehicle Code section 3065.2, or if a franchisee disputes the franchisor's ***proposed adjusted retail labor rate or retail parts rate***, the franchisee may file a protest with the Board for a declaration of the franchisee's retail labor rate or retail parts rate.

If there is a hearing, the franchisor has the burden of proof that it complied with Vehicle Code section 3065.2 and that the franchisee's determination of the retail labor rate or retail parts rate is materially inaccurate or fraudulent. (Veh. Code § 3065.4(a))

Time for Filing a Protest

Protests pertaining to compliance with Section 3065.2 or franchisee disputes of the franchisor's proposed adjusted retail labor rate or retail parts rate are not subject to any specific statutory time limitations for filing. However, failure to file a protest within a reasonable time could result in a dealer losing the right to a hearing before the Board.

Required Elements of Protest

The required content of a protest under Vehicle Code section 3065.4 is described in 13 CCR § 586.¹⁶ A protest involving retail labor rate or retail parts rate must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ¹⁷	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

Determination of Protest

In a decision, the Board may determine the difference between the amount the franchisee has actually received from the franchisor for fulfilled warranty obligations and the amount that the franchisee would have received if the franchisor had compensated the franchisee at the retail labor rate and retail parts rate as determined in accordance with Vehicle Code section 3065.2 for a period beginning 30 days after receipt of the franchisee's initial submission under Vehicle Code section 3065.2(a). (Veh. Code § 3065.4(b))

The franchisee may submit a request to the franchisor to calculate the unpaid warranty reimbursement compensation and the franchisor shall provide this calculation to the franchisee

¹⁶ ~~Effective January 1, 2022, The Board is amending~~ Section 586 ~~was amended~~ to incorporate Section 3065.4 protests.

¹⁷ See footnote 5.

within 30 days after receipt of the request. The request for the calculation will also be deemed a request for payment of the unpaid warranty reimbursement compensation. (Veh. Code § 3065.4(b))

If the franchisor fails to make full payment within 30 days after the franchisee submits a request for payment, the franchisee may file an action in superior court for injunctive and other relief to enforce the determination or order of the Board. The franchisee may also recover in superior court its actual expenses in bringing and maintaining an enforcement action. (Veh. Code § 3065.4(c))

Either the franchisor or the franchisee may seek judicial review of the Board's determination pursuant to Vehicle Code section 3068. (Veh. Code § 3065.4(d))

RETAIL LABOR RATE OR RETAIL PARTS RATE PROTESTS
Motor Vehicle Dealers

Vehicle Code Section	Type of Protest	Notice	Time to File Protest	Burden of Proof if there is a Hearing
3065.4(a)	Franchisee contends its franchisor failed to comply with Section 3065.2 pertaining to the establishment or modification of the franchisee's retail labor rate, retail parts rate, or both	Franchisee provides notice to the franchisor of its retail labor rate and retail parts rate calculated in accordance with Section 3065.2(a)	None specified	Franchisor has the burden of proof that it complied with Section 3065.2 (3065.4(a))
3065.4(a)	Franchisee disputes the franchisor's proposed adjusted retail labor rate or retail parts rate	Franchisor may contest to the franchisee the material accuracy of the retail labor rate or retail parts rate that was calculated by the franchisee under Section 3065.2(d) within 30 days after receiving notice from the franchisee or, if the franchisor requests supplemental repair orders pursuant to Section 3065.2(d)(4), within 30 days after receiving the supplemental repair orders (3065.2(d)(1))	None specified	Franchisor has the burden of proof that the franchisee's determination of the retail labor rate or retail parts rate is "materially inaccurate or fraudulent" (3065.4(a))

WARRANTY CLAIMS - RV Dealers

Statutory Authority

Vehicle Code section 3075 requires every new recreational vehicle manufacturer or distributor to properly fulfill every warranty agreement made by it and adequately and fairly compensate its dealers for labor and parts used to perform warranty repairs and service.

Franchisor's Notice of Compensation for Warranty Reimbursement

The manufacturers and distributors are required to file copies of their warranty reimbursement schedules or formulas with the Board. The schedule or formula must be reasonable with respect to the time and compensation allowed for the performance of warranty work.

Approval of Warranty Claims

Vehicle Code section 3075(d) also requires that warranty claims be approved or disapproved within 30 days after their receipt by the franchisor. Any claim not specifically disapproved in writing within 30 days from receipt by the franchisor shall be deemed approved on the 30th day.

Approved warranty claims must be paid within 30 days of approval. However, Vehicle Code section 3075(d) states: "Failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not constitute a violation of this article [Article 5 RV protests]."

Disapproval of Warranty Claims

Vehicle Code section 3075(c) requires that the franchisor that disallows a franchisee's warranty claim for a defective part on the basis that the part was not defective must return such part to the dealer at the franchisor's expense, or reimburse the dealer for the part, at the franchisor's option.

The dealer is also entitled to written notice of disapproval within 30 days after the warranty claims are received by the franchisor. The notice must contain the specific grounds for disapproval (Veh. Code § 3075(d)).

Audits of Franchisee Warranty Records

Audits of franchisee warranty records may be conducted by the franchisor on a reasonable basis, and for a period of 12 months after a claim is paid or a credit issued. Any chargeback to a franchisee for warranty parts or service compensation shall be made within 90 days of the completion of the audit. However, if a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for an audit and any resulting chargeback may be permitted if the franchisor obtains an order from the Board. (Veh. Code § 3075(e))

Time for Filing a Protest

Protests involving warranty disputes are not subject to any specific statutory time limitations for filing. However, failure to file a protest within a reasonable time could result in a dealer losing the right to a hearing before the Board.

Required Elements of Protest

The required content of a protest under Vehicle Code section 3075 is described in 13 CCR § 586. A protest involving warranty claims must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ¹⁸	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall state either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

¹⁸ See footnote 5.

Good Cause

Franchisee claims for warranty compensation shall not be disapproved except for good cause such as performance of non-warranty repairs, lack of material documentation, or fraud. (Veh. Code § 3075(e))

Determination of Protest

If a protest is filed, the Board shall determine whether the schedule or formula is reasonable, taking into account the dealer's labor rate to its retail customers. If there is a hearing, the franchisee has the burden of proving that the warranty reimbursement schedule is not reasonable, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor when the issue is material (Veh. Code § 3080(c)).

FRANCHISOR INCENTIVE PROGRAM CLAIMS - Motor Vehicle Dealers

Statutory Authority

Pursuant to Vehicle Code section 3065.1, all claims made by a new motor vehicle franchisee for payment under the terms of a franchisor incentive program shall be approved or disapproved within 30 days after receipt by the franchisor.

Franchisor's Notice of Denial of Franchisor Incentive Program Reimbursement

Vehicle Code section 3065.1(a) requires that a franchisor who denies payment under the terms of a franchisor incentive program shall notify the franchisee within 30 days after receipt by the franchisor and provide specific grounds on which the disapproval was based.

Approval/Disapproval of Franchisor Incentive Program Reimbursement

Any claim not specifically disapproved in writing within 30 days from receipt shall be deemed approved on the 30th day. If incentive program compensation claims are approved, they must be paid within 30 days of approval. However, Vehicle Code section 3065.1(f) provides that the failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not constitute a violation of Article 4 (pertains to motor vehicles other than RVs).

Disapproval of a Franchisor Incentive Program Claims

A franchisor shall not disapprove a claim unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. The claim is ineligible under the terms of the incentive program as previously communicated to the franchisee; or
4. Material noncompliance with documentation and administrative claims submission requirements, if the requirements are reasonable and nondiscriminatory. (Veh. Code § 3065.1(b))

Protest of Initial Disapproval of Franchisor Incentive Program Claims

A franchisee can file a protest of the initial disapproval of a franchisor incentive program claim within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(e))

Franchisor Provided “Reasonable” Appeal Process

Vehicle Code section 3065.1(c) requires franchisors to provide a reasonable appeal process that allows the franchisee at least 30 days after receipt of the written disapproval notice to provide additional supporting documentation or information rebutting the disapproval.

If the disapproval is based upon noncompliance with documentation or administrative claims submission requirements, the franchisor shall allow the franchisee at least 30 days from the date of receipt of the disapproval notice to cure any material noncompliance.

If the disapproval is rebutted, and material noncompliance is cured before the applicable deadline, the franchisor shall approve the claim.

There are potentially two 30-day time periods: (1) reasonable appeal; and (2) opportunity to cure.

Final Denial of Franchisor Incentive Program Claim

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state “Final Denial” on the first page. (Veh. Code § 3065.1(d))

Protest of Final Denial of Franchisor Incentive Program Claim following a Franchisor’s Appeal Process

A franchisee can file a protest of the final denial of a franchisor incentive program claim following a franchisor’s appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(e))

Audits of Franchisee Incentive Program Records

Audits of franchisee incentive program records may be conducted by the franchisor on a reasonable basis, and for a period of 9 months after a claim is paid or a credit issued.

A franchisor shall not select a franchisee for an audit, or perform an audit, in a punitive, retaliatory, or unfairly discriminatory manner.

A franchisor may conduct no more than one random audit of a franchisee in a 9-month period.

The franchisor’s notification to the franchisee of any additional audit within a 9-month period shall be accompanied by written disclosure of the basis for that additional audit. (Veh. Code § 3065.1(g)(1))

Disapproval of Previously Approved Franchisor Incentive Program Claims

Previously approved claims shall not be disapproved or charged back to the dealer unless the claim meets one of the following categories:

1. False;
2. Fraudulent;
3. The claim is ineligible under the terms of the incentive program as previously communicated to the franchisee; or
4. Material noncompliance with documentation and administrative claims submission requirements, if the requirements are reasonable and nondiscriminatory.

These are the same categories for initial disapproval of a franchisor incentive program claim. (Veh. Code § 3065.1(g)(2))

A franchisor shall not disapprove or chargeback a claim based upon an extrapolation from a sample of claims, unless the sample of claims is selected randomly, and the extrapolation is performed in a reasonable and statistically valid manner.

If the franchisor disapproves of a previously approved claim following an audit, within 30 days after the audit, the franchisor shall provide to the franchisee a written disapproval notice stating the specific grounds upon which the claim is disapproved. (Veh. Code § 3065.1(g)(3))

Protest of Franchisor Incentive Program Claim Disapproval of a Previously Approved Claim Following an Audit

A franchisee can file a protest of the franchisor incentive program claim disapproval of a previously approved claim following an audit within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(g)(6))

Franchisor Provided “Reasonable” Appeal Process

Vehicle Code section 3065.1(g)(3) requires franchisors to provide a reasonable appeal process that allows the franchisee a reasonable period of not less than 30 days after receipt of the written disapproval notice to respond to any disapproval with additional supporting documentation or information rebutting the disapproval and to cure any material noncompliance, with the period commensurate with the volume of claims under consideration.

If the franchisee rebuts any disapproval and cures any material noncompliance relating to a claim before the applicable deadline, the franchisor shall not chargeback the franchisee for that claim.

Final Denial of Franchisor Incentive Program Claim Following an Audit

If the franchisee provides additional supporting documentation or information purporting to rebut the disapproval, attempts to cure noncompliance relating to the claim, or otherwise appeals denial of the claim and the franchisor continues to deny the claim, the franchisor shall provide the franchisee with a written notification of the final denial within 30 days of completion of the appeal process, which shall conspicuously state "Final Denial" on the first page. (Veh. Code § 3065.1(g)(4))

Protest of Final Denial of Franchisor Incentive Program Claim Following an Audit Following the Franchisor's Appeal Process

A franchisee can file a protest of the final denial of a franchisor incentive program claim following an audit following the franchisor's appeal process within 6 months after receipt of the written notice. If there is a hearing, the franchisor has the burden of proof. (Veh. Code § 3065.1(g)(6))

Franchisor Chargeback for Franchisor Incentive Program Claims

Vehicle Code section 3065.1(g)(5) provides that the franchisor shall not chargeback the franchisee until 45 days after receipt of the written disapproval of a previously approved claim following an audit or final denial of a franchisor incentive program claim following an audit following the franchisor's appeal process, whichever is later.

If the franchisee cures any material noncompliance relating to a claim, the franchisor shall not chargeback the dealer for that claim.

Any chargeback to a franchisee for incentive program compensation shall be made within 90 days of receipt of that written notice.

If the Board sustains the chargeback or the protest is dismissed, the franchisor shall have 90 days following issuance of the final order or the dismissal to make the chargeback, unless otherwise provided in a settlement agreement.

If the franchisee files a protest pursuant to this subdivision prior to the franchisor's chargeback for denied claims, the franchisor shall not offset or otherwise undertake to collect the chargeback until the Board issues a final order on the protest. (Veh. Code § 3065.1(g)(6))

In summary, days 45-90 are the only days to chargeback a dealer for franchisor incentive program claims. A manufacturer or distributor cannot chargeback a dealer before day 44, or after day 91. But if a protest is filed prior to a chargeback, then the franchisor cannot chargeback the dealer during the above time period. It must wait until the Board decides the protest and if the protest is dismissed or the Board sustains the chargeback, then the franchisor can chargeback the dealer but must do so within 90 days after the Board action (or within time period allowed by settlement agreement, if any).

However, if a false claim was submitted by a franchisee with the intent to defraud the franchisor, a longer period for an audit and any resulting chargeback may be permitted if the franchisor

obtains an order from the Board. (Veh. Code § 3065.1(h))

Required Elements of Protest

The required content of a protest under Vehicle Code section 3065.1 is described in 13 CCR § 586. A protest involving franchisor incentive program claims must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ¹⁹	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall state either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

¹⁹ See footnote 5.

FRANCHISOR INCENTIVE PROGRAM PROTESTS
Motor Vehicle Dealers

Vehicle Code Section	Type of Protest	Notice to Dealer	Time to File Protest	Burden of Proof if there is a Hearing
3065.1(a)	Initial Disapproval Initial disapproval of franchisor incentive program claims	Franchisor provides a written notice of disapproval within 30 days after the franchisor's receipt of a claim submitted by a franchisee.	6 months from receipt of the written notice	Franchisor has the burden (3065.1(e))
3065.1(d)	Final Denial/Post-Appeal Final denial of franchisor incentive program claim following a franchisor's appeal process	Written notice of Final Denial to the franchisee.	6 months from receipt of the written notice	Franchisor has the burden (3065.1(e))
3065.1(g)(3)	Post-Audit Franchisor incentive program claim disapproval of a previously approved claim following an audit	Franchisor provides a written notice of disapproval within 30 days after the audit stating the specific grounds.	6 months after receipt of the written notice	Franchisor has the burden (3065.1(g)(6))
3065.1(g)(4)	Post-Audit/Post-Appeal/Final Denial Final denial of a franchisor incentive program claim following an audit following the franchisor's appeal process	Written notification of the Final Denial.	6 months after receipt of the written notice	Franchisor has the burden (3065.1(g)(6))

FRANCHISOR INCENTIVE PROGRAM CLAIMS - RV Dealers

Statutory Authority

Pursuant to Vehicle Code section 3076, all claims made by a recreational vehicle franchisee for payment under the terms of a franchisor incentive program shall be approved or disapproved within 30 days after receipt by the franchisor.

Franchisor's Notice of Denial of Franchisor Incentive Program Reimbursement

Vehicle Code section 3076(a) requires that a franchisor who denies payment under the terms of a franchisor incentive program, shall notify the franchisee within 30 days and provide specific grounds on which the disapproval was based.

Approval/Disapproval of Franchisor Incentive Program Reimbursement

Any claim not specifically disapproved in writing within 30 days from receipt shall be deemed approved on the 30th day. If incentive program compensation claims are approved, they must be paid within 30 days of approval. However, Vehicle Code section 3076(a) provides that the failure to approve or pay within the above specified time limits, in individual instances for reasons beyond the reasonable control of the franchisor, do not constitute a violation of Article 5, pertaining to RVs.

Audits of Franchisee Incentive Program Records

Vehicle Code section 3076(b) provides for audits of franchisee incentive program records if reasonable and for a period of 18 months after a claim is paid or a credit issued. Any chargeback to a franchisee for incentive program compensation shall be made within 90 days of completion of the audit. However, if a false claim was submitted by the franchisee with the intent to defraud the franchisor, a longer period for the audit and any resulting chargeback may be permitted if the franchisor obtains an order to that effect from the Board.

Time for Filing a Protest

Following the disapproval of a claim, a franchisee shall have one year from receipt of the notice of disapproval in which to appeal and file a protest with the Board.

Required Elements of Protest

The required content of a protest under Vehicle Code section 3076 is described in 13 CCR § 586. A protest involving franchisor incentive program claims must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ²⁰	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

Good Cause

Franchisee claims for incentive program compensation shall not be disapproved except for good cause, such as ineligibility under the terms of the incentive program, lack of material documentation, or fraud. (Veh. Code § 3076(b))

Determination of Protest

The franchisee has the burden of proof, but the franchisor has the burden of proof to establish that a franchisee acted with intent to defraud the franchisor when the issue is material (Veh. Code § 3080(c)).

²⁰ See footnote 5.

**PERFORMANCE STANDARDS, SALES OBJECTIVES, OR PROGRAMS
FOR MEASURING A DEALER'S SALES, SERVICE, OR CUSTOMER
SERVICE PERFORMANCE – Motor Vehicle Dealers**

Statutory Authority

Vehicle Code section 3065.3 created a new protest pertaining to alleged violations of subdivision (g) of Section 11713.13.

Franchisor's Performance Standard, Sales Objective or Program

Subdivision (a) of Vehicle Code section 3065.3 provides that "[n]o franchisor shall establish or maintain a performance standard, sales objective, or program for measuring a dealer's sales, service, or customer service performance that is inconsistent with the standards set forth in subdivision (g) of Section 11713.13."²¹

²¹ Section 11713.13 provides that:

It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do, directly or indirectly through an affiliate, any of the following:

...

(g) (1) Establish or maintain a performance standard, sales objective, or program for measuring a dealer's sales, service, or customer service performance that may materially affect the dealer, including, but not limited to, the dealer's right to payment under any incentive or reimbursement program or establishment of working capital requirements, unless both of the following requirements are satisfied:

(A) The performance standard, sales objective, or program for measuring dealership sales, service, or customer service performance is reasonable in light of all existing circumstances, including, but not limited to, the following:

(i) Demographics in the dealer's area of responsibility.

(ii) Geographical and market characteristics in the dealer's area of responsibility.

(iii) The availability and allocation of vehicles and parts inventory.

(iv) Local and statewide economic circumstances.

(v) Historical sales, service, and customer service performance of the line-make within the dealer's area of responsibility, including vehicle brand preferences of consumers in the dealer's area of responsibility.

(B) Within 30 days after a request by the dealer, the manufacturer, manufacturer branch, distributor, distributor branch, or affiliate provides a written summary of the methodology and data used in establishing the performance standard, sales objective, or program for measuring dealership sales or service performance. The summary shall be in detail sufficient to permit the dealer to determine how the standard was established and applied to the dealer.

(2) In any proceeding in which the reasonableness of a performance standard, sales objective, or program for measuring dealership sales, service, or customer service performance is an issue, the manufacturer, manufacturer branch, distributor, distributor branch, or affiliate shall have the burden of proof.

...

Time for Filing a Protest

There is no specific statutory time period in the Vehicle Code within which to file a protest pertaining to a franchisor's performance standard. Failure to file a protest within a reasonable time, however, could result in a dealer losing the right to a hearing by the Board.

Required Elements of Protest

The required content of a protest under Vehicle Code section 3065.3 is described in 13 CCR § 586.²² A protest involving a challenge of a franchisor's performance standard must contain all of the following (see Appendix for sample Form A):

Content Requirements	Regulatory Authority
Must be in writing and be signed by a franchisee or its attorney. ²³	13 CCR § 583
Must set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.	13 CCR § 586.5(a)(1)
Must set forth the franchisee's mailing address and telephone number, and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence and notices to the franchisee shall thereafter be addressed to said address, if the dealer principal is presenting its own case, or to the address of the dealer's attorney or agent, if so represented.	13 CCR § 586.5(a)(3)
Shall indicate either that the franchisee does or does not desire to appear before the Board.	13 CCR § 586.5(a)(4)
Franchisee may submit, as exhibits to the protest, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the protest.	13 CCR § 586.5(a)(2)
Franchisee shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Franchisee shall serve a copy of the protest on the franchisor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 584 13 CCR § 551.24

²² The Board is promulgating a regulation that will be specific to this protest but until then parties are encouraged to rely on the content requirements in Section 586, which are nearly identical to those being proposed.

²³ See footnote 5.

Determination of Protest

If there is a hearing, the franchisor has the burden of proof that its performance standard, sales objective or program is not inconsistent with the standards set forth in subdivision (g) of Section 11713.13 (Veh. Code § 3065.3(b)).

HEARING PROCEDURES

Pre-Hearing Procedure

Upon receiving a protest, the Board shall institute hearing proceedings similar to those of a formal civil trial, including the scheduling of various pre-hearing conferences, settlement conferences, arrangements for discovery, identification of witnesses, and so on. The Board may impose sanctions if a party fails to comply with the Board's discovery orders or fails to participate properly in a settlement conference.

Discovery

Pursuant to Vehicle Code section 3050.1, the Board may authorize the parties to engage in the civil discovery process. Discovery is limited to requests for depositions and demands for production of documents (Code Civ. Pro. § 2016.010, et seq.), with the exception of provisions for written interrogatories (Code Civ. Proc. § 2030.010). Section 551.6 of the Board's regulations implements and makes specific the Board's procedures for requesting depositions where the witness resides within California or outside of California.

The enactment of the Electronic Discovery Act (Assembly Bill 5, Stats. 2009, ch. 5, "Act"), effective June 29, 2009, broadened the categories of discoverable materials (documents, tangible things, land or other property) by adding "electronically stored information" (ESI).

Effective January 1, 2013, sections of the Civil Discovery Act relating to ESI were amended in order to address several inconsistencies (Senate Bill 1574, Stats. 2012, ch. 72). ESI is now included among the things under a witnesses control that the witness would be bound by law to produce pursuant to a subpoena. Additionally, when any method of discovery permits, compels, prevents, or limits the production, inspection, copying, testing, or sampling of documents or tangible things, the same method would also apply to ESI. In general, if a demand for production does not specify a form or forms for producing a type of ESI, the responding party would be required to produce the information in the form or forms in which it is ordinarily maintained or in a form that is reasonably usable, but need not produce the same ESI in more than one form.

Subpoenas

Authority for issuing subpoenas in Board proceedings is found in Vehicle Code section 3050.1 and 13 CCR § 551.2.

Section 551.2(b) of the Board's regulations specifically incorporates Code of Civil Procedure section 1985, et seq., excepting the provisions of subdivision (c) of section 1985. Section 1985.8 of the Code of Civil Procedure imposes additional requirements on the parties, (or the court, if necessary), to resolve ESI issues as to the form, burdens and expenses of production, shifting or allocation of costs, and issues arising from other characteristics of ESI. The Act requires the parties, or the court, to weigh various cost/benefit factors in light of the amount in controversy in the proceeding to shape and limit the scope and nature of requests to produce ESI.

Unlike the civil courts, the parties cannot issue their own subpoenas. On the request of any party, the Board, its Executive Director or an ALJ may issue subpoenas for the production of papers, records, and books by a witness or a deponent, and the appearance of a non-party witness or deponent. Hearing subpoenas are issued in accordance with 13 CCR § 551.2(b) and an affidavit is not required to support the request. For a hearing subpoena duces tecum, an affidavit must accompany the request.

Subpoenas for the attendance and testimony of a non-party deponent, or for a subpoena duces tecum for deposition of a non-party, are issued by the Board in accordance with Code of Civil Procedure section 2016.010, et seq., excepting the provisions of section 2020.210, subdivisions (a) and (b). (13 CCR § 551.2(c)) No affidavits are required. Counsel for the parties can issue notices of depositions to parties. (Code Civ. Proc. § 2025.010, et seq.) Subpoenas for out-of-state, non-party witnesses or deponents will be issued by the Board but need to be enforced in the out-of-state court. (Code Civ. Proc. § 2026.010, et seq.)

Government Code section 11450.30 and 13 CCR § 551.2(e) permit a person served with a subpoena or a subpoena duces tecum to object to its terms by a motion for a protective order, including a motion to quash. The assigned ALJ would resolve the objection. The ALJ may make another order that is appropriate to protect the parties or the witness from unreasonable or oppressive demands, including violations of the right to privacy.

Following service of the subpoena on the witness or deponent, a copy of the subpoena and executed proof of service shall be filed with the Board. (13 CCR § 551.2(d))

Summary of Board Action

All hearings on protests filed pursuant to Vehicle Code sections 3060, 3062, 3064, 3065, 3065.1, 3065.3, 3065.4, 3070, 3072, 3074, 3075, or 3076, may be considered by the entire Board²⁴ or may, at its discretion be conducted by one of the Board's ALJs. At the hearing, oral argument is heard, evidence is admitted, testimony is received, and a written decision is rendered. The procedures are described in detail in Vehicle Code sections 3066 and 3080. The Board on receiving a protest does the following:

Step	Action
1	By order fix a time within sixty (60) days of the order and place of hearing. ²⁵
2	<p>Send a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups that have requested notification by the Board of protests and decisions by the Board.</p> <ul style="list-style-type: none">• Except in the case of a franchisee who deals exclusively in motorcycles, the Board or its Executive Director may accelerate or postpone the date initially established for the hearing.• For the purpose of accelerating or postponing the hearing date, good cause must be established and in no event may the rescheduled hearing date be more than 90 days after the Board's initial order.• "Good cause" for accelerating or postponing a hearing includes, but is not limited to, the effects on, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted.• Application for continuance shall be in writing and filed with the Executive Director at least 10 days prior to the date of hearing. No continuances otherwise will be granted except in extreme emergencies such as serious accident or death. (13 CCR § 592)
3	The Board or an ALJ designated by the Board presides over merits hearings on protests. ²⁶

²⁴ Board ALJs generally preside over merits hearings not the Board itself. (See discussion on page 6 pertaining to dealer member participation in Article 4 protests.)

²⁵ In practice, the parties stipulate to a date for the merits hearing and the Board issues the order of time and place of hearing approximately 45 days prior to the hearing.

²⁶ See footnote 24.

Stipulation of Fact

A hearing initiated by the filing of a protest may be held in whole or in part on a stipulation of fact, which is essentially an agreement between the parties defining points that are not in contention, and other parts of the dispute that have been resolved. Stipulations are of value in that they tend to facilitate and expedite conflict resolution. (See 13 CCR § 587 for procedural details of stipulation of fact before the Board.)

Stipulated Decisions

The Board may adopt stipulated decisions and orders without a hearing pursuant to Vehicle Code sections 3066 and 3080 to resolve one or more issues raised by a protestant or petitioner before the Board. If the Board adopts a stipulated decision and order to resolve a protest filed under Vehicle Code section 3060 or 3070, and the parties stipulate that good cause exists to terminate, a hearing requiring a determination of good cause will not be required. (Veh. Code § 3050.7(b))

Hearings Open to the Public; Protective Orders

Hearings before the Board or an ALJ designated by the Board are open to the public. For good cause shown, a party may seek an order closing all or part of the hearing or for other protective orders as set forth in Government Code section 11425.20 and 13 CCR § 551.20. The motion may be in writing or made orally on the record. It may be made at the commencement of or during the course of the hearing but must be made as early as is practicable. The motion shall clearly identify the relief sought; the facts, circumstances, and legal authority; and shall include declarations or evidence that support the motion. The ALJ has discretion to allow an oral or written opposition to the motion. When ruling on the motion, the ALJ shall specifically set forth the facts, legal basis, and findings that support any protective order, order to seal parts of the record, or order to close the hearing to the public. The motion, opposition, and any resulting orders then become part of the record.

Failure to Appear at a Hearing

Any party who fails to appear at a hearing will not be entitled to a further opportunity to be heard unless good cause for such failure is shown to the Board or to the ALJ within five (5) days thereafter. The lack of such a showing may, in the discretion of the Board or the ALJ, be interpreted as an abandonment of interest by the party in the subject matter of the proceeding. (13 CCR § 589)

Decision of the Board

When matters are submitted to the Board for decision, or the Board receives a proposed decision of the ALJ, the Board shall take the matter under submission and conduct deliberations in executive session. The deliberations of the Board shall be in private and shall not be reported. (Veh. Code § 3008; 13 CCR § 588)

The decision of the Board shall be in writing, contain findings of fact, and a determination of the

issues presented. The Board shall sustain, conditionally sustain, overrule, or conditionally overrule the protest. The decision becomes final when delivered or mailed to the parties and there are no provisions for reconsideration or rehearing. If the Board fails to act within 30 days after the close of the hearing, within 30 days after the Board receives a proposed decision where the case is heard before an ALJ, or within a period which may be mutually agreed on by the parties, then the proposed action of the franchisor shall be deemed to be approved. (Veh. Code §§ 3067 and 3081)

Court Reporting and Transcripts of Board Proceedings

The Board arranges for a court reporter for all Board meetings, all hearings on the merits of a protest or a petition, and for all hearings on motions that may be dispositive. Parties to actions before the Board may order transcripts of hearings and arrange for delivery and payment directly from the court reporter.

Under the authority of 13 CCR § 551.7 the Board may assume all or part of the cost of reporting any proceedings or may allocate costs entirely to one of the parties or apportion it among the various parties at its discretion. For all merits hearings and dispositive motions, reporting costs will be allocated as follows:

Circumstances	Reporting Costs including Appearance and Transcript Delivery Fees, Per Diem Costs, Realtime Set-Up Fees, Expedite Rates, Cancellation Fees and any other Costs	Transcript Fees
Hearings on the merits and dispositive motions ²⁷ - First Day	Board (excluding Realtime set-up fees)	Board (requesting party or parties may order and pay for copies of official transcripts)
Hearings on the merits and dispositive motions - After First Day	Participating parties	Participating parties
Other motions (venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

As indicated above, for the first hearing day (merits or dispositive motion), the Board will be responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs excluding the Realtime set-up fees, and the Board's cost of the hearing

²⁷ "Dispositive motions" are those that result in a final determination of the protest or petition before the Board.

transcript. Counsel will remain responsible for purchasing their own transcript, if desired. For each subsequent day, the Board or counsel, at the Board's discretion, will arrange reporting services and the Board will order the parties, on an equal basis, to pay the court reporter service for the reporter's appearance fee, the delivery fee and any other costs including Realtime set-up fees, and the Board's cost of the hearing transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of the reporter's appearance fees, the delivery fee, and any other costs. Counsel can utilize the Board's contracted reporting service but are not required to do so. The requesting party or parties will also be responsible for providing the Board with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

PETITIONS

Statutory Authority for Petitions

Vehicle Code section 3050(b) provides for any person to petition the Board to “[c]onsider any matter concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5 submitted by any person....”

New Subdivision (b)(2)(B) of Section 3050, in which the relief sought is adjudication, only pertains to petitions filed with the Board by any member of the public, including a consumer, or other person that is not applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5. It is intended that, for the Board to have jurisdiction over a petition pursuant to this subdivision, the petitioner must have filed the petition or consent to the jurisdiction by the Board. This subdivision does not affect petitions filed by licensees nor does it affect respondents (see Vehicle Code section 3051 identifying the licensees within the Board’s jurisdiction).

Filing a Petition with the Board

A licensee or member of the public wishing to bring a dispute before the Board pursuant to Vehicle Code section 3050(b) is required to file a petition (see Appendix for sample Forms B1 and B2). **The petition shall clearly identify the facts, legal authority, and relief sought and include declarations or other evidence or documents that support the petition. (13 CCR § 556)**

In the past, petitions filed with the Board have alleged such things as the unreasonable refusal of a franchisor to approve a change in ownership, unreasonable refusal of a franchisor to approve a relocation, discrimination in allocation of products, failure to supply products authorized to be sold under the terms of the franchise, and other violations of the Vehicle Code. Such petitions requested a hearing before the Board and sought relief in the form of a Board order that required the respondent to either do, undo, or refrain from doing some action that caused harm to the licensee petitioner.

However, as a result of *Mazda Motor of America, Inc. v. California New Motor Vehicle Board; David J. Phillips Buick-Pontiac, Inc., Real Party in Interest* (2003) 110 Cal.App.4th 1451, the Board’s jurisdiction to hold hearings and issue such orders is now limited to petitioners who are members of the public under Vehicle Code section 3050(b)(2). In all instances where licensees are the petitioners, the Board may only direct the Department to investigate or take licensing action against the respondent under Vehicle Code section 3050(b)(1) and (3).

In all circumstances, the petition shall be served on the respondent and proof of service filed with the Board.

Time for Filing a Petition

There are no specific statutory time limits in the Vehicle Code within which a petition must be filed, but failure to file the petition within a reasonable time after the occurrence of events giving rise to the basis for the petition could result in the Board refusing to take any action. The respondent shall file a written answer within 30 days of the date the petition is served on the respondent. By declaration, the respondent may submit, as exhibits to the answer, photographic, documentary or similar physical evidence relevant to the matter in support of the answer with an appropriate description thereof in the answer sufficient to identify them and to explain their relevancy. (13 CCR § 558).

Petition Filing Fee

A filing fee of \$200, which should be in the form of a check, money order or authorized credit card charge payable to the New Motor Vehicle Board, must accompany the petition and answer. In the event of a financial hardship, either the petitioner or respondent may submit a request for a fee waiver, requesting that the Executive Director, upon a showing of good cause, waive the \$200 filing fee (13 CCR § 553.40). (Samples are available on the Board's website.)

Required Elements of Petition

The required content of a petition under Vehicle Code section 3050(b) is described in 13 CCR § 555 (see Appendix for sample Forms B1 and B2).

Content Requirements	Regulatory Authority
Must set forth in clear and concise language the nature of the matter, which the petitioner wishes the Board to consider.	13 CCR § 555
Must contain the petitioner's name, mailing address and telephone number; the name, mailing address and telephone number of the petitioner's attorney or authorized agent, if any; and the name and address of the licensee or applicant for license (respondent) whose activities or practices are in question. All correspondence and notices to the petitioner shall thereafter be addressed to petitioner's address, if the petitioner appears in person, or to the address of the petitioner's attorney or agent, if so represented.	13 CCR § 555(a)
Must include the names, residence addresses and business addresses of persons and the dates, places and specific actions or practices involved.	13 CCR § 555(b)
Shall include a concise recitation of applicable law and citation to the applicable statutes and authorities if the actions or practices described in the petition are alleged to be a violation of law.	13 CCR § 555(c)
For petitioners who are members of the public only, petitioner shall state if the petitioner desires that the Board mediate, arbitrate, or resolve a difference between the petitioner and respondent, and describe the relief sought.	13 CCR § 555(d)
Petitioner may submit, as exhibits to the petition, photographic, documentary, or similar physical evidence relevant to the matter with an appropriate description in the petition.	13 CCR § 555(e)
For petitioners who are members of the public only, petitioner shall set forth an estimate of the number of days required to complete the hearing.	13 CCR § 555(f)
For petitioners who are members of the public only, petitioner shall request a pre-hearing conference if one is desired.	13 CCR § 555(g)
Petitioner shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
Petitioner shall serve a copy of the petition on the respondent and proof of service shall accompany the petition submitted to the Board.	13 CCR § 555.1 13 CCR § 551.24

First Consideration

If the petitioner is a member of the public seeking relief under Vehicle Code section 3050(b)(2), upon the filing of a petition with the Board, a copy shall be forwarded by the Executive Director of the Board to each Board member for consideration. Within 10 days of receipt of a copy of the petition, unless any member of the Board notifies the Executive Director of an objection, the Executive Director shall set the matter for a hearing.

Resolution of Petitions without a Hearing

If the petitioner is a licensee or member of the public seeking relief under Vehicle Code section 3050(b)(1) and/or (3), these petitions would not be submitted to the Board for first consideration, as the authority for first consideration (13 CCR § 557), limits first consideration to matters in which a hearing is sought, i.e., Vehicle Code section 3050(b)(2) petitions. These petitions would be agendized for consideration of the relief requested by the Petitioner at the next regularly scheduled meeting. Such petitions are not assigned to an ALJ and are not subject to the normal evidentiary hearing process. The Board members, at a noticed meeting, would hear from the parties by way of written and oral arguments, and consider granting the relief requested. After consideration, the public members of the Board shall take final action and issue a written order that either grants the appropriate relief pursuant to Vehicle Code section 3050(b)(1) or (b)(3), or orders the petition dismissed (13 CCR § 562(b), (d), and (e)). The public members of the Board may also request further briefing and/or the submission of further evidence and continue the matter to a later open meeting for consideration and final action.

Challenge to Presiding Officer

A party may request disqualification of a Board member or an ALJ for cause prior to the taking of evidence by filing an affidavit stating the grounds for the request (13 CCR § 551.1). Further, 13 CCR § 551.12(b) entitles a party, excluding an intervenor, in a petition to one disqualification without cause (peremptory challenge) of the assigned merits ALJ by filing the peremptory challenge with the Board no later than either 20 days from the date of the order of time and place of hearing identifying the merits ALJ or 20 days prior to the date scheduled for commencement of the merits hearing, whichever is earlier (13 CCR § 551.12(b)(1)). **In the event a Board ALJ is unavailable to preside over the merits hearing, an ALJ from the Office of Administrative Hearings will be assigned.** A peremptory challenge of the assigned administrative law judge is not authorized for law and motion hearings, settlement conferences, and rulings on discovery disputes. Except for the convenience of the Board or for good cause shown, no merits hearing shall be continued by the filing of a peremptory challenge.

Motion for Intervention

Any person, including a Board member, concerned with the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative may file a motion to intervene in a pending petition subject to the conditions set forth in 13 CCR § 551.13.

Amicus Curiae Briefs

The Board, its Executive Director, or an ALJ may, in his or her discretion, allow the filing of amicus curiae briefs. (13 CCR § 551.13)

Summary of Board Action

For petitions seeking relief under Vehicle Code section 3050(b)(1) and/or (3) brought by a franchisee, including RV franchisees, a member of the Board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide any petition. (Veh. Code § 3050(b)) For petitions brought by members of the public seeking Vehicle Code section 3050(b)(1) and/or (3) relief, all members of the Board may participate.

After considering this type of petition, the Board may do any one or any combination of the following:

- (1) Direct the Department to conduct an investigation and submit a written report;
- (2) Order the Department to exercise any and all authority or power that the Department may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation of the license of respondent; and/or
- (3) Order the petition dismissed, with or without prejudice.

As stated above, if the petitioner is a member of the public seeking relief under Vehicle Code section 3050(b)(2), the Board retains the authority to hear and/or mediate the matter.

Hearing Procedures

The Board's powers in relation to petitions are discretionary, and there is no automatic right to a hearing for a member of the public seeking relief under Vehicle Code section 3050(b)(2). If the Board orders a hearing, the pre-hearing procedures are similar to those involving protests. For procedural details for hearings on petitions, see 13 CCR § 580.

Informal Mediation

Prior to a member of the public initiating a petition seeking relief under Vehicle Code section 3050(b)(2), a party or parties may request the Board informally mediate the potential dispute, that is, the activities or practices of a licensee or applicant for a license that are in question (13 CCR §§ 551.14-551.17). If both parties consent to informal mediation, then a mutually agreeable date for the mediation is calendared. Each party files and serves a pre-mediation statement setting forth the facts, issues and proposed resolution of the matter. The Board, its Executive Director, or an ALJ designated by the Board or its Executive Director preside over the informal mediation and may authorize discovery (other than interrogatories) as appropriate. Evidence in the form of declarations may also be considered. All communications, negotiations, and settlement discussions between the participants of an informal mediation are confidential. At any time during this process, either party may request that the informal mediation be converted to a formal petition.

Members of the Public in Relation to New Recreational Vehicle Transactions

Members of the public have all the rights and remedies available in disputes with licensees in new recreational vehicle transactions as they do in transactions with other types of new motor vehicles under the jurisdiction of the Board with one distinction. Vehicle Code section 3078(a) states:

If the board receives a complaint from a member of the public seeking a refund involving the sale or lease of, or a replacement of, a recreational vehicle, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, from a recreational vehicle dealership, as defined in subdivision (d) of Section 3072, the board shall recommend that the complainant consult with the Department of Consumer Affairs.

Thus, if a member of the public specifically seeks a refund or a replacement of a new recreational vehicle, the Board shall recommend that the complaint be referred to the Department of Consumer affairs, rather than the Board. However, nothing precludes a member of the public from seeking help from the Board in resolving the dispute as is available for any other new motor vehicle purchaser.

JUDICIAL REVIEW

Appeal to Superior Court

Judicial review of final orders and decisions of the Board may be sought in Superior Court pursuant to Code of Civil Procedure section 1094.5 via a petition for writ of administrative mandamus. A petition for writ of administrative mandamus questions whether the Board proceeded without or in excess of jurisdiction, whether there was a fair hearing, and whether there was any prejudicial abuse of the Board's discretion. Parties seeking judicial review of a final order or decision should refer to Vehicle Code sections 3068 and 3082 and local rules of court.

APPENDIX

Form A - Protest

Form B1 - Petition (Veh. Code § 3050(b)(2))

Form B2 - Petition (Veh. Code § 3050(b)(1) or (b)(3))

SAMPLE FORM A -**PLEADING FORMAT OF PROTEST**

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings and notices with the New Motor Vehicle Board, see 13 CCR § 593.1, et seq. **Sample forms can be obtained from the Board's website, www.nmvb.ca.gov.**

Identification of Attorney or Party Representing Self:

In the top left-hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing him/herself, office address or residence address, telephone number, and email address, if available. Single space this section. Skip one line then add which party is filing this document. In the case of a protest, the individual filing the protest is known as the "Protestant," whereas the individual responding would be the "Respondent."

- 1 _____ [name of attorney and state bar number, or name of party representing self]
2 _____ [address]
3 _____ [telephone number, fax number and email address, if available]
4 _____ Attorney for [Protestant] or in pro per [if party representing him/herself]

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

Title of the Court:

On lines 8-9, place the title of the agency and the state in which the action is brought.

8 NEW MOTOR VEHICLE BOARD
9 STATE OF CALIFORNIA

Title of the Case:

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

Case Number:

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

Nature of Filing and Name of Action:

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

11	In the Matter of the Protest of)	
)	
12	NAME OF FRANCHISEE,	)	Protest No. PR-
)	
13	Protestant,	)	PROTEST
)	
14	v.	)	[Vehicle Code section 3060, 3062,
		)	3064, 3065, 3065.1, 3065.3, 3065.4, 3070,
15	NAME OF FRANCHISOR,	)	3072, 3074, 3075, and 3076]
		)	[Dates of the hearing and any future
16	Respondent.	)	pre-hearing or settlement
		)	conferences, if known]

Introduction:

State the name of the party filing the document, the type of document filed (e.g., protest, response, motion) and the applicable statutory authority.

20 Protestant, [NAME OF PARTY/DEALERSHIP NAME], files this protest under the
 21 provisions of the California Vehicle Code section [applicable code section] with
 22 reference to the following facts:

Body:

Using numbered paragraphs, state the allegations in a clear and chronological order.

- 23 1. Protestant is a new motor vehicle dealer selling [type of new motor vehicle or recreational vehicle] and is located at [address]. Protestant's telephone number is [telephone number].
2. Respondent distributes/manufacturers [type/model of product] and is the franchisor of Protestant.
3. Protestant is represented in this matter by [attorney/law firm], whose address and telephone number are [address and telephone number].
4. On or about [date of occurrence(s)], Protestant received from Respondent a notice that Respondent intends to [terminate/modify/relocate/establish] its existing franchise agreement effective [number of days] from Protestant's receipt of said notice. A copy of said letter is attached as Exhibit A.
5. Protestant generally denies each and every allegation contained in the written notice of [termination/modification/relocation/establishment].
6. Respondent does not have good cause to [terminate/modify/relocate/establish] the franchise by reason of the following facts:
 - (a) [Specific facts upon which Protestant bases the allegations].
7. Protestant and its attorneys of record desire to appear before the Board. The estimated length of hearing on this matter will take [number of days] to complete.
8. A Pre-Hearing Conference is requested.

Dated:

Signed:

SAMPLE FORM B1 - PLEADING FORMAT OF PETITION (Veh. Code § 3050(b)(2))

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings and notices with the New Motor Vehicle Board, see 13 CCR § 593.1, et seq. **Sample forms can be obtained from the Board's website, www.nmvb.ca.gov.**

Identification of Attorney or Party Representing Self:

In the top left-hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing him/herself, office address or residence address, telephone number, and email address, if available. Single space this section. Skip one line then add which party is filing this document. In the case of a petition, the individual filing the petition is known as the "Petitioner," and the party responding would be the "Respondent."

1 _____ [name of attorney and state bar number, or name of party representing self]

2 _____ [address]

3 _____ [telephone number, fax number and email address, if available]

4 _____ Attorney for [Petitioner] or in pro per [if party representing him/herself]

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

Title of the Court:

On lines 8-9, place the title of the agency and the state in which the action is brought.

8 NEW MOTOR VEHICLE BOARD

9 STATE OF CALIFORNIA

Title of the Case:

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

Case Number:

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

Nature of Filing and Name of Action:

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

11	In the Matter of the Petition of)	
)	
12	NAME OF INDIVIDUAL,	)	Petition No. P-
)	
13	Petitioner,)	
)	
14	v.	)	PETITION
		)	[Vehicle Code section 3050(b)(2)]
15	NAME OF LICENSEE,)	
)	
16	Respondent.	)	[Dates of the hearing and any future
		)	pre-hearing or settlement
		)	conferences, if known]

20 [NAME OF INDIVIDUAL], petitions the New Motor Vehicle Board, pursuant to Vehicle Code section 3050(b), with reference to the following facts:

1. Petitioner is, and at all times mentioned herein, an individual and consumer of a new motor vehicle or vehicles in the State of California.
2. Respondent is, and at all times mentioned herein, a licensee authorized to do business and doing business in the State of California.
3. Petitioner is represented in this matter by (name, address, and telephone number of law firm, or other representative).
4. Petitioner's mailing address and telephone number are as follows:
5. Respondent's mailing address and telephone number are as follows:
6. (Outline the particulars of the dispute).
7. WHEREFORE, Petitioner prays as follows: (A hearing and relief available under Vehicle Code section 3050(b)(2)).

Dated:

Signed:

Petition (Veh. Code § 3050(b)(2))

SAMPLE FORM B2 - PLEADING FORMAT OF PETITION (Veh. Code § 3050(b)(1) or (3))

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings and notices with the New Motor Vehicle Board, see 13 CCR § 593.1, et seq. **Sample forms can be obtained from the Board's website, www.nmvb.ca.gov.**

Identification of Attorney or Party Representing Self:

In the top left-hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing him/herself, office address or residence address, telephone number, and email address, if available. Single space this section. Skip one line then add which party is filing this document. In the case of a petition, the individual filing the petition is known as the "Petitioner," and the party responding would be the "Respondent."

1 _____ [name of attorney and state bar number, or name of party representing self]

2 _____ [address]

3 _____ [telephone number, fax number and email address, if available]

4 _____ Attorney for [Petitioner] or in pro per [if party representing him/herself]

Leave the upper right-hand corner blank between lines 1 and 7 for the use of the Board.

Title of the Court:

On lines 8-9, place the title of the agency and the state in which the action is brought.

8 NEW MOTOR VEHICLE BOARD

9 STATE OF CALIFORNIA

Title of the Case:

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

Case Number:

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

Nature of Filing and Name of Action:

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

11	In the Matter of the Petition of)	
)	
12	NAME OF INDIVIDUAL/LICENSEE,	)	Petition No. P-
)	
13	Petitioner,)	
)	
14	v.	)	PETITION
		)	[Vehicle Code section 3050(b)(1)]
15	NAME OF LICENSEE,	)	[Vehicle Code section 3050(b)(3)]
)	
16	Respondent.)	
)	

19 [NAME OF INDIVIDUAL/LICENSEE], petitions the New Motor Vehicle Board, pursuant to Vehicle Code section 3050(b), with reference to the following facts:

1. Petitioner is, and at all times mentioned herein, a licensee of the Department of Motor Vehicles authorized to do business and doing business in the State of California or is an individual and consumer of a new motor vehicle or vehicles in the State of California.
2. Respondent is, and at all times mentioned herein, a licensee of the Department of Motor Vehicles authorized to do business and doing business in the State of California.
3. Petitioner is represented in this matter by (name, address, and telephone number of law firm).
4. Petitioner's mailing address and telephone number are as follows:
5. Respondent's mailing address and telephone number are as follows:
6. (Outline the particulars of the dispute).
7. WHEREFORE, Petitioner prays as follows: (That the Board provides relief available under Vehicle Code section 3050(b)(1) and/or 3050(b)(3).)

Dated:

Signed:

Petition (Veh. Code § 3050(b)(1) or (3))

STATE OF CALIFORNIA

MEMO



To : BOARD DEVELOPMENT COMMITTEE
KATHRYN ELLEN DOI, CHAIR
RAMON ALVAREZ C., MEMBER

Date: February 16, 2022

From : TIMOTHY M. CORCORAN
ROBIN P. PARKER

Subject: BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE
ADMINISTRATIVE PROCEDURE ACT AND BAGLEY-KEENE OPEN
MEETING ACT

Attached are detailed summaries of the Administrative Procedure Act and Bagley-Keene Open Meeting Act that encompass changes effective after January 1, 2019 through January 1, 2022. A brief summary of the Acts and changes are as follows:

Administrative Procedure Act

The Administrative Procedure Act (“APA”), Government Code section¹ 11340, et seq., is the basic law controlling administrative agencies in California. The APA consists of three chapters of the Government Code. Chapter 3.5 (Gov. Code §§ 11340-11361), establishes the Office of Administrative Law and sets forth the law covering the quasi-legislative function of administrative agencies, i.e., the promulgation of regulations. When the Board elects to amend, adopt, or repeal regulations, it does so in compliance with Chapter 3.5. Chapter 4.5 (Gov. Code §§ 11400-11475.70), applies to any adjudicative proceeding required to be conducted under Chapter 5 (Gov. Code §§ 11500-11529). These statutes are the basic authority or “rules of procedure” governing administrative quasi-judicial proceedings. They govern administrative hearing procedures unless the statutes relating to a specific agency’s proceedings provide otherwise. (Gov. Code §§ 11410.50, 11415.10, and 11415.20)

The Board’s specific authority to conduct administrative hearings is found in statute in Vehicle Code section 3000, et seq. and in the Board’s regulations in Title 13 of the California Code of Regulations (“Board’s Regulations”), section 550, et seq. Specific Board procedures set forth with particularity in the Vehicle Code and the Board’s Regulations are controlling over the APA. Also, Vehicle Code sections 3066(a), 3080(a), and 3085.2(a) expressly incorporate Government Code sections 11507.3, 11507.6, 11507.7, 11511, 11511.5, 11513, 11514, 11515, and 11517 into Board procedures for hearings on protests only. No provisions in the Vehicle Code or the Board’s Regulations exempt the Board from the APA. Any provisions of the APA not in conflict or inconsistent would supplement the Vehicle Code and the Board’s Regulations. To the extent it is subject to the APA, the Board

¹ All statutory references are to the Government Code.

is in compliance with all applicable provisions.

The substantive changes to the summary of the Administrative Procedure Act are as follow:

1. Effective January 1, 2020, Assembly Bill 179 (Stats. 2019, Ch. 796) restored the Board's authority to hear export or sale-for-resale prohibition policy protests in Article 6 of the Vehicle Code commencing with Section 3085. Additionally, the subdivisions in Vehicle Code section 3050 were re-lettered with the repeal of appeals in subdivision (b). Changes in this regard are reflected throughout the summary.
2. Effective January 1, 2022, Sections 551.8 (Dismissals of Protests and Petitions), 551.12 (Notice of Assignment of Administrative Law Judges; Peremptory Challenges), and 590 (Hearings by Board or by Administrative Law Judge) of the Board's regulations were amended.
3. Government Code section 11425.20 requires hearings to be open to public observation unless there is an order closing the hearing or making other protective orders. To the extent a hearing is conducted by telephone, television, or other electronic means and is not closed as otherwise required by law, the meeting is considered open to the public if both of the following apply: the public, at reasonable times, may hear or inspect the agency's record, and inspect any transcript obtained by the agency; and the public is permitted to be physically present at the place where the presiding officer is conducting the hearing. Effective January 1, 2022, the public can also be "virtually" present. The term "present" can be satisfied either by providing a designated location from which members of the public can observe the meeting via a live audio or a video feed of the hearing made available to the public on the internet or by teleconference.
4. Government Code section 11440.30, which pertains to the conduct of hearings by telephone, television, or other electronic means, was amended effective January 1, 2022, but the Board's regulation excepts it from this provision. (13 CCR § 551.19. Motions; Form, Briefing, and Hearings.)
5. Section 11507.6 pertains to requests for discovery. Effective January 1, 2022, discovery of all categories of evidence specified in this section may be conducted electronically by means prescribed by an administrative law judge.
6. Subdivision (b)(3) of Government Code section 11508 allows hearings "virtually by telephone, videoconference, or other electronic means." This provision is not in conflict with the Vehicle Code or the Board's regulations so it would apply to Board hearings.

Although not reflected in the summary, Government Code section 11440.20 was amended to add service of an electronic document. Amendments to Sections 11503 and 11505 pertain to accusations and are not applicable to the Board.

The Bagley-Keene Open Meeting Act

The Bagley-Keene Open Meeting Act (“Act”), at Government Code section 11120 -11133, is one of the “sunshine laws” that ensures citizens have knowledge of the activities and workings of government. A democratic government assumes that those who elect public officials will have free access to what those public officials are doing. Access to government meetings and records provides citizens with the information they need to participate in the democratic process and to insist that government officials are held accountable for their actions. The best way to emphasize the intent of open meeting laws is to set forth the first section of the Act as follows:

- ❖ It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.
- ❖ In enacting this article, the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.
- ❖ The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. (Gov. Code § 11120)

The changes to the Bagley-Keene Open Meeting Act in the attached summary are:

1. Section 11123.5 was added effective January 1, 2019. It permits an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body consisting of three or more members to hold a meeting by teleconference.
2. Until January 31, 2022, Section 11133 authorized the Board to hold meetings through teleconference and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the Board. The requirements that each teleconference location be accessible to the public and that members of the public be able to address the Board at each teleconference location have temporarily been suspended. On January 5, 2022, Governor Newsom issued Executive Order N-1-22, which suspends the sunset dates in Government Code section 11133 to March 31, 2022.
3. Subdivision (c)(1) of Section 11125.7 was amended effective January 1, 2022. It includes the use of “other translating technology” to ensure non-English speakers receive the same opportunity to address the Board.
4. Subdivision (e) of Section 11125.7 was reorganized to encompass subdivisions (f)-(h). It clarifies that public comment is not applicable to closed sessions held pursuant to Section 11126 or in decisions regarding proceedings held pursuant to Chapter 5

of the Administrative Procedure Act. This includes personnel matters, consideration of Proposed Orders or Proposed Decisions, and conferring with, or receiving advice from, the Board's legal counsel regarding pending litigation.

5. There were a number of conforming changes to reflect the reorganization and renumbering of the Public Records Act in Sections 11124.1, 11125.1, 11126, and 11126.1. These amendments were effective January 1, 2022 but are not operative until January 1, 2023.

If you have any questions or comments, please contact me or Robin at (916) 445-1888. This matter is being agendaized for information only at the March 30, 2022, General Meeting.

Attachments

cc: Bismarck Obando, President

Administrative Procedure Act - 2022 Government Code
Chapter 4.5 Administrative Adjudication: General Provisions

ARTICLE 1. Preliminary Provisions [11400 - 11400.20]

11400.

(a) This chapter and Chapter 5 (commencing with Section 11500) constitute the administrative adjudication provisions of the Administrative Procedure Act.

(b) A reference in any other statute or in a rule of court, executive order, or regulation, to a provision formerly found in Chapter 5 (commencing with Section 11500) that is superseded by a provision of this chapter, means the applicable provision of this chapter. *(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)*

11400.10.

(a) This chapter is operative on July 1, 1997.

(b) This chapter is applicable to an adjudicative proceeding commenced on or after July 1, 1997.

(c) This chapter is not applicable to an adjudicative proceeding commenced before July 1, 1997, except an adjudicative proceeding conducted on a remand from a court or another agency on or after July 1, 1997.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938. Note: This section provides for operation of Chapter 4.5, commencing with Section 11400.)

11400.20.

(a) Before, on, or after July 1, 1997, an agency may adopt interim or permanent regulations to govern an adjudicative proceeding under this chapter or Chapter 5 (commencing with Section 11500). Nothing in this section authorizes an agency to adopt regulations to govern an adjudicative proceeding required to be conducted by an administrative law judge employed by the Office of Administrative Hearings, except to the extent the regulations are otherwise authorized by statute.

(b) Except as provided in Section 11351:

(1) Interim regulations need not comply with Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5, but are governed by Chapter 3.5 (commencing with Section 11340) in all other respects.

(2) Interim regulations expire on December 31, 1998, unless earlier terminated or replaced by or readopted as permanent regulations under paragraph (3). If on December 31, 1998, an agency has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not yet been filed with the Secretary of State, the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier.

(3) Permanent regulations are subject to all the provisions of Chapter 3.5 (commencing with Section 11340), except that if by December 31, 1998, an agency has submitted the regulations for review by the Office of Administrative Law, the regulations are not subject to review for necessity under Section 11349.1 or 11350.

(Amended by Stats. 1996, Ch. 390, Sec. 5. Effective August 19, 1996. Operative July 1, 1997, by Sec. 11 of Ch. 390.)

ARTICLE 2. Definitions [11405.10 - 11405.80]

11405.10.

Unless the provision or context requires otherwise, the definitions in this article govern the construction of this chapter.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11405.20.

“Adjudicative proceeding” means an evidentiary hearing for determination of facts pursuant to which an agency formulates and issues a decision.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11405.30.

“Agency” means a board, bureau, commission, department, division, office, officer, or other administrative unit, including the agency head, and one or more members of the agency head or agency employees or other persons directly or indirectly purporting to act on behalf of or under the authority of the agency head. To the extent it purports to exercise authority pursuant to this chapter, an administrative unit otherwise qualifying as an agency shall be treated as a separate agency even if the unit is located within or subordinate to another agency.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11405.40.

“Agency head” means a person or body in which the ultimate legal authority of an agency is vested, and includes a person or body to which the power to act is delegated pursuant to authority to delegate the agency’s power to hear and decide.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11405.50.

(a) "Decision" means an agency action of specific application that determines a legal right, duty, privilege, immunity, or other legal interest of a particular person.

(b) Nothing in this section limits any of the following:

(1) The precedential effect of a decision under Section 11425.60.

(2) The authority of an agency to make a declaratory decision pursuant to Article 14 (commencing with Section 11465.10).

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11405.60.

"Party" includes the agency that is taking action, the person to which the agency action is directed, and any other person named as a party or allowed to appear or intervene in the proceeding. If the agency that is taking action and the agency that is conducting the adjudicative proceeding are separate agencies, the agency that is taking action is a party and the agency that is conducting the adjudicative proceeding is not a party.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11405.70.

"Person" includes an individual, partnership, corporation, governmental subdivision or unit of a governmental subdivision, or public or private organization or entity of any character.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11405.80.

"Presiding officer" means the agency head, member of the agency head, administrative law judge, hearing officer, or other person who presides in an adjudicative proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 3. Application of Chapter [11410.10 - 11410.60]

11410.10.

This chapter applies to a decision by an agency if, under the federal or state Constitution or a federal or state statute, an evidentiary hearing for determination of facts is required for formulation and issuance of the decision.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11410.20.

Except as otherwise expressly provided by statute:

(a) This chapter applies to all agencies of the state.

(b) This chapter does not apply to the Legislature, the courts or judicial branch, or the Governor or office of the Governor.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11410.30.

(a) As used in this section, "local agency" means a county, city, district, public authority, public agency, or other political subdivision or public corporation in the state other than the state.

(b) This chapter does not apply to a local agency except to the extent the provisions are made applicable by statute.

(c) This chapter applies to an agency created or appointed by joint or concerted action of the state and one or more local agencies.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11410.40.

Notwithstanding any other provision of this article, by regulation, ordinance, or other appropriate action, an agency may adopt this chapter or any of its provisions for the formulation and issuance of a decision, even though the agency or decision is exempt from application of this chapter.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11410.50.

This chapter applies to an adjudicative proceeding required to be conducted under Chapter 5 (commencing with Section 11500) unless the statutes relating to the proceeding provide otherwise.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11410.60.

(a) As used in this section, "quasi-public entity" means an entity, other than a governmental agency, whether characterized by statute as a public corporation, public instrumentality, or otherwise, that is expressly created by statute for the purpose of administration of a state function.

(b) This chapter applies to an adjudicative proceeding conducted by a quasi-public entity if all of the following conditions are satisfied:

- (1) A statute vests the power of decision in the quasi-public entity.
- (2) A statute, the United States Constitution, or the California Constitution, requires an evidentiary hearing for determination of facts for formulation and issuance of the decision. Nothing in this section is intended to create an evidentiary hearing requirement that is not otherwise statutorily or constitutionally imposed.
- (3) The decision is not otherwise subject to administrative review in an adjudicative proceeding to which this chapter applies.
- (c) For the purpose of application of this chapter to a decision by a quasi-public entity:
- (1) "Agency," as defined in Section 11405.30, also includes the quasi-public entity.
- (2) "Regulation" includes a rule promulgated by the quasi-public entity.
- (3) Article 8 (commencing with Section 11435.05), requiring language assistance in an adjudicative proceeding, applies to a quasi-public entity to the same extent as a state agency under Section 11018.
- (d) This section shall be strictly construed to effectuate the intent of the Legislature to apply this chapter only to a decision by a quasi-public entity that is expressly created by statute for the purpose of administration of a state function.
- (e) This section shall not apply to a decision made on authority of an approved plan of operations of a quasi-public entity that is subject to the regulation or supervision of the Insurance Commissioner.
- (Added by Stats. 1997, Ch. 220, Sec. 9. Effective August 4, 1997.)*

ARTICLE 4. Governing Procedure [11415.10 - 11415.60]

11415.10.

- (a) The governing procedure by which an agency conducts an adjudicative proceeding is determined by the statutes and regulations applicable to that proceeding. If no other governing procedure is provided by statute or regulation, an agency may conduct an adjudicative proceeding under the administrative adjudication provisions of the Administrative Procedure Act.
- (b) This chapter supplements the governing procedure by which an agency conducts an adjudicative proceeding.
- (Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)*

11415.20.

A state statute or a federal statute or regulation applicable to a particular agency or decision prevails over a conflicting or inconsistent provision of this chapter.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11415.30.

(a) To the extent necessary to avoid a loss or delay of funds or services from the federal government that would otherwise be available to the state, the Governor may do any of the following by executive order:

(1) Suspend, in whole or in part, any administrative adjudication provision of the Administrative Procedure Act.

(2) Adopt a rule of procedure that will avoid the loss or delay.

(b) The Governor shall rescind an executive order issued under this section as soon as it is no longer necessary to prevent the loss or delay of funds or services from the federal government.

(c) If an administrative adjudication provision is suspended or rule of procedure is adopted pursuant to this section, the Governor shall promptly report the suspension or adoption to the Legislature. The report shall include recommendations concerning any legislation that may be necessary to conform the provision to federal law.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11415.40.

Except to the extent prohibited by another statute or regulation, a person may waive a right conferred on the person by the administrative adjudication provisions of the Administrative Procedure Act.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11415.50.

(a) An agency may provide any appropriate procedure for a decision for which an adjudicative proceeding is not required.

(b) An adjudicative proceeding is not required for informal factfinding or an informal investigatory hearing, or a decision to initiate or not to initiate an investigation, prosecution, or other proceeding before the agency, another agency, or a court, whether in response to an application for an agency decision or otherwise.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11415.60.

(a) An agency may formulate and issue a decision by settlement, pursuant to an agreement of the parties, without conducting an adjudicative proceeding. Subject to subdivision (c), the settlement may be on any terms the parties determine are appropriate. Notwithstanding any other provision of law, no evidence of an offer of compromise or settlement made in settlement negotiations is admissible in an adjudicative proceeding or civil action, whether as affirmative evidence, by way of impeachment, or for any other purpose, and no evidence of conduct or statements made in settlement negotiations is

admissible to prove liability for any loss or damage except to the extent provided in Section 1152 of the Evidence Code. Nothing in this subdivision makes inadmissible any public document created by a public agency.

(b) A settlement may be made before or after issuance of an agency pleading, except that in an adjudicative proceeding to determine whether an occupational license should be revoked, suspended, limited, or conditioned, a settlement may not be made before issuance of the agency pleading. A settlement may be made before, during, or after the hearing.

(c) A settlement is subject to any necessary agency approval. An agency head may delegate the power to approve a settlement. The terms of a settlement may not be contrary to statute or regulation, except that the settlement may include sanctions the agency would otherwise lack power to impose.

(Amended by Stats. 1996, Ch. 390, Sec. 7. Effective August 19, 1996. Operative July 1, 1997, by Sec. 11 of Ch. 390.)

ARTICLE 5. Alternative Dispute Resolution [11420.10 - 11420.30]

11420.10.

(a) An agency, with the consent of all the parties, may refer a dispute that is the subject of an adjudicative proceeding for resolution by any of the following means:

(1) Mediation by a neutral mediator.

(2) Binding arbitration by a neutral arbitrator. An award in a binding arbitration is subject to judicial review in the manner provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

(3) Nonbinding arbitration by a neutral arbitrator. The arbitrator's decision in a nonbinding arbitration is final unless within 30 days after the arbitrator delivers the award to the agency head a party requests that the agency conduct a de novo adjudicative proceeding. If the decision in the de novo proceeding is not more favorable to the party electing the de novo proceeding, the party shall pay the costs and fees specified in Section 1141.21 of the Code of Civil Procedure insofar as applicable in the adjudicative proceeding.

(b) If another statute requires mediation or arbitration in an adjudicative proceeding, that statute prevails over this section.

(c) This section does not apply in an adjudicative proceeding to the extent an agency by regulation provides that this section is not applicable in a proceeding of the agency.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11420.20.

(a) The Office of Administrative Hearings shall adopt and promulgate model regulations for alternative dispute resolution under this article. The model regulations govern alternative dispute resolution by an agency under this article, except to the extent the agency by regulation provides inconsistent rules or provides that the model regulations are not applicable in a proceeding of the agency.

(b) The model regulations shall include provisions for selection and compensation of a mediator or arbitrator, qualifications of a mediator or arbitrator, and confidentiality of the mediation or arbitration proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11420.30.

Notwithstanding any other provision of law, a communication made in alternative dispute resolution under this article is protected to the following extent:

(a) Anything said, any admission made, and any document prepared in the course of, or pursuant to, mediation under this article is a confidential communication, and a party to the mediation has a privilege to refuse to disclose and to prevent another from disclosing the communication, whether in an adjudicative proceeding, civil action, or other proceeding. This subdivision does not limit the admissibility of evidence if all parties to the proceedings consent.

(b) No reference to nonbinding arbitration proceedings, a decision of the arbitrator that is rejected by a party's request for a de novo adjudicative proceeding, the evidence produced, or any other aspect of the arbitration may be made in an adjudicative proceeding or civil action, whether as affirmative evidence, by way of impeachment, or for any other purpose.

(c) No mediator or arbitrator is competent to testify in a subsequent administrative or civil proceeding as to any statement, conduct, decision, or order occurring at, or in conjunction with, the alternative dispute resolution.

(d) Evidence otherwise admissible outside of alternative dispute resolution under this article is not inadmissible or protected from disclosure solely by reason of its introduction or use in alternative dispute resolution under this article.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 6. Administrative Adjudication Bill of Rights [11425.10 - 11425.60]

11425.10.

(a) The governing procedure by which an agency conducts an adjudicative proceeding is subject to all of the following requirements:

(1) The agency shall give the person to which the agency action is directed notice and an opportunity to be heard, including the opportunity to present and rebut evidence.

(2) The agency shall make available to the person to which the agency action is directed a copy of the governing procedure, including a statement whether Chapter 5 (commencing with Section 11500) is applicable to the proceeding.

(3) The hearing shall be open to public observation as provided in Section 11425.20.

(4) The adjudicative function shall be separated from the investigative, prosecutorial, and advocacy functions within the agency as provided in Section 11425.30.

(5) The presiding officer is subject to disqualification for bias, prejudice, or interest as provided in Section 11425.40.

(6) The decision shall be in writing, be based on the record, and include a statement of the factual and legal basis of the decision as provided in Section 11425.50.

(7) A decision may not be relied on as precedent unless the agency designates and indexes the decision as precedent as provided in Section 11425.60.

(8) Ex parte communications shall be restricted as provided in Article 7 (commencing with Section 11430.10).

(9) Language assistance shall be made available as provided in Article 8 (commencing with Section 11435.05) by an agency described in Section 11018 or 11435.15.

(b) The requirements of this section apply to the governing procedure by which an agency conducts an adjudicative proceeding without further action by the agency, and prevail over a conflicting or inconsistent provision of the governing procedure, subject to Section 11415.20. The governing procedure by which an agency conducts an adjudicative proceeding may include provisions equivalent to, or more protective of the rights of the person to which the agency action is directed than, the requirements of this section.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11425.20.

(a) A hearing shall be open to public observation. This subdivision shall not limit the authority of the presiding officer to order closure of a hearing or make other protective orders to the extent necessary or proper for any of the following purposes:

(1) To satisfy the United States Constitution, the California Constitution, federal or state statute, or other law, including, but not limited to, laws protecting privileged, confidential, or other protected information.

(2) To ensure a fair hearing in the circumstances of the particular case.

(3) To conduct the hearing, including the manner of examining witnesses, in a way that is appropriate to protect a minor witness or a witness with a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code, from intimidation or other harm, taking into account the rights of all persons.

(b) To the extent a hearing is conducted by telephone, television, or other electronic means, and is not closed as otherwise required by law, the requirement that the meeting is open to public observation pursuant to subdivision (a) is satisfied if members of the public have an opportunity to do both of the following:

(1) At reasonable times, hear or inspect the agency's record, and inspect any transcript obtained by the agency.

(2) Be physically or virtually present at the place where the presiding officer is conducting the hearing. For purposes of this section, the term "present" can be satisfied either by providing a designated location from which members of the public can observe the meeting via a live audio or a video feed of the hearing made available to the public on the internet or by teleconference.

(c) This section does not apply to a prehearing conference, settlement conference, or proceedings for alternative dispute resolution other than binding arbitration.

(Amended by Stats. 2021, Ch. 401, Sec. 11. (AB 1578) Effective January 1, 2022.)

11425.30.

(a) A person may not serve as presiding officer in an adjudicative proceeding in any of the following circumstances:

(1) The person has served as investigator, prosecutor, or advocate in the proceeding or its preadjudicative stage.

(2) The person is subject to the authority, direction, or discretion of a person who has served as investigator, prosecutor, or advocate in the proceeding or its preadjudicative stage.

(b) Notwithstanding subdivision (a):

(1) A person may serve as presiding officer at successive stages of an adjudicative proceeding.

(2) A person who has participated only as a decisionmaker or as an advisor to a decisionmaker in a determination of probable cause or other equivalent preliminary determination in an adjudicative proceeding or its preadjudicative stage may serve as presiding officer in the proceeding.

(c) The provisions of this section governing separation of functions as to the presiding officer also govern separation of functions as to the agency head or other person or body to which the power to hear or decide in the proceeding is delegated.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11425.40.

(a) The presiding officer is subject to disqualification for bias, prejudice, or interest in the proceeding.

(b) It is not alone or in itself grounds for disqualification, without further evidence of bias, prejudice, or interest, that the presiding officer:

(1) Is or is not a member of a racial, ethnic, religious, sexual, or similar group and the proceeding involves the rights of that group.

(2) Has experience, technical competence, or specialized knowledge of, or has in any capacity expressed a view on, a legal, factual, or policy issue presented in the proceeding.

(3) Has as a lawyer or public official participated in the drafting of laws or regulations or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding.

(c) The provisions of this section governing disqualification of the presiding officer also govern disqualification of the agency head or other person or body to which the power to hear or decide in the proceeding is delegated.

(d) An agency that conducts an adjudicative proceeding may provide by regulation for peremptory challenge of the presiding officer.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11425.50.

(a) The decision shall be in writing and shall include a statement of the factual and legal basis for the decision.

(b) The statement of the factual basis for the decision may be in the language of, or by reference to, the pleadings. If the statement is no more than mere repetition or paraphrase of the relevant statute or regulation, the statement shall be accompanied by a concise and explicit statement of the underlying facts of record that support the decision. If the factual basis for the decision includes a determination based substantially on the credibility of a witness, the statement shall identify any specific evidence of the observed demeanor, manner, or attitude of the witness that supports the determination, and on judicial review the court shall give great weight to the determination to the extent the determination identifies the observed demeanor, manner, or attitude of the witness that supports it.

(c) The statement of the factual basis for the decision shall be based exclusively on the evidence of record in the proceeding and on matters officially noticed in the proceeding. The presiding officer's experience, technical competence, and specialized knowledge may be used in evaluating evidence.

(d) Nothing in this section limits the information that may be contained in the decision, including a summary of evidence relied on.

(e) A penalty may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule subject to Chapter 3.5 (commencing with Section 11340) unless it has been adopted as a regulation pursuant to Chapter 3.5 (commencing with Section 11340).

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11425.60.

(a) A decision may not be expressly relied on as precedent unless it is designated as a precedent decision by the agency.

(b) An agency may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. Designation of a decision or part of a decision as a precedent decision is not rulemaking and need not be done under Chapter 3.5 (commencing with Section 11340). An agency's designation of a decision or part of a decision, or failure to designate a decision or part of a decision, as a precedent decision is not subject to judicial review.

(c) An agency shall maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated not less frequently than annually, unless no precedent decision has been designated since the last preceding update. The index shall be made available to the public by subscription, and its availability shall be publicized annually in the California Regulatory Notice Register.

(d) This section applies to decisions issued on or after July 1, 1997. Nothing in this section precludes an agency from designating and indexing as a precedent decision a decision issued before July 1, 1997.

(Amended by Stats. 1996, Ch. 390, Sec. 8. Effective August 19, 1996. Operative July 1, 1997, by Sec. 11 of Ch. 390.)

ARTICLE 7. Ex Parte Communications [11430.10 - 11430.80]

11430.10.

(a) While the proceeding is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication.

(b) Nothing in this section precludes a communication, including a communication from an employee or representative of an agency that is a party, made on the record at the hearing.

(c) For the purpose of this section, a proceeding is pending from the issuance of the agency's pleading, or from an application for an agency decision, whichever is earlier.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11430.20.

A communication otherwise prohibited by Section 11430.10 is permissible in any of the following circumstances:

(a) The communication is required for disposition of an ex parte matter specifically authorized by statute.

(b) The communication concerns a matter of procedure or practice, including a request for a continuance, that is not in controversy.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11430.30.

A communication otherwise prohibited by Section 11430.10 from an employee or representative of an agency that is a party to the presiding officer is permissible in any of the following circumstances:

(a) The communication is for the purpose of assistance and advice to the presiding officer from a person who has not served as investigator, prosecutor, or advocate in the proceeding or its preadjudicative stage. An assistant or advisor may evaluate the evidence in the record but shall not furnish, augment, diminish, or modify the evidence in the record.

(b) The communication is for the purpose of advising the presiding officer concerning a settlement proposal advocated by the advisor.

(c) The communication is for the purpose of advising the presiding officer concerning any of the following matters in an adjudicative proceeding that is nonprosecutorial in character:

(1) The advice involves a technical issue in the proceeding and the advice is necessary for, and is not otherwise reasonably available to, the presiding officer, provided the content of the advice is disclosed on the record and all parties are given an opportunity to address it in the manner provided in Section 11430.50.

(2) The advice involves an issue in a proceeding of the San Francisco Bay Conservation and Development Commission, California Tahoe Regional Planning Agency, Delta Protection Commission, Water Resources Control Board, or a regional water quality control board.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11430.40.

If, while the proceeding is pending but before serving as presiding officer, a person receives a communication of a type that would be in violation of this article if received while serving as presiding officer, the person, promptly after starting to serve, shall disclose the content of the communication on the record and give all parties an opportunity to address it in the manner provided in Section 11430.50.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11430.50.

(a) If a presiding officer receives a communication in violation of this article, the presiding officer shall make all of the following a part of the record in the proceeding:

(1) If the communication is written, the writing and any written response of the presiding officer to the communication.

(2) If the communication is oral, a memorandum stating the substance of the communication, any response made by the presiding officer, and the identity of each person from whom the presiding officer received the communication.

(b) The presiding officer shall notify all parties that a communication described in this section has been made a part of the record.

(c) If a party requests an opportunity to address the communication within 10 days after receipt of notice of the communication:

(1) The party shall be allowed to comment on the communication.

(2) The presiding officer has discretion to allow the party to present evidence concerning the subject of the communication, including discretion to reopen a hearing that has been concluded.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11430.60.

Receipt by the presiding officer of a communication in violation of this article may be grounds for disqualification of the presiding officer. If the presiding officer is disqualified,

the portion of the record pertaining to the ex parte communication may be sealed by protective order of the disqualified presiding officer.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11430.70.

(a) Subject to subdivisions (b) and (c), the provisions of this article governing ex parte communications to the presiding officer also govern ex parte communications in an adjudicative proceeding to the agency head or other person or body to which the power to hear or decide in the proceeding is delegated.

(b) An ex parte communication to the agency head or other person or body to which the power to hear or decide in the proceeding is delegated is permissible in an individualized ratemaking proceeding if the content of the communication is disclosed on the record and all parties are given an opportunity to address it in the manner provided in Section 11430.50.

(c) An ex parte communication to the agency head or other person or body to which the power to hear or decide in the proceeding is delegated is permissible in an individualized determination of an application for site certification pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code, that is before the State Energy Resources Conservation and Development Commission, if the communication is made by an employee of another state agency and is made for the purpose of enabling the presiding officer to effectively manage the proceeding.

(Amended by Stats. 2010, 8th Ex. Sess., Ch. 9, Sec. 4. Effective March 22, 2010.)

11430.80.

(a) There shall be no communication, direct or indirect, while a proceeding is pending regarding the merits of any issue in the proceeding, between the presiding officer and the agency head or other person or body to which the power to hear or decide in the proceeding is delegated.

(b) This section does not apply where the agency head or other person or body to which the power to hear or decide in the proceeding is delegated serves as both presiding officer and agency head, or where the presiding officer does not issue a decision in the proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 8. Language Assistance [11435.05 - 11435.65]

11435.05.

As used in this article, "language assistance" means oral interpretation or written translation into English of a language other than English or of English into another language for a party or witness who cannot speak or understand English or who can do so only with difficulty.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11435.10.

Nothing in this article limits the application or effect of Section 754 of the Evidence Code to interpretation for a deaf or hard-of-hearing party or witness in an adjudicative proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11435.15.

(a) The following state agencies shall provide language assistance in adjudicative proceedings to the extent provided in this article:

- (1) Agricultural Labor Relations Board.
- (2) State Department of Alcohol and Drug Programs.
- (3) State Athletic Commission.
- (4) California Unemployment Insurance Appeals Board.
- (5) Board of Parole Hearings.
- (6) State Board of Barbering and Cosmetology.
- (7) State Department of Developmental Services.
- (8) Public Employment Relations Board.
- (9) Franchise Tax Board.
- (10) State Department of Health Care Services.
- (11) Department of Housing and Community Development.
- (12) Department of Industrial Relations.
- (13) State Department of State Hospitals.
- (14) Department of Motor Vehicles.
- (15) Notary Public Section, Office of the Secretary of State.
- (16) Public Utilities Commission.
- (17) Office of Statewide Health Planning and Development.
- (18) State Department of Social Services.
- (19) Workers' Compensation Appeals Board.
- (20) Division of Juvenile Justice.
- (21) Division of Juvenile Parole Operations.
- (22) Department of Insurance.
- (23) State Personnel Board.
- (24) California Board of Podiatric Medicine.
- (25) Board of Psychology.

(b) Nothing in this section prevents an agency other than an agency listed in subdivision (a) from electing to adopt any of the procedures in this article, provided that any selection of an interpreter is subject to Section 11435.30.

(c) Nothing in this section prohibits an agency from providing an interpreter during a proceeding to which this chapter does not apply, including an informal factfinding or informal investigatory hearing.

(d) This article applies to an agency listed in subdivision (a) notwithstanding a general provision that this chapter does not apply to some or all of an agency's adjudicative proceedings.

(Amended by Stats. 2013, Ch. 76, Sec. 82. Effective January 1, 2014.)

11435.20.

(a) The hearing, or any medical examination conducted for the purpose of determining compensation or monetary award, shall be conducted in English.

(b) If a party or the party's witness does not proficiently speak or understand English and before commencement of the hearing or medical examination requests language assistance, an agency subject to the language assistance requirement of this article shall provide the party or witness an interpreter.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11435.25.

(a) The cost of providing an interpreter under this article shall be paid by the agency having jurisdiction over the matter if the presiding officer so directs, otherwise by the party at whose request the interpreter is provided.

(b) The presiding officer's decision to direct payment shall be based upon an equitable consideration of all the circumstances in each case, such as the ability of the party in need of the interpreter to pay.

(c) Notwithstanding any other provision of this section, in a hearing before the Workers' Compensation Appeals Board or the Division of Workers' Compensation relating to workers' compensation claims, the payment of the costs of providing an interpreter shall be governed by the rules and regulations promulgated by the Workers' Compensation Appeals Board or the Administrative Director of the Division of Workers' Compensation, as appropriate.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11435.30.

(a) The State Personnel Board shall establish, maintain, administer, and publish annually an updated list of certified administrative hearing interpreters it has determined meet the minimum standards in interpreting skills and linguistic abilities in languages designated pursuant to Section 11435.40. Any interpreter so listed may be examined by each employing agency to determine the interpreter's knowledge of the employing agency's technical program terminology and procedures.

(b) Court interpreters certified pursuant to Section 68562, and interpreters listed on the State Personnel Board's recommended lists of court and administrative hearing interpreters prior to July 1, 1993, shall be deemed certified for purposes of this section.

(c) (1) In addition to the certification procedure provided pursuant to subdivision (a), the Administrative Director of the Division of Workers' Compensation may establish, maintain,

administer, and publish annually an updated list of certified administrative hearing interpreters who, based on testing by an independent organization designated by the administrative director, have been determined to meet the minimum standards in interpreting skills and linguistic abilities in languages designated pursuant to Section 11435.40, for purposes of administrative hearings conducted pursuant to proceedings of the Workers' Compensation Appeals Board. The independent testing organization shall have no financial interest in the training of interpreters or in the employment of interpreters for administrative hearings.

(2) (A) A fee, as determined by the administrative director, shall be collected from each interpreter seeking certification. The fee shall not exceed the reasonable regulatory costs of administering the testing and certification program and of publishing the list of certified administrative hearing interpreters on the Division of Workers' Compensation' Internet Web site.

(B) The Legislature finds and declares that the services described in this section are of such a special and unique nature that they may be contracted out pursuant to paragraph (3) of subdivision (b) of Section 19130. The Legislature further finds and declares that the services described in this section are a new state function pursuant to paragraph (2) of subdivision (b) of Section 19130.

(Amended by Stats. 2012, Ch. 363, Sec. 2. Effective January 1, 2013.)

11435.35.

(a) The State Personnel Board shall establish, maintain, administer, and publish annually, an updated list of certified medical examination interpreters it has determined meet the minimum standards in interpreting skills and linguistic abilities in languages designated pursuant to Section 11435.40.

(b) Court interpreters certified pursuant to Section 68562 and administrative hearing interpreters certified pursuant to Section 11435.30 shall be deemed certified for purposes of this section.

(c) (1) In addition to the certification procedure provided pursuant to subdivision (a), the Administrative Director of the Division of Workers' Compensation may establish, maintain, administer, and publish annually an updated list of certified medical examination interpreters who, based on testing by an independent organization designated by the administrative director, have been determined to meet the minimum standards in interpreting skills and linguistic abilities in languages designated pursuant to Section 11435.40, for purposes of medical examinations conducted pursuant to proceedings of the Workers' Compensation Appeals Board, and medical examinations conducted pursuant to Division 4 (commencing with Section 3200) of the Labor Code. The independent testing organization shall have no financial interest in the training of interpreters or in the employment of interpreters for medical examinations.

(2) (A) A fee, as determined by the administrative director, shall be collected from each interpreter seeking certification. The fee shall not exceed the reasonable regulatory costs of administering the testing and certification program and of publishing the list of certified medical examination interpreters on the Division of Workers' Compensation's Internet Web site.

(B) The Legislature finds and declares that the services described in this section are of such a special and unique nature that they may be contracted out pursuant to paragraph (3) of subdivision (b) of Section 19130. The Legislature further finds and declares that the services described in this section are a new state function pursuant to paragraph (2) of subdivision (b) of Section 19130.

(Amended by Stats. 2013, Ch. 287, Sec. 1. Effective January 1, 2014.)

11435.40.

(a) The Department of Human Resources shall designate the languages for which certification shall be established under Sections 11435.30 and 11435.35. The languages designated shall include, but not be limited to, Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, and Vietnamese until the Department of Human Resources finds that there is an insufficient need for interpreting assistance in these languages.

(b) The language designations shall be based on the following:

(1) The language needs of non-English-speaking persons appearing before the administrative agencies, as determined by consultation with the agencies.

(2) The cost of developing a language examination.

(3) The availability of experts needed to develop a language examination.

(4) Other information the department deems relevant.

(Amended by Stats. 2012, Ch. 360, Sec. 6. Effective January 1, 2013.)

11435.45.

(a) The Department of Human Resources shall establish and charge fees for applications to take interpreter examinations and for renewal of certifications. The purpose of these fees is to cover the annual projected costs of carrying out this article. The fees may be adjusted each fiscal year by a percent that is equal to or less than the percent change in the California Necessities Index prepared by the Commission on State Finance.

(b) Each certified administrative hearing interpreter and each certified medical examination interpreter shall pay a fee, due on July 1 of each year, for the renewal of the certification. Court interpreters certified under Section 68562 shall not pay any fees required by this section.

(c) If the amount of money collected in fees is not sufficient to cover the costs of carrying out this article, the department shall charge and be reimbursed a pro rata share of the additional costs by the state agencies that conduct administrative hearings.

(Amended by Stats. 2012, Ch. 360, Sec. 7. Effective January 1, 2013.)

11435.50.

The Department of Human Resources may remove the name of a person from the list of certified interpreters if any of the following conditions occurs:

(a) The person is deceased.

(b) The person notifies the department that the person is unavailable for work.

(c) The person does not submit a renewal fee as required by Section 11435.45.

(Amended by Stats. 2012, Ch. 360, Sec. 8. Effective January 1, 2013.)

11435.55.

(a) An interpreter used in a hearing shall be certified pursuant to Section 11435.30. However, if an interpreter certified pursuant to Section 11435.30 cannot be present at the hearing, the hearing agency shall have discretionary authority to provisionally qualify and use another interpreter.

(b) An interpreter used in a medical examination shall be certified pursuant to Section 11435.35. However, if an interpreter certified pursuant to Section 11435.35 cannot be present at the medical examination, the physician provisionally may use another interpreter if that fact is noted in the record of the medical evaluation.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11435.60.

Every agency subject to the language assistance requirement of this article shall advise each party of the right to an interpreter at the same time that each party is advised of the hearing date or medical examination. Each party in need of an interpreter shall also be encouraged to give timely notice to the agency conducting the hearing or medical examination so that appropriate arrangements can be made.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11435.65.

(a) The rules of confidentiality of the agency, if any, that apply in an adjudicative proceeding shall apply to any interpreter in the hearing or medical examination, whether or not the rules so state.

(b) The interpreter shall not have had any involvement in the issues of the case prior to the hearing.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 9. General Procedural Provisions [11440.10 - 11440.60]

11440.10.

(a) The agency head may do any of the following with respect to a decision of the presiding officer or the agency:

(1) Determine to review some but not all issues, or not to exercise any review.

(2) Delegate its review authority to one or more persons.

(3) Authorize review by one or more persons, subject to further review by the agency head.

(b) By regulation an agency may mandate review, or may preclude or limit review, of a decision of the presiding officer or the agency.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11440.20.

Service of a writing or electronic document on, or giving of a notice to, a person in a procedure provided in this chapter is subject to the following provisions:

(a) The writing, electronic document, or notice shall be delivered personally or sent by mail, electronic, or other means to the person at the person's last known address or, if the person is a party with an attorney or other authorized representative of record in the proceeding, to the party's attorney or other authorized representative. If a party is required by statute or regulation to maintain an address with an agency, the party's last known address is the address maintained with the agency.

(b) Unless a provision specifies the form of mail, service or notice by mail may be by first-class mail, registered mail, or certified mail, by mail delivery service, by facsimile transmission if complete and without error, or by other electronic means as provided by regulation, in the discretion of the sender.

(Amended by Stats. 2021, Ch. 401, Sec. 12. (AB 1578) Effective January 1, 2022.)

11440.30.

(a) The presiding officer may conduct all or part of a hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits.

(b) (1) Except as provided in paragraph (2), the presiding officer may not conduct all of a hearing by telephone, television, or other electronic means if a party objects.

(2) If a party objects pursuant to paragraph (1) to a hearing being conducted by electronic means, the presiding officer shall consider the objections and may, in the presiding officer's discretion, structure the hearing to address the party's specific objections and may require the presiding officer, parties, and witnesses, or a subset of parties and witnesses based on the specific objections, to be present in a physical location during all or part of the hearing.

(c) Subdivision (b) is not a limitation on the presiding officer transmitting the hearing by telephone, television, or other electronic means or receiving comments via electronic means from participants who are not parties or witnesses.

(Amended by Stats. 2021, Ch. 401, Sec. 13. (AB 1578) Effective January 1, 2022.)

11440.40.

(a) In any proceeding under subdivision (h) or (i) of Section 12940, or Section 19572 or 19702, alleging conduct that constitutes sexual harassment, sexual assault, or sexual battery, evidence of specific instances of a complainant's sexual conduct with individuals other than the alleged perpetrator is subject to all of the following limitations:

(1) The evidence is not discoverable unless it is to be offered at a hearing to attack the credibility of the complainant as provided for under subdivision (b). This paragraph is intended only to limit the scope of discovery; it is not intended to affect the methods of discovery allowed by statute.

(2) The evidence is not admissible at the hearing unless offered to attack the credibility of the complainant as provided for under subdivision (b). Reputation or opinion evidence regarding the sexual behavior of the complainant is not admissible for any purpose.

(b) Evidence of specific instances of a complainant's sexual conduct with individuals other than the alleged perpetrator is presumed inadmissible absent an offer of proof establishing its relevance and reliability and that its probative value is not substantially outweighed by the probability that its admission will create substantial danger of undue prejudice or confuse the issue.

(c) As used in this section "complainant" means a person claiming to have been subjected to conduct that constitutes sexual harassment, sexual assault, or sexual battery.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11440.45.

(a) In any proceedings pursuant to this chapter or Chapter 5 (commencing with Section 11500), the portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person involved in an accident and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability. A statement of fault, however, which is part of, or in addition to, any of the above shall not be inadmissible pursuant to this section.

(b) For purposes of this section:

(1) "Accident" means an occurrence resulting in injury or death to one or more persons which is not the result of willful action by a party.

(2) "Benevolent gestures" means actions which convey a sense of compassion or commiseration emanating from humane impulses.

(3) "Family" means the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's parents of an injured party.

(Added by Stats. 2002, Ch. 92, Sec. 1. Effective January 1, 2003.)

11440.50.

(a) This section applies in adjudicative proceedings of an agency if the agency by regulation provides that this section is applicable in the proceedings.

(b) The presiding officer shall grant a motion for intervention if all of the following conditions are satisfied:

(1) The motion is submitted in writing, with copies served on all parties named in the agency's pleading.

(2) The motion is made as early as practicable in advance of the hearing. If there is a prehearing conference, the motion shall be made in advance of the prehearing conference and shall be resolved at the prehearing conference.

(3) The motion states facts demonstrating that the applicant's legal rights, duties, privileges, or immunities will be substantially affected by the proceeding or that the applicant qualifies as an intervenor under a statute or regulation.

(4) The presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceeding will not be impaired by allowing the intervention.

(c) If an applicant qualifies for intervention, the presiding officer may impose conditions on the intervenor's participation in the proceeding, either at the time that intervention is granted or at a subsequent time. Conditions may include the following:

(1) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the motion.

(2) Limiting or excluding the use of discovery, cross-examination, and other procedures involving the intervenor so as to promote the orderly and prompt conduct of the proceeding.

(3) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceeding.

(4) Limiting or excluding the intervenor's participation in settlement negotiations.

(d) As early as practicable in advance of the hearing the presiding officer shall issue an order granting or denying the motion for intervention, specifying any conditions, and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification. The presiding officer shall promptly give notice of an order granting, denying, or modifying intervention to the applicant and to all parties.

(e) Whether the interests of justice and the orderly and prompt conduct of the proceedings will be impaired by allowing intervention is a determination to be made in the sole discretion, and based on the knowledge and judgment at that time, of the presiding officer. The determination is not subject to administrative or judicial review.

(f) Nothing in this section precludes an agency from adopting a regulation that permits participation by a person short of intervention as a party, subject to Article 7 (commencing with Section 11430.10) of Chapter 4.5.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11440.60.

(a) For purposes of this section, the following terms have the following meaning:

(1) "Quasi-judicial proceeding" means any of the following:

(A) A proceeding to determine the rights or duties of a person under existing laws, regulations, or policies.

(B) A proceeding involving the issuance, amendment, or revocation of a permit or license.

(C) A proceeding to enforce compliance with existing law or to impose sanctions for violations of existing law.

(D) A proceeding at which action is taken involving the purchase or sale of property, goods, or services by an agency.

(E) A proceeding at which an action is taken awarding a grant or a contract.

(2) "Written communication" means any report, study, survey, analysis, letter, or any other written document.

(b) Any person submitting a written communication, which is specifically generated for the purpose of being presented at the agency hearing to which it is being communicated, to a state agency in a quasi-judicial proceeding that is directly paid for by anyone other than the person who submitted the written communication shall clearly indicate any person who paid to produce the written communication.

(c) A state agency may refuse or ignore a written communication submitted by an attorney or any other authorized representative on behalf of a client in a quasi-judicial proceeding, unless the written communication clearly indicates the client on whose behalf the communication is submitted to the state agency.

(Added by Stats. 1997, Ch. 192, Sec. 1. Effective January 1, 1998.)

ARTICLE 10. Informal Hearing [11445.10 - 11445.60]

11445.10.

(a) Subject to the limitations in this article, an agency may conduct an adjudicative proceeding under the informal hearing procedure provided in this article.

(b) The Legislature finds and declares the following:

(1) The informal hearing procedure is intended to satisfy due process and public policy requirements in a manner that is simpler and more expeditious than hearing procedures otherwise required by statute, for use in appropriate circumstances.

(2) The informal hearing procedure provides a forum in the nature of a conference in which a party has an opportunity to be heard by the presiding officer.

(3) The informal hearing procedure provides a forum that may accommodate a hearing where by regulation or statute a member of the public may participate without appearing or intervening as a party.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.20.

Subject to Section 11445.30, an agency may use an informal hearing procedure in any of the following proceedings, if in the circumstances its use does not violate another statute or the federal or state Constitution:

(a) A proceeding where there is no disputed issue of material fact.

(b) A proceeding where there is a disputed issue of material fact, if the matter is limited to any of the following:

(1) A monetary amount of not more than one thousand dollars (\$1,000).

(2) A disciplinary sanction against a student that does not involve expulsion from an academic institution or suspension for more than 10 days.

(3) A disciplinary sanction against an employee that does not involve discharge from employment, demotion, or suspension for more than 5 days.

(4) A disciplinary sanction against a licensee that does not involve an actual revocation of a license or an actual suspension of a license for more than five days. Nothing in this section precludes an agency from imposing a stayed revocation or a stayed suspension of a license in an informal hearing.

(c) A proceeding where, by regulation, the agency has authorized use of an informal hearing.

(d) A proceeding where an evidentiary hearing for determination of facts is not required by statute but where the agency determines the federal or state Constitution may require a hearing.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.30.

(a) The notice of hearing shall state the agency's selection of the informal hearing procedure.

(b) Any objection of a party to use of the informal hearing procedure shall be made in the party's pleading.

(c) An objection to use of the informal hearing procedure shall be resolved by the presiding officer before the hearing on the basis of the pleadings and any written submissions in support of the pleadings. An objection to use of the informal hearing procedure in a disciplinary proceeding involving an occupational license shall be resolved in favor of the licensee.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.40.

(a) Except as provided in this article, the hearing procedures otherwise required by statute for an adjudicative proceeding apply to an informal hearing.

(b) In an informal hearing the presiding officer shall regulate the course of the proceeding. The presiding officer shall permit the parties and may permit others to offer written or oral comments on the issues. The presiding officer may limit the use of witnesses, testimony, evidence, and argument, and may limit or eliminate the use of pleadings, intervention, discovery, prehearing conferences, and rebuttal.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.50.

(a) The presiding officer may deny use of the informal hearing procedure, or may convert an informal hearing to a formal hearing after an informal hearing is commenced, if it appears to the presiding officer that cross-examination is necessary for proper determination of the matter and that the delay, burden, or complication due to allowing cross-examination in the informal hearing will be more than minimal.

(b) An agency, by regulation, may specify categories of cases in which cross-examination is deemed not necessary for proper determination of the matter under the informal hearing procedure. The presiding officer may allow cross-examination of witnesses in an informal hearing notwithstanding an agency regulation if it appears to the presiding officer that in the circumstances cross-examination is necessary for proper determination of the matter.

(c) The actions of the presiding officer under this section are not subject to judicial review.
(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11445.60.

(a) If the presiding officer has reason to believe that material facts are in dispute, the presiding officer may require a party to state the identity of the witnesses or other sources through which the party would propose to present proof if the proceeding were converted to a formal or other applicable hearing procedure. If disclosure of a fact, allegation, or source is privileged or expressly prohibited by a regulation, statute, or the federal or state Constitution, the presiding officer may require the party to indicate that confidential facts, allegations, or sources are involved, but not to disclose the confidential facts, allegations, or sources.

(b) If a party has reason to believe that essential facts must be obtained in order to permit an adequate presentation of the case, the party may inform the presiding officer regarding the general nature of the facts and the sources from which the party would propose to obtain the facts if the proceeding were converted to a formal or other applicable hearing procedure.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 11. Subpoenas [11450.05 - 11450.50]

11450.05.

(a) This article applies in an adjudicative proceeding required to be conducted under Chapter 5 (commencing with Section 11500).

(b) An agency may use the subpoena procedure provided in this article in an adjudicative proceeding not required to be conducted under Chapter 5 (commencing with Section 11500), in which case all the provisions of this article apply including, but not limited to, issuance of a subpoena at the request of a party or by the attorney of record for a party under Section 11450.20.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11450.10.

(a) Subpoenas and subpoenas duces tecum may be issued for attendance at a hearing and for production of documents at any reasonable time and place or at a hearing.

(b) The custodian of documents that are the subject of a subpoena duces tecum may satisfy the subpoena by delivery of the documents or a copy of the documents, or by making the documents available for inspection or copying, together with an affidavit in compliance with Section 1561 of the Evidence Code.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11450.20.

(a) Subpoenas and subpoenas duces tecum shall be issued by the agency or presiding officer at the request of a party, or by the attorney of record for a party, in accordance with Sections 1985 to 1985.4, inclusive, of the Code of Civil Procedure.

(b) The process extends to all parts of the state and shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure. A subpoena or subpoena duces tecum may also be delivered by certified mail return receipt requested or by messenger. Service by messenger shall be effected when the witness acknowledges receipt of the subpoena to the sender, by telephone, by mail, or in person, and identifies himself or herself either by reference to date of birth and driver's license number or Department of Motor Vehicles identification number, or the sender may verify receipt of the subpoena by obtaining other identifying information from the recipient. The sender shall make a written notation of the acknowledgment. A subpoena issued and acknowledged pursuant to this section has the same force and effect as a subpoena personally served. Failure to comply with a subpoena issued and acknowledged pursuant to this section may be punished as a contempt and the subpoena may so state. A party requesting a continuance based upon the failure of a witness to appear at the time and place required for the appearance or testimony pursuant to a subpoena, shall prove that the party has complied with this section. The continuance shall only be granted for a period of time that would allow personal service of the subpoena and in no event longer than that allowed by law.

(c) No witness is obliged to attend unless the witness is a resident of the state at the time of service.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11450.30.

(a) A person served with a subpoena or a subpoena duces tecum may object to its terms by a motion for a protective order, including a motion to quash.

(b) The objection shall be resolved by the presiding officer on terms and conditions that the presiding officer declares. The presiding officer may make another order that is appropriate to protect the parties or the witness from unreasonable or oppressive demands, including violations of the right to privacy.

(c) A subpoena or a subpoena duces tecum issued by the agency on its own motion may be quashed by the agency.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11450.40.

A witness appearing pursuant to a subpoena or a subpoena duces tecum, other than a party, shall receive for the appearance the following mileage and fees, to be paid by the party at whose request the witness is subpoenaed:

(a) The same mileage allowed by law to a witness in a civil case.

(b) The same fees allowed by law to a witness in a civil case. This subdivision does not apply to an officer or employee of the state or a political subdivision of the state.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11450.50.

(a) In the case of the production of a party to the record of a proceeding or of a person for whose benefit a proceeding is prosecuted or defended, the service of a subpoena on the witness is not required if written notice requesting the witness to attend, with the time and place of the hearing, is served on the attorney of the party or person.

(b) Service of written notice to attend under this section shall be made in the manner and is subject to the conditions provided in Section 1987 of the Code of Civil Procedure for service of written notice to attend in a civil action or proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 12. Enforcement of Orders and Sanctions [11455.10 - 11455.30]

11455.10.

A person is subject to the contempt sanction for any of the following in an adjudicative proceeding before an agency:

(a) Disobedience of or resistance to a lawful order.

(b) Refusal to take the oath or affirmation as a witness or thereafter refusal to be examined.

(c) Obstruction or interruption of the due course of the proceeding during a hearing or near the place of the hearing by any of the following:

(1) Disorderly, contemptuous, or insolent behavior toward the presiding officer while conducting the proceeding.

(2) Breach of the peace, boisterous conduct, or violent disturbance.

(3) Other unlawful interference with the process or proceedings of the agency.

(d) Violation of the prohibition of ex parte communications under Article 7 (commencing with Section 11430.10).

(e) Failure or refusal, without substantial justification, to comply with a deposition order, discovery request, subpoena, or other order of the presiding officer, or moving, without substantial justification, to compel discovery.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11455.20.

(a) The presiding officer or agency head may certify the facts that justify the contempt sanction against a person to the superior court in and for the county where the proceeding is conducted. The court shall thereupon issue an order directing the person to appear before the court at a specified time and place, and then and there to show cause why the person should not be punished for contempt. The order and a copy of the certified statement shall be served on the person. Upon service of the order and a copy of the certified statement, the court has jurisdiction of the matter.

(b) The same proceedings shall be had, the same penalties may be imposed, and the person charged may purge the contempt in the same way, as in the case of a person who has committed a contempt in the trial of a civil action before a superior court.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11455.30.

(a) The presiding officer may order a party, the party's attorney or other authorized representative, or both, to pay reasonable expenses, including attorney's fees, incurred by another party as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay as defined in Section 128.5 of the Code of Civil Procedure.

(b) The order, or denial of an order, is subject to judicial review in the same manner as a decision in the proceeding. The order is enforceable in the same manner as a money judgment or by the contempt sanction.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 13. Emergency Decision [11460.10 - 11460.80]

11460.10.

Subject to the limitations in this article, an agency may conduct an adjudicative proceeding under the emergency decision procedure provided in this article.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11460.20.

(a) An agency may issue an emergency decision for temporary, interim relief under this article if the agency has adopted a regulation that provides that the agency may use the procedure provided in this article.

(b) The regulation shall elaborate the application of the provisions of this article to an emergency decision by the agency, including all of the following:

(1) Define the specific circumstances in which an emergency decision may be issued under this article.

(2) State the nature of the temporary, interim relief that the agency may order.

(3) Prescribe the procedures that will be available before and after issuance of an emergency decision under this article. The procedures may be more protective of the person to which the agency action is directed than those provided in this article.

(c) This article does not apply to an emergency decision, including a cease and desist order or an interim or temporary suspension order, issued pursuant to other express statutory authority.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11460.30.

(a) An agency may only issue an emergency decision under this article in a situation involving an immediate danger to the public health, safety, or welfare that requires immediate agency action.

(b) An agency may only take action under this article that is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare that justifies issuance of an emergency decision.

(c) An emergency decision issued under this article is limited to temporary, interim relief. The temporary, interim relief is subject to judicial review under Section 11460.80, and the underlying issue giving rise to the temporary, interim relief is subject to an adjudicative proceeding pursuant to Section 11460.60.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11460.40.

(a) Before issuing an emergency decision under this article, the agency shall, if practicable, give the person to which the agency action is directed notice and an opportunity to be heard.

(b) Notice and hearing under this section may be oral or written, including notice and hearing by telephone, facsimile transmission, or other electronic means, as the circumstances permit. The hearing may be conducted in the same manner as an informal hearing.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11460.50.

(a) The agency shall issue an emergency decision, including a brief explanation of the factual and legal basis and reasons for the emergency decision, to justify the determination of an immediate danger and the agency's emergency decision to take the specific action.

(b) The agency shall give notice to the extent practicable to the person to which the agency action is directed. The emergency decision is effective when issued or as provided in the decision.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11460.60.

(a) After issuing an emergency decision under this article for temporary, interim relief, the agency shall conduct an adjudicative proceeding under a formal, informal, or other applicable hearing procedure to resolve the underlying issues giving rise to the temporary, interim relief.

(b) The agency shall commence an adjudicative proceeding under another procedure within 10 days after issuing an emergency decision under this article, notwithstanding the pendency of proceedings for judicial review of the emergency decision.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11460.70.

The agency record consists of any documents concerning the matter that were considered or prepared by the agency. The agency shall maintain these documents as its official record.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11460.80.

(a) On issuance of an emergency decision under this article, the person to which the agency action is directed may obtain judicial review of the decision in the manner provided in this section without exhaustion of administrative remedies.

(b) Judicial review under this section shall be pursuant to Section 1094.5 of the Code of Civil Procedure, subject to the following provisions:

(1) The hearing shall be on the earliest day that the business of the court will admit of, but not later than 15 days after service of the petition on the agency.

(2) Where it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(3) A party, on written request to another party, before the proceedings for review and within 10 days after issuance of the emergency decision, is entitled to appropriate discovery.

(4) The relief that may be ordered on judicial review is limited to a stay of the emergency decision.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 14. Declaratory Decision [11465.10 - 11465.70]

11465.10.

Subject to the limitations in this article, an agency may conduct an adjudicative proceeding under the declaratory decision procedure provided in this article.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11465.20.

(a) A person may apply to an agency for a declaratory decision as to the applicability to specified circumstances of a statute, regulation, or decision within the primary jurisdiction of the agency.

(b) The agency in its discretion may issue a declaratory decision in response to the application. The agency shall not issue a declaratory decision if any of the following applies:

(1) Issuance of the decision would be contrary to a regulation adopted under this article.

(2) The decision would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory decision proceeding.

(3) The decision involves a matter that is the subject of pending administrative or judicial proceedings.

(c) An application for a declaratory decision is not required for exhaustion of the applicant's administrative remedies for purposes of judicial review.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11465.30.

Within 30 days after receipt of an application for a declaratory decision, an agency shall give notice of the application to all persons to which notice of an adjudicative proceeding is otherwise required, and may give notice to any other person.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11465.40.

The provisions of a formal, informal, or other applicable hearing procedure do not apply to an agency proceeding for a declaratory decision except to the extent provided in this article or to the extent the agency so provides by regulation or order.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11465.50.

(a) Within 60 days after receipt of an application for a declaratory decision, an agency shall do one of the following, in writing:

(1) Issue a decision declaring the applicability of the statute, regulation, or decision in question to the specified circumstances.

(2) Set the matter for specified proceedings.

(3) Agree to issue a declaratory decision by a specified time.

(4) Decline to issue a declaratory decision, stating in writing the reasons for its action. Agency action under this paragraph is not subject to judicial review.

(b) A copy of the agency's action under subdivision (a) shall be served promptly on the applicant and any other party.

(c) If an agency has not taken action under subdivision (a) within 60 days after receipt of an application for a declaratory decision, the agency is considered to have declined to issue a declaratory decision on the matter.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11465.60.

(a) A declaratory decision shall contain the names of all parties to the proceeding, the particular facts on which it is based, and the reasons for its conclusion.

(b) A declaratory decision has the same status and binding effect as any other decision issued by the agency in an adjudicative proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11465.70.

(a) The Office of Administrative Hearings shall adopt and promulgate model regulations under this article that are consistent with the public interest and with the general policy of this article to facilitate and encourage agency issuance of reliable advice. The model regulations shall provide for all of the following:

(1) A description of the classes of circumstances in which an agency will not issue a declaratory decision.

(2) The form, contents, and filing of an application for a declaratory decision.

(3) The procedural rights of a person in relation to an application.

(4) The disposition of an application.

(b) The regulations adopted by the Office of Administrative Hearings under this article apply in an adjudicative proceeding unless an agency adopts its own regulations to govern declaratory decisions of the agency.

(c) This article does not apply in an adjudicative proceeding to the extent an agency by regulation provides inconsistent rules or provides that this article is not applicable in a proceeding of the agency.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 15. Conversion of Proceeding [11470.10 - 11470.50]

11470.10.

(a) Subject to any applicable regulation adopted under Section 11470.50, at any point in an agency proceeding the presiding officer or other agency official responsible for the proceeding:

(1) May convert the proceeding to another type of agency proceeding provided for by statute if the conversion is appropriate, is in the public interest, and does not substantially prejudice the rights of a party.

(2) Shall convert the proceeding to another type of agency proceeding provided for by statute, if required by regulation or statute.

(b) A proceeding of one type may be converted to a proceeding of another type only on notice to all parties to the original proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11470.20.

If the presiding officer or other agency official responsible for the original proceeding would not have authority over the new proceeding to which it is to be converted, the agency head shall appoint a successor to preside over or be responsible for the new proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11470.30.

To the extent practicable and consistent with the rights of parties and the requirements of this article relating to the new proceeding, the record of the original agency proceeding shall be used in the new agency proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11470.40.

After a proceeding is converted from one type to another, the presiding officer or other agency official responsible for the new proceeding shall do all of the following:

- (a) Give additional notice to parties or other persons necessary to satisfy the statutory requirements relating to the new proceeding.
- (b) Dispose of the matters involved without further proceedings if sufficient proceedings have already been held to satisfy the statutory requirements relating to the new proceeding.
- (c) Conduct or cause to be conducted any additional proceedings necessary to satisfy the statutory requirements relating to the new proceeding, and allow the parties a reasonable time to prepare for the new proceeding.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

11470.50.

An agency may adopt regulations to govern the conversion of one type of proceeding to another. The regulations may include an enumeration of the factors to be considered in determining whether and under what circumstances one type of proceeding will be converted to another.

(Added by Stats. 1995, Ch. 938, Sec. 21. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938 and Section 11400.10.)

ARTICLE 16. Administrative Adjudication Code of Ethics [11475 - 11475.70]

11475.

The rules imposed by this article may be referred to as the Administrative Adjudication Code of Ethics.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

11475.10.

(a) This article applies to the following persons:

(1) An administrative law judge. As used in this subdivision, "administrative law judge" means an incumbent of that position, as defined by the State Personnel Board, for each class specification for Administrative Law Judge.

(2) A presiding officer to which this article is made applicable by statute or regulation.

(b) This article shall apply notwithstanding any general statutory provision that this chapter does not apply to some or all of a state agency's adjudicative proceedings.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

11475.20.

Except as otherwise provided in this article, the Code of Judicial Ethics adopted by the Supreme Court pursuant to subdivision (m) of Section 18 of Article VI of the California Constitution for the conduct of judges governs the hearing and nonhearing conduct of an administrative law judge or other presiding officer to which this article applies.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

11475.30.

For the purpose of this article, the following terms used in the Code of Judicial Ethics have the meanings provided in this section:

(a) "Appeal" means administrative review.

(b) "Court" means the agency conducting an adjudicative proceeding.

(c) "Judge" means administrative law judge or other presiding officer to which this article applies. Related terms, including "judicial," "judiciary," and "justice," mean comparable concepts in administrative adjudication.

(d) "Law" includes regulation and precedent decision.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

11475.40.

The following provisions of the Code of Judicial Ethics do not apply under this article:

(a) Canon 3B(7), to the extent it relates to ex parte communications.

(b) Canon 3B(10).

(c) Canon 3D(3).

(d) Canon 4C.

(e) Canons 4E(1), 4F, and 4G.

(f) Canons 5A–5D. However, the introductory paragraph of Canon 5 applies to persons subject to this article notwithstanding Chapter 9.5 (commencing with Section 3201) of Division 4 of Title 1, relating to political activities of public employees.

(g) Canon 6.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

11475.50.

A violation of an applicable provision of the Code of Judicial Ethics, or a violation of the restrictions and prohibitions on accepting honoraria, gifts, or travel that otherwise apply to elected state officers pursuant to Chapter 9.5 (commencing with Section 89500) of Title 9, by an administrative law judge or other presiding officer to which this article applies is cause for discipline by the employing agency pursuant to Section 19572.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

11475.60.

(a) Except as provided in subdivision (b), a person to whom this article applies shall comply immediately with all applicable provisions of the Code of Judicial Ethics.

(b) A person to whom this article applies shall comply with Canon 4D(2) of the Code of Judicial Ethics as soon as reasonably possible and shall do so in any event within a period of one year after the article becomes applicable.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

11475.70.

Nothing in this article shall be construed or is intended to limit or affect the rights of an administrative law judge or other presiding officer under Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(Added by Stats. 1998, Ch. 95, Sec. 1. Effective January 1, 1999.)

**Administrative Procedure Act - 2022 Government Code
Chapter 5 Administrative Adjudication: Formal Hearing**

11500.

In this chapter unless the context or subject matter otherwise requires:

(a) "Agency" includes the state boards, commissions, and officers to which this chapter is made applicable by law, except that wherever the word "agency" alone is used the power to act may be delegated by the agency, and wherever the words "agency itself" are used the power to act shall not be delegated unless the statutes relating to the particular agency authorize the delegation of the agency's power to hear and decide.

(b) "Party" includes the agency, the respondent, and any person, other than an officer or an employee of the agency in his or her official capacity, who has been allowed to appear or participate in the proceeding.

(c) "Respondent" means any person against whom an accusation or District Statement of Reduction in Force is filed pursuant to Section 11503 or against whom a statement of issues is filed pursuant to Section 11504.

(d) "Administrative law judge" means an individual qualified under Section 11502.

(e) "Agency member" means any person who is a member of any agency to which this chapter is applicable and includes any person who himself or herself constitutes an agency.

(Amended by Stats. 2013, Ch. 90, Sec. 2. Effective January 1, 2014.)

11501.

(a) This chapter applies to any agency as determined by the statutes relating to that agency.

(b) This chapter applies to an adjudicative proceeding of an agency created on or after July 1, 1997, unless the statutes relating to the proceeding provide otherwise.

(c) Chapter 4.5 (commencing with Section 11400) applies to an adjudicative proceeding required to be conducted under this chapter, unless the statutes relating to the proceeding provide otherwise.

(Repealed (in Sec. 24) and added by Stats. 1995, Ch. 938, Sec. 24.5. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11502.

(a) All hearings of state agencies required to be conducted under this chapter shall be conducted by administrative law judges on the staff of the Office of Administrative Hearings. This subdivision applies to a hearing required to be conducted under this chapter that is conducted under the informal hearing or emergency decision procedure provided in Chapter 4.5 (commencing with Section 11400).

(b) The Director of the Office of Administrative Hearings has power to appoint a staff of administrative law judges for the office as provided in Section 11370.3. Each administrative law judge shall have been admitted to practice law in this state for at least five years immediately preceding his or her appointment and shall possess any additional qualifications established by the State Personnel Board for the particular class of position involved.

(Amended by Stats. 1995, Ch. 938, Sec. 26. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11503.

(a) A hearing to determine whether a right, authority, license, or privilege should be revoked, suspended, limited, or conditioned shall be initiated by filing an accusation or District Statement of Reduction in Force. The accusation or District Statement of Reduction in Force shall be a written statement of charges that shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare their defense. It shall specify the statutes and rules that the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of those statutes and rules. The accusation or District Statement of Reduction in Force shall be verified unless made by a public officer acting in their official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

(b) In a hearing involving a reduction in force that is conducted pursuant to Section 44949, 45117, or 88017 of the Education Code, the hearing shall be initiated by filing a "District Statement of Reduction in Force." For purposes of this chapter, a "District Statement of Reduction in Force" shall have the same meaning as an "accusation." Respondent's responsive pleading shall be entitled "Notice of Participation in Reduction in Force Hearing."

(Amended by Stats. 2021, Ch. 665, Sec. 4. (AB 438) Effective January 1, 2022.)

11504.

A hearing to determine whether a right, authority, license, or privilege should be granted, issued, or renewed shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing and, in addition, any particular matters that have come to the attention of the initiating party and that would authorize a denial of the agency action sought. The statement of issues shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief. The statement of issues shall be served in the same manner as an accusation, except that, if the hearing is held at the request of the respondent, Sections 11505 and 11506 shall not apply and the statement of issues together with the notice of hearing shall be delivered or mailed to the parties as provided in Section 11509. Unless a statement to respondent is served pursuant to Section 11505, a copy of Sections 11507.5, 11507.6, and 11507.7, and the name and address of the person to whom requests permitted by Section 11505 may be made, shall be served with the statement of issues.

(Amended by Stats. 1997, Ch. 17, Sec. 50. Effective January 1, 1998.)

11504.5.

In the following sections of this chapter, all references to accusations shall be deemed to be applicable to statements of issues except in those cases mentioned in subdivision (a) of Section 11505 and Section 11506 where compliance is not required.

(Added by Stats. 1963, Ch. 856.)

11505.

(a) Upon the filing of the accusation or District Statement of Reduction in Force the agency shall serve a copy thereof on the respondent as provided in subdivision (c). The agency may include with the accusation or District Statement of Reduction in Force any information that it deems appropriate, but it shall include a postcard or other form entitled Notice of Defense, or, as applicable, Notice of Participation, that, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation or District Statement of Reduction in Force and constitute a notice of defense, or, as applicable, notice of participation, under Section 11506. The copy of the accusation or District Statement of Reduction in Force shall include or be accompanied by (1) a statement that respondent may request a hearing by filing a notice of defense, or, as applicable, notice of participation, as provided in Section 11506 within 15 days after service upon the respondent of the accusation or District Statement of Reduction in Force, and that failure to do so will constitute a waiver of the respondent's right to a hearing, and (2) copies of Sections 11507.5, 11507.6, and 11507.7.

(b) The statement to respondent shall be substantially in the following form:

Unless a written request for a hearing signed by or on behalf of the person named as respondent in the accompanying accusation or District Statement of Reduction in Force

is delivered or mailed to the agency within 15 days after the accusation or District Statement of Reduction in Force was personally served on you or mailed to you, (here insert name of agency) may proceed upon the accusation or District Statement of Reduction in Force without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or, as applicable, Notice of Participation, or by delivering or mailing a notice of defense, or, as applicable, notice of participation, as provided by Section 11506 of the Government Code to: (here insert name and address of agency). You may, but need not, be represented by counsel at any or all stages of these proceedings.

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code in the possession, custody, or control of the agency, you may contact: (here insert name and address of appropriate person).

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the agency or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

(c) The accusation or District Statement of Reduction in Force and all accompanying information may be sent to the respondent by any means selected by the agency, but no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent has been served personally or by registered mail as provided herein, or has filed a notice of defense, or, as applicable, notice of participation, or otherwise appeared. Service may be proved in the manner authorized in civil actions. Service by registered mail shall be effective if a statute or agency rule requires the respondent to file the respondent's address with the agency and to notify the agency of any change, and if a registered letter containing the accusation or District Statement of Reduction in Force and accompanying material is mailed, addressed to the respondent at the latest address on file with the agency.

(d) For purposes of this chapter, for hearings involving a reduction in force that are conducted pursuant to Section 44949, 45117, or 88017 of the Education Code, a "Notice of Participation" shall have the same meaning as a "Notice of Defense."

(Amended by Stats. 2021, Ch. 665, Sec. 5. (AB 438) Effective January 1, 2022.)

11506.

(a) Within 15 days after service of the accusation or District Statement of Reduction in Force the respondent may file with the agency a notice of defense, or, as applicable, notice of participation, in which the respondent may:

(1) Request a hearing.

(2) Object to the accusation or District Statement of Reduction in Force upon the ground that it does not state acts or omissions upon which the agency may proceed.

(3) Object to the form of the accusation or District Statement of Reduction in Force on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense.

(4) Admit the accusation or District Statement of Reduction in Force in whole or in part.

(5) Present new matter by way of defense.

(6) Object to the accusation or District Statement of Reduction in Force upon the ground that, under the circumstances, compliance with the requirements of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights.

(b) Within the time specified the respondent may file one or more notices of defense, or, as applicable, notices of participation, upon any or all of these grounds but all of these notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense or notice of participation, and the notice shall be deemed a specific denial of all parts of the accusation or District Statement of Reduction in Force not expressly admitted. Failure to file a notice of defense or notice of participation shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation or District Statement of Reduction in Force shall be deemed waived.

(d) The notice of defense or notice of participation shall be in writing signed by or on behalf of the respondent and shall state the respondent's mailing address. It need not be verified or follow any particular form.

(e) As used in this section, "file," "files," "filed," or "filing" means "delivered or mailed" to the agency as provided in Section 11505.

(Amended by Stats. 2013, Ch. 90, Sec. 5. Effective January 1, 2014.)

11507.

At any time before the matter is submitted for decision, the agency may file, or permit the filing of, an amended or supplemental accusation or District Statement of Reduction in Force. All parties shall be notified of the filing. If the amended or supplemental accusation or District Statement of Reduction in Force presents new charges, the agency shall afford the respondent a reasonable opportunity to prepare his or her defense to the new charges, but he or she shall not be entitled to file a further pleading unless the agency in its discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation or District Statement of Reduction in Force may be made orally and shall be noted in the record.

(Amended by Stats. 2014, Ch. 71, Sec. 69. Effective January 1, 2015.)

11507.3.

(a) When proceedings that involve a common question of law or fact are pending, the administrative law judge on the judge's own motion or on motion of a party may order a joint hearing of any or all the matters at issue in the proceedings. The administrative law judge may order all the proceedings consolidated and may make orders concerning the procedure that may tend to avoid unnecessary costs or delay.

(b) The administrative law judge on the judge's own motion or on motion of a party, in furtherance of convenience or to avoid prejudice or when separate hearings will be conducive to expedition and economy, may order a separate hearing of any issue,

including an issue raised in the notice of defense or notice of participation, or of any number of issues.

(Amended by Stats. 2013, Ch. 90, Sec. 7. Effective January 1, 2014.)

11507.5.

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

(Added by Stats. 1968, Ch. 808.)

11507.6.

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions, or events which are the basis for the proceeding, not included in subdivision (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical, and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions, or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of their investigation, or (3) contain or include by attachment any statement or writing described in subdivisions (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by the person, stenographic, mechanical, electrical, or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

Discovery of all categories of evidence specified in this section may be conducted electronically by means prescribed by an administrative law judge.

(Amended by Stats. 2021, Ch. 401, Sec. 14. (AB 1578) Effective January 1, 2022.)

11507.7.

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

(Amended by Stats. 1995, Ch. 938, Sec. 32. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11508.

(a) The agency shall consult the office, and subject to the availability of its staff, shall determine the time and place of the hearing. The hearing shall be held at a hearing facility maintained by the office in Sacramento, Oakland, Los Angeles, or San Diego and shall

be held at the facility that is closest to the location where the transaction occurred or the respondent resides.

(b) Notwithstanding subdivision (a), the hearing may be held at any of the following places:

(1) A place selected by the agency that is closer to the location where the transaction occurred or the respondent resides.

(2) A place within the state selected by agreement of the parties.

(3) Virtually by telephone, videoconference, or other electronic means.

(c) The respondent may move for, and the administrative law judge has discretion to grant or deny, a change in the place of the hearing. A motion for a change in the place of the hearing shall be made within 10 days after service of the notice of hearing on the respondent.

(d) Unless good cause is identified in writing by the administrative law judge, hearings shall be held in a facility maintained by the office.

(Amended by Stats. 2021, Ch. 401, Sec. 15. (AB 1578) Effective January 1, 2022.)

11509.

The agency shall deliver or mail a notice of hearing to all parties at least 10 days prior to the hearing. The hearing shall not be prior to the expiration of the time within which the respondent is entitled to file a notice of defense, or, as applicable, notice of participation. The notice to respondent shall be substantially in the following form but may include other information:

You are hereby notified that a hearing will be held before [here insert name of agency] at [here insert place of hearing] on the ____ day of ____, 20__, at the hour of ____, upon the charges made in the accusation or District Statement of Reduction in Force served upon you. If you object to the place of hearing, you must notify the presiding officer within 10 days after this notice is served on you. Failure to notify the presiding officer within 10 days will deprive you of a change in the place of the hearing. You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to [here insert appropriate office of agency].

(Amended by Stats. 2013, Ch. 90, Sec. 8. Effective January 1, 2014.)

11511.

On verified petition of any party, an administrative law judge or, if an administrative law judge has not been appointed, an agency may order that the testimony of any material witness residing within or without the state be taken by deposition in the manner prescribed by law for depositions in civil actions under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The petition shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is

desired; a showing of the materiality of the testimony; a showing that the witness will be unable or cannot be compelled to attend; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. The petitioner shall serve notice of hearing and a copy of the petition on the other parties at least 10 days before the hearing. Where the witness resides outside the state and where the administrative law judge or agency has ordered the taking of the testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the superior court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189.

(Amended by Stats. 2004, Ch. 182, Sec. 42. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

11511.5.

(a) On motion of a party or by order of an administrative law judge, the administrative law judge may conduct a prehearing conference. The administrative law judge shall set the time and place for the prehearing conference, and shall give reasonable written notice to all parties.

(b) The prehearing conference may deal with one or more of the following matters:

(1) Exploration of settlement possibilities.

(2) Preparation of stipulations.

(3) Clarification of issues.

(4) Rulings on identity and limitation of the number of witnesses.

(5) Objections to proffers of evidence.

(6) Order of presentation of evidence and cross-examination.

(7) Rulings regarding issuance of subpoenas and protective orders.

(8) Schedules for the submission of written briefs and schedules for the commencement and conduct of the hearing.

(9) Exchange of witness lists and of exhibits or documents to be offered in evidence at the hearing.

(10) Motions for intervention.

(11) Exploration of the possibility of using alternative dispute resolution provided in Article 5 (commencing with Section 11420.10) of, or the informal hearing procedure provided in Article 10 (commencing with Section 11445.10) of, Chapter 4.5, and objections to use of the informal hearing procedure. Use of alternative dispute resolution or of the informal hearing procedure is subject to subdivision (d).

(12) Any other matters as shall promote the orderly and prompt conduct of the hearing.

(c) The administrative law judge may conduct all or part of the prehearing conference by telephone, television, or other electronic means if each participant in the conference has an opportunity to participate in and to hear the entire proceeding while it is taking place.

(d) With the consent of the parties, the prehearing conference may be converted immediately into alternative dispute resolution or an informal hearing. With the consent of the parties, the proceeding may be converted into alternative dispute resolution to be conducted at another time. With the consent of the agency, the proceeding may be converted into an informal hearing to be conducted at another time subject to the right of a party to object to use of the informal hearing procedure as provided in Section 11445.30.

(e) The administrative law judge shall issue a prehearing order incorporating the matters determined at the prehearing conference. The administrative law judge may direct one or more of the parties to prepare a prehearing order.

(Amended by Stats. 1995, Ch. 938, Sec. 37. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11511.7.

(a) The administrative law judge may order the parties to attend and participate in a settlement conference. The administrative law judge shall set the time and place for the settlement conference, and shall give reasonable written notice to all parties.

(b) The administrative law judge at the settlement conference shall not preside as administrative law judge at the hearing unless otherwise stipulated by the parties. The administrative law judge may conduct all or part of the settlement conference by telephone, television, or other electronic means if each participant in the conference has an opportunity to participate in and to hear the entire proceeding while it is taking place.

(Added by Stats. 1995, Ch. 938, Sec. 38. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11512.

(a) Every hearing in a contested case shall be presided over by an administrative law judge. The agency itself shall determine whether the administrative law judge is to hear the case alone or whether the agency itself is to hear the case with the administrative law judge.

(b) When the agency itself hears the case, the administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the administrative law judge alone hears a case, he or she shall exercise all powers relating to the conduct of the hearing. A ruling of the administrative law judge admitting or excluding evidence is subject to review in the same manner and to the same extent as the administrative law judge's proposed decision in the proceeding.

(c) An administrative law judge or agency member shall voluntarily disqualify himself or herself and withdraw from any case in which there are grounds for disqualification, including disqualification under Section 11425.40. The parties may waive the disqualification by a writing that recites the grounds for disqualification. A waiver is effective only when signed by all parties, accepted by the administrative law judge or agency member, and included in the record. Any party may request the disqualification of any administrative law judge or agency member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that the administrative law judge or agency member is disqualified. Where the request concerns an agency member, the issue shall be determined by the other members of the agency. Where the request concerns the administrative law judge, the issue shall be determined by the agency itself if the agency itself hears the case with the administrative law judge, otherwise the issue shall be determined by the administrative law judge. No

agency member shall withdraw voluntarily or be subject to disqualification if his or her disqualification would prevent the existence of a quorum qualified to act in the particular case, except that a substitute qualified to act may be appointed by the appointing authority.

(d) The proceedings at the hearing shall be reported by a stenographic reporter. However, upon the consent of all the parties, the proceedings may be reported electronically.

(e) Whenever, after the agency itself has commenced to hear the case with an administrative law judge presiding, a quorum no longer exists, the administrative law judge who is presiding shall complete the hearing as if sitting alone and shall render a proposed decision in accordance with subdivision (b) of Section 11517.

(Amended by Stats. 1995, Ch. 938, Sec. 39. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11513.

(a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses, to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If respondent does not testify in his or her own behalf he or she may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

(d) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration.

(e) The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing.

(f) The presiding officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(Amended by Stats. 1995, Ch. 938, Sec. 40. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11514.

(a) At any time 10 or more days prior to a hearing or a continued hearing, any party may mail or deliver to the opposing party a copy of any affidavit which he proposes to introduce in evidence, together with a notice as provided in subdivision (b). Unless the opposing party, within seven days after such mailing or delivery, mails or delivers to the proponent

a request to cross-examine an affiant, his right to cross-examine such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after request therefor is made as herein provided, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

(b) The notice referred to in subdivision (a) shall be substantially in the following form: The accompanying affidavit of (here insert name of affiant) will be introduced as evidence at the hearing in (here insert title of proceeding). (Here insert name of affiant) will not be called to testify orally and you will not be entitled to question him unless you notify (here insert name of proponent or his attorney) at (here insert address) that you wish to cross-examine him. To be effective your request must be mailed or delivered to (here insert name of proponent or his attorney) on or before (here insert a date seven days after the date of mailing or delivering the affidavit to the opposing party).
(Repealed and added by Stats. 1947, Ch. 491.)

11515.

In reaching a decision official notice may be taken, either before or after submission of the case for decision, of any generally accepted technical or scientific matter within the agency's special field, and of any fact which may be judicially noticed by the courts of this State. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the matter of such refutation to be determined by the agency.
(Added by Stats. 1945, Ch. 867.)

11516.

The agency may order amendment of the accusation or District Statement of Reduction in Force after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that he or she will be prejudiced thereby unless the case is reopened to permit the introduction of additional evidence on his or her behalf. If such prejudice is shown, the agency shall reopen the case to permit the introduction of additional evidence.
(Amended by Stats. 2013, Ch. 90, Sec. 9. Effective January 1, 2014.)

11517.

(a) A contested case may be originally heard by the agency itself and subdivision (b) shall apply. Alternatively, at the discretion of the agency, an administrative law judge may originally hear the case alone and subdivision (c) shall apply.
(b) If a contested case is originally heard before an agency itself, all of the following provisions apply:
(1) An administrative law judge shall be present during the consideration of the case and, if requested, shall assist and advise the agency in the conduct of the hearing.

(2) No member of the agency who did not hear the evidence shall vote on the decision.

(3) The agency shall issue its decision within 100 days of submission of the case.

(c) (1) If a contested case is originally heard by an administrative law judge alone, he or she shall prepare within 30 days after the case is submitted to him or her a proposed decision in a form that may be adopted by the agency as the final decision in the case. Failure of the administrative law judge to deliver a proposed decision within the time required does not prejudice the rights of the agency in the case. Thirty days after the receipt by the agency of the proposed decision, a copy of the proposed decision shall be filed by the agency as a public record and a copy shall be served by the agency on each party and his or her attorney. The filing and service is not an adoption of a proposed decision by the agency.

(2) Within 100 days of receipt by the agency of the administrative law judge's proposed decision, the agency may act as prescribed in subparagraphs (A) to (E), inclusive. If the agency fails to act as prescribed in subparagraphs (A) to (E), inclusive, within 100 days of receipt of the proposed decision, the proposed decision shall be deemed adopted by the agency. The agency may do any of the following:

(A) Adopt the proposed decision in its entirety.

(B) Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision.

(C) Make technical or other minor changes in the proposed decision and adopt it as the decision. Action by the agency under this paragraph is limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision.

(D) Reject the proposed decision and refer the case to the same administrative law judge if reasonably available, otherwise to another administrative law judge, to take additional evidence. If the case is referred to an administrative law judge pursuant to this subparagraph, he or she shall prepare a revised proposed decision, as provided in paragraph (1), based upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the revised proposed decision shall be furnished to each party and his or her attorney as prescribed in this subdivision.

(E) Reject the proposed decision, and decide the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence. By stipulation of the parties, the agency may decide the case upon the record without including the transcript. If the agency acts pursuant to this subparagraph, all of the following provisions apply:

(i) A copy of the record shall be made available to the parties. The agency may require payment of fees covering direct costs of making the copy.

(ii) The agency itself shall not decide any case provided for in this subdivision without affording the parties the opportunity to present either oral or written argument before the agency itself. If additional oral evidence is introduced before the agency itself, no agency member may vote unless the member heard the additional oral evidence.

(iii) The authority of the agency itself to decide the case under this subdivision includes authority to decide some but not all issues in the case.

(iv) If the agency elects to proceed under this subparagraph, the agency shall issue its final decision not later than 100 days after rejection of the proposed decision. If the agency elects to proceed under this subparagraph, and has ordered a transcript of the

proceedings before the administrative law judge, the agency shall issue its final decision not later than 100 days after receipt of the transcript. If the agency finds that a further delay is required by special circumstance, it shall issue an order delaying the decision for no more than 30 days and specifying the reasons therefor. The order shall be subject to judicial review pursuant to Section 11523.

(d) The decision of the agency shall be filed immediately by the agency as a public record and a copy shall be served by the agency on each party and his or her attorney.

(Repealed and added by Stats. 1999, Ch. 339, Sec. 2. Effective January 1, 2000.)

11518.

Copies of the decision shall be delivered to the parties personally or sent to them by registered mail.

(Amended by Stats. 1995, Ch. 938, Sec. 43. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11518.5.

(a) Within 15 days after service of a copy of the decision on a party, but not later than the effective date of the decision, the party may apply to the agency for correction of a mistake or clerical error in the decision, stating the specific ground on which the application is made. Notice of the application shall be given to the other parties to the proceeding. The application is not a prerequisite for seeking judicial review.

(b) The agency may refer the application to the administrative law judge who formulated the proposed decision or may delegate its authority under this section to one or more persons.

(c) The agency may deny the application, grant the application and modify the decision, or grant the application and set the matter for further proceedings. The application is considered denied if the agency does not dispose of it within 15 days after it is made or a longer time that the agency provides by regulation.

(d) Nothing in this section precludes the agency, on its own motion or on motion of the administrative law judge, from modifying the decision to correct a mistake or clerical error. A modification under this subdivision shall be made within 15 days after issuance of the decision.

(e) The agency shall, within 15 days after correction of a mistake or clerical error in the decision, serve a copy of the correction on each party on which a copy of the decision was previously served.

(Added by Stats. 1995, Ch. 938, Sec. 44. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11519.

(a) The decision shall become effective 30 days after it is delivered or mailed to respondent unless: a reconsideration is ordered within that time, or the agency itself orders that the decision shall become effective sooner, or a stay of execution is granted.

(b) A stay of execution may be included in the decision or if not included therein may be granted by the agency at any time before the decision becomes effective. The stay of execution provided herein may be accompanied by an express condition that respondent comply with specified terms of probation; provided, however, that the terms of probation shall be just and reasonable in the light of the findings and decision.

(c) If respondent was required to register with any public officer, a notification of any suspension or revocation shall be sent to the officer after the decision has become effective.

(d) As used in subdivision (b), specified terms of probation may include an order of restitution. Where restitution is ordered and paid pursuant to the provisions of this subdivision, the amount paid shall be credited to any subsequent judgment in a civil action.

(e) The person to which the agency action is directed may not be required to comply with a decision unless the person has been served with the decision in the manner provided in Section 11505 or has actual knowledge of the decision.

(f) A nonparty may not be required to comply with a decision unless the agency has made the decision available for public inspection and copying or the nonparty has actual knowledge of the decision.

(g) This section does not preclude an agency from taking immediate action to protect the public interest in accordance with Article 13 (commencing with Section 11460.10) of Chapter 4.5.

(Amended by Stats. 1995, Ch. 938, Sec. 45. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11519.1.

(a) A decision rendered against a licensee under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 of the Vehicle Code may include an order of restitution for any financial loss or damage found to have been suffered by a person in the case.

(b) The failure to make the restitution in accordance with the terms of the decision is separate grounds for the Department of Motor Vehicles to refuse to issue a license under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 of the Vehicle Code, and constitutes a violation of the terms of any applicable probationary order in the decision.

(c) Nothing in this section is intended to limit or restrict actions, remedies, or procedures otherwise available to an aggrieved party pursuant to any other provision of law.

(Added by Stats. 2007, Ch. 93, Sec. 1. Effective January 1, 2008.)

11520.

(a) If the respondent either fails to file a notice of defense, or, as applicable, notice of participation, or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent; and where the burden of proof is on the respondent to establish that the respondent is entitled to the agency action sought, the agency may act without taking evidence.

(b) Notwithstanding the default of the respondent, the agency or the administrative law judge, before a proposed decision is issued, has discretion to grant a hearing on reasonable notice to the parties. If the agency and administrative law judge make conflicting orders under this subdivision, the agency's order takes precedence. The administrative law judge may order the respondent, or the respondent's attorney or other authorized representative, or both, to pay reasonable expenses, including attorney's fees, incurred by another party as a result of the respondent's failure to appear at the hearing.

(c) Within seven days after service on the respondent of a decision based on the respondent's default, the respondent may serve a written motion requesting that the decision be vacated and stating the grounds relied on. The agency in its discretion may vacate the decision and grant a hearing on a showing of good cause. As used in this subdivision, good cause includes, but is not limited to, any of the following:

(1) Failure of the person to receive notice served pursuant to Section 11505.

(2) Mistake, inadvertence, surprise, or excusable neglect.

(Amended by Stats. 2013, Ch. 90, Sec. 10. Effective January 1, 2014.)

11521.

(a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The agency shall notify a petitioner of the time limits for petitioning for reconsideration. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, an agency may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

(Amended by Stats. 2004, Ch. 865, Sec. 34. Effective January 1, 2005.)

11522.

A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition,

and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.
(Amended by Stats. 1985, Ch. 587, Sec. 4.)

11523.

Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure, subject, however, to the statutes relating to the particular agency. Except as otherwise provided in this section, the petition shall be filed within 30 days after the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency. On request of the petitioner for a record of the proceedings, the complete record of the proceedings, or the parts thereof as are designated by the petitioner in the request, shall be prepared by the Office of Administrative Hearings or the agency and shall be delivered to the petitioner, within 30 days after the request, which time shall be extended for good cause shown, upon the payment of the cost for the preparation of the transcript, the cost for preparation of other portions of the record and for certification thereof. The complete record includes the pleadings, all notices and orders issued by the agency, any proposed decision by an administrative law judge, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence and any other papers in the case. If the petitioner, within 10 days after the last day on which reconsideration can be ordered, requests the agency to prepare all or any part of the record, the time within which a petition may be filed shall be extended until 30 days after its delivery to him or her. The agency may file with the court the original of any document in the record in lieu of a copy thereof. If the petitioner prevails in overturning the administrative decision following judicial review, the agency shall reimburse the petitioner for all costs of transcript preparation, compilation of the record, and certification.

(Amended by Stats. 2005, Ch. 674, Sec. 23. Effective January 1, 2006. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11524.

(a) The agency may grant continuances. When an administrative law judge of the Office of Administrative Hearings has been assigned to the hearing, no continuance may be granted except by him or her or by the presiding judge of the appropriate regional office of the Office of Administrative Hearings, for good cause shown.

(b) When seeking a continuance, a party shall apply for the continuance within 10 working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes the good cause for the continuance. A continuance may be granted for good cause after the 10 working days have lapsed if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or event establishing the good cause.

(c) In the event that an application for a continuance by a party is denied by an administrative law judge of the Office of Administrative Hearings, and the party seeks

judicial review thereof, the party shall, within 10 working days of the denial, make application for appropriate judicial relief in the superior court or be barred from judicial review thereof as a matter of jurisdiction. A party applying for judicial relief from the denial shall give notice to the agency and other parties. Notwithstanding Section 1010 of the Code of Civil Procedure, the notice may be either oral at the time of the denial of application for a continuance or written at the same time application is made in court for judicial relief. This subdivision does not apply to the Department of Alcoholic Beverage Control.

(Amended by Stats. 1995, Ch. 938, Sec. 48. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11526.

The members of an agency qualified to vote on any question may vote by mail or another appropriate method.

(Amended by Stats. 1995, Ch. 938, Sec. 50. Effective January 1, 1996. Operative July 1, 1997, by Sec. 98 of Ch. 938.)

11527.

Any sums authorized to be expended under this chapter by any agency shall be a legal charge against the funds of the agency.

(Added by Stats. 1945, Ch. 867.)

11528.

In any proceedings under this chapter any agency, agency member, secretary of an agency, hearing reporter, or administrative law judge has power to administer oaths and affirmations and to certify to official acts.

(Amended by Stats. 1985, Ch. 324, Sec. 25.)

11529.

(a) The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, imposing drug testing, continuing education, supervision of procedures, limitations on the authority to prescribe, furnish, administer, or dispense controlled substances, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

(c) If an interim order is issued without notice, the administrative law judge who issued the order without notice shall cause the licensee to be notified of the order, including affidavits and all other information in support of the order by a 24-hour delivery service. That notice shall also include the date of the hearing on the order, which shall be conducted in accordance with the requirement of subdivision (d), not later than 20 days from the date of issuance. The order shall be dissolved unless the requirements of subdivision (a) are satisfied.

(d) For the purposes of the hearing conducted pursuant to this section, the licentiate shall, at a minimum, have the following rights:

(1) To be represented by counsel.

(2) To have a record made of the proceedings, copies of which may be obtained by the licentiate upon payment of any reasonable charges associated with the record.

(3) To present written evidence in the form of relevant declarations, affidavits, and documents.

The discretion of the administrative law judge to permit testimony at the hearing conducted pursuant to this section shall be identical to the discretion of a superior court judge to permit testimony at a hearing conducted pursuant to Section 527 of the Code of Civil Procedure.

(4) To present oral argument.

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation or petition to revoke probation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation or petition to revoke probation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion

articulating the connection between the evidence produced at the hearing and the decision reached.

(h) Notwithstanding the fact that interim orders issued pursuant to this section are not issued after a hearing as otherwise required by this chapter, interim orders so issued shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure. The relief that may be ordered shall be limited to a stay of the interim order. Interim orders issued pursuant to this section are final interim orders and, if not dissolved pursuant to subdivision (c) or (f), may only be challenged administratively at the hearing on the accusation.

(i) The interim order provided for by this section shall be:

(1) In addition to, and not a limitation on, the authority to seek injunctive relief provided for in the Business and Professions Code.

(2) A limitation on the emergency decision procedure provided in Article 13 (commencing with Section 11460.10) of Chapter 4.5.

(Amended by Stats. 2017, Ch. 775, Sec. 110. (SB 798) Effective January 1, 2018.)

1 **CALIFORNIA CODE OF JUDICIAL ETHICS**
2

3 Amended by the Supreme Court of California effective July 1, 2020; adopted effective
4 January 15, 1996; previously amended March 4, 1999, December 13, 2000, December
5 30, 2002, June 18, 2003, December 22, 2003, January 1, 2005, June 1, 2005, July 1,
6 2006, January 1, 2007, January 1, 2008, April 29, 2009, January 1, 2013, January 21,
7 2015, August 19, 2015, and December 1, 2016, and October 10, 2018.
8

9 ***Preface***
10

11 ***Preamble***
12

13 ***Terminology***
14

15 ***Canon 1. A judge shall uphold the integrity and independence of the judiciary.***
16

17 ***Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of***
18 ***the judge's activities.***
19

20 ***Canon 3. A judge shall perform the duties of judicial office impartially, competently,***
21 ***and diligently.***
22

23 ***Canon 4. A judge shall so conduct the judge's quasi-judicial and extrajudicial activities***
24 ***as to minimize the risk of conflict with judicial obligations.***
25

26 ***Canon 5. A judge or candidate for judicial office shall not engage in political or***
27 ***campaign activity that is inconsistent with the independence, integrity, or impartiality***
28 ***of the judiciary.***
29

30 ***Canon 6. Compliance with the Code of Judicial Ethics.***
31

PREFACE

Formal standards of judicial conduct have existed for more than 65 years. The original Canons of Judicial Ethics promulgated by the American Bar Association were modified and adopted in 1949 for application in California by the Conference of California Judges (now the California Judges Association).

In 1969, the American Bar Association determined that then current needs and problems warranted revision of the canons. In the revision process, a special American Bar Association committee, headed by former California Chief Justice Roger Traynor, sought and considered the views of the bench and bar and other interested persons. The American Bar Association Code of Judicial Conduct was adopted by the House of Delegates of the American Bar Association August 16, 1972.

Effective January 5, 1975, the California Judges Association adopted a new California Code of Judicial Conduct adapted from the American Bar Association 1972 Model Code. The California code was recast in gender-neutral form in 1986.

In 1990, the American Bar Association Model Code was further revised after a lengthy study. The California Judges Association again reviewed the model code and adopted a revised California Code of Judicial Conduct on October 5, 1992.

Proposition 190 (amending Cal. Const., art. VI, § 18, subd. (m), operative March 1, 1995) created a new constitutional provision that states, "The Supreme Court shall make rules for the conduct of judges, both on and off the bench, and for judicial candidates in the conduct of their campaigns. These rules shall be referred to as the Code of Judicial Ethics."

The Supreme Court formally adopted the 1992 Code of Judicial Conduct in March 1995, as a transitional measure pending further review.

The Supreme Court formally adopted the Code of Judicial Ethics effective January 15, 1996.

The Supreme Court has formally adopted amendments to the Code of Judicial Ethics on several occasions. The Advisory Committee Commentary is published by the Supreme Court Advisory Committee on the Code of Judicial Ethics.

PREAMBLE

Our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to this code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and must strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and is a highly visible member of government under the rule of law.

The Code of Judicial Ethics ("code") establishes standards for ethical conduct of judges on and off the bench and for candidates for judicial office.* The code consists of broad declarations called canons, with subparts, and a terminology section. Following many canons is a commentary section prepared by the Supreme Court Advisory Committee on the Code of Judicial Ethics. The commentary, by explanation and example, provides guidance as to the purpose and meaning of the canons. The commentary does not constitute additional rules and should not be so construed. All members of the judiciary must comply with the code. Compliance is required to preserve the integrity* of the bench and to ensure the confidence of the public.

The canons should be read together as a whole, and each provision should be construed in context and consistent with every other provision. They are to be applied in conformance with constitutional requirements, statutes, other court rules, and decisional law. Nothing in the code shall either impair the essential independence* of judges in making judicial decisions or provide a separate basis for civil liability or criminal prosecution.

The code governs the conduct of judges and candidates for judicial office* and is binding upon them. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, requires a reasoned application of the text and consideration of such factors as the seriousness of the transgression, if there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

TERMINOLOGY

Terms explained below are noted with an asterisk (*) in the canons where they appear. In addition, the canons in which these terms appear are cited after the explanation of each term below.

“Candidate for judicial office” is a person seeking election to or retention of a judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election authority, or authorizes solicitation or acceptance of contributions or support. See Preamble and Canons 3B(9) (Commentary), 3E(2)(b)(i), 3E(3)(a), 5, 5A, 5A (Commentary), 5B(1), 5B(2), 5B(3), 5B(4), 5B (Commentary), 5B(4) (Commentary), 5C, 5D, and 6E.

“Fiduciary” includes such relationships as executor, administrator, trustee, and guardian. See Canons 3E(5)(d), 4E(1), 4E(2), 4E(3), 4E (Commentary), 6B, and 6F (Commentary).

“Gender identity” means a person’s internal sense of being male, female, a combination of male and female, or neither male nor female. See Canons 2C, 2C (Commentary), 3B(5), 3B(6), 3C(1), and 3C(3).

“Gender expression” is the way people communicate or externally express their gender identity to others, through such means as pronouns used, clothing, appearance, and demeanor. See Canons 2C, 2C (Commentary), 3B(5), 3B(6), 3C(1), and 3C(3).

“Gift” means anything of value to the extent that consideration of equal or greater value is not received, and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. See Canons 4D(5), 4D(5) (Commentary), 4D(6), 4D(6)(a), 4D(6)(b), 4D(6)(b) (Commentary), 4D(6)(d), 4D(6)(f), 4D(6)(i), 4D(6)(i) (Commentary), 4D(6) and 4D(7) (Commentary), 4H (Commentary), 5A (Commentary), 5B(4) (Commentary), 6D(2)(c), and 6D(7).

“Impartial,” “impartiality,” and “impartially” mean the absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as the maintenance of an open mind in considering issues that may come before a judge. See Canons 1, 1 (Commentary), 2A, 2 and 2A (Commentary), 2B (Commentary), 2C (Commentary), 3, 3B(9) (Commentary), 3B(10) (Commentary), 3B(12), 3B(12) (Commentary), 3C(1), 3C(5), 3E(4)(b), 3E(4)(c), 4A(1), 4A (Commentary), 4C(3)(b) (Commentary), 4C(3)(c) (Commentary), 4D(1) (Commentary), 4D(6)(a) (Commentary), 4D(6)(b) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H (Commentary), 5, 5A, 5A (Commentary), 5B (Commentary), 5B(4) (Commentary), 6D(2)(a), and 6D(3)(a)(vii).

1 “Impending proceeding” is a proceeding or matter that is imminent or expected to occur
2 in the near future. The words “proceeding” and “matter” are used interchangeably, and
3 are intended to have the same meaning. See Canons 2 and 2A (Commentary), 3B(7),
4 3B(7)(a), 3B(9), 3B(9) (Commentary), 4H (Commentary), and 6D(6). “Pending
5 proceeding” is defined below.

6
7 “Impropriety” includes conduct that violates the law, court rules, or provisions of this
8 code, as well as conduct that undermines a judge’s independence, integrity, or
9 impartiality. See Canons 2, 2 and 2A (Commentary), 2B (Commentary), 2C
10 (Commentary), 3B(9) (Commentary), 4D(1)(b) (Commentary), 4D(6)(g) (Commentary),
11 4D(6)(i) (Commentary), 4H, and 5.

12
13 “Independence” means a judge’s freedom from influence or control other than as
14 established by law. See Preamble, Canons 1, 1 (Commentary), 2C, 4C(2) (Commentary),
15 4D(6)(a) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i) (Commentary), 4H(3)
16 (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

17
18 “Integrity” means probity, fairness, honesty, uprightness, and soundness of character.
19 See Preamble, Canons 1, 1 (Commentary), 2A, 2 and 2A (Commentary), 2B
20 (Commentary), 2C (Commentary), 3B(9) (Commentary), 3C(1), 3C(5), 4D(6)(a)
21 (Commentary), 4D(6)(b) (Commentary), 4D(6)(g) (Commentary), 4D(6)(i)
22 (Commentary), 4H (Commentary), 5, 5A (Commentary), 5B (Commentary), and 6D(1).

23
24 “Knowingly,” “knowledge,” “known,” and “knows” mean actual knowledge of the fact in
25 question. A person’s knowledge may be inferred from circumstances. See Canons
26 2B(2)(b), 2B(2)(e), 2C (Commentary), 3B(2) (Commentary), 3B(7)(a), 3B(7)(a)
27 (Commentary), 3D(2), 3D(5), 3E(5)(f), 5B(1)(b), 6D(3)(a)(i), 6D(3)(a) (Commentary),
28 6D(4) (Commentary), and 6D(5)(a).

29
30 “Law” means constitutional provisions, statutes, court rules, and decisional law. See
31 Canons 1 (Commentary), 2A, 2C (Commentary), 3A, 3B(2), 3B(7), 3B(7)(c), 3B(8),
32 3B(8) (Commentary), 3B(12) (Commentary), 3E(1), 4C(3)(c) (Commentary), 4F, and
33 4H.

34
35 “Law, the legal system, or the administration of justice.” When a judge engages in an
36 activity that relates to the law, the legal system, or the administration of justice, the judge
37 should also consider factors such as whether the activity upholds the integrity,
38 impartiality, and independence of the judiciary (Canons 1 and 2A), whether the activity
39 impairs public confidence in the judiciary (Canon 2), whether the judge is allowing the
40 activity to take precedence over judicial duties (Canon 3A), and whether engaging in the
41 activity would cause the judge to be disqualified (Canon 4A(4)). See Canons 4B
42 (Commentary), 4C(1), 4C(1) (Commentary), 4C(2), 4C(2) (Commentary), 4C(3)(a),

1 4C(3)(b) (Commentary), 4C(3)(d)(ii), 4C(3)(d) (Commentary), 4D(6)(d), 4D(6)(e), 5A
2 (Commentary), 5D, and 5D (Commentary).

3
4 “Member of the judge’s family” means a spouse, registered domestic partner, child,
5 grandchild, parent, grandparent, or other relative or person with whom the judge
6 maintains a close familial relationship. See Canons 2B(3)(c), 2B (Commentary),
7 4C(3)(d)(i), 4D(1) (Commentary), 4D(2), 4D(5) (Commentary), 4E(1), and 4G
8 (Commentary).

9
10 “Member of the judge’s family residing in the judge’s household” means a spouse or
11 registered domestic partner and those persons who reside in the judge’s household and
12 who are relatives of the judge, including relatives by marriage or persons with whom the
13 judge maintains a close familial relationship. See Canons 4D(5), 4D(5) (Commentary),
14 4D(6), 4D(6)(b) (Commentary), 4D(6)(f) and 6D(2)(c).

15
16 “Nonpublic information” means information that, by law, is not available to the public.
17 Nonpublic information may include, but is not limited to, information that is sealed by
18 statute or court order, impounded, or communicated in camera, and information offered
19 in grand jury proceedings, presentencing reports, dependency cases, or psychiatric
20 reports. Nonpublic information also includes information from affidavits, jury results, or
21 court rulings before it becomes public information. See Canons 3B(11) and 6D(8)(a).

22
23 “Pending proceeding” is a proceeding or matter that has commenced. A proceeding
24 continues to be pending through any period during which an appeal may be filed and any
25 appellate process until final disposition. The words “proceeding” and “matter” are used
26 interchangeably, and are intended to have the same meaning. See Canons 2 and 2A
27 (Commentary), 2B(3)(a), 3B(7), 3B(9), 3B(9) (Commentary), 3E(5)(a), 4H
28 (Commentary), and 6D(6). “Impending proceeding” is defined above.

29
30 “Political organization” means a political party, political action committee, or other
31 group, the principal purpose of which is to further the election or appointment of
32 candidates to nonjudicial office. See Canon 5A.

33
34 “Registered domestic partner” means a person who has registered for domestic
35 partnership pursuant to state law or who is recognized as a domestic partner pursuant to
36 Family Code section 299.2. See Canons 3E(5)(d), 3E(5)(e), 3E(5)(i), 4D(6)(d), 4D(6)(f),
37 4D(6)(j), 4H(2), 5A (Commentary), 6D(3)(a)(v), and 6D(3)(a)(vi).

38
39 “Require.” Any canon prescribing that a judge “require” certain conduct of others means
40 that a judge is to exercise reasonable direction and control over the conduct of those
41 persons subject to the judge's direction and control. See Canons 3B(3), 3B(4), 3B(6),
42 3B(8) (Commentary), 3B(9), 3C(3), 6D(1), 6D(2)(a), and 6D(6).

1 “Service organization” includes any organization commonly referred to as a “fraternal
2 organization.” See Canons 3E(5)(d), 4C(2) (Commentary), 4C(3)(b), 4C(3)(b)
3 (Commentary), 4C(3)(d) (Commentary), 4D(6)(j), and 6D(2)(b).
4

5 “Subordinate judicial officer.” A subordinate judicial officer is, for the purposes of this
6 code, a person appointed pursuant to article VI, section 22 of the California Constitution,
7 including, but not limited to, a commissioner, referee, and hearing officer. See Canons
8 3D(3), 4G (Commentary), and 6A.
9

10 “Temporary Judge” means an active or inactive member of the bar who, pursuant to
11 article VI, section 21 of the California Constitution, serves or expects to serve as a judge
12 once, sporadically, or regularly on a part-time basis under a separate court appointment
13 for each period of service or for each case heard. See Canons 3E(5)(h), 4C(3)(d)(i),
14 4C(3)(d) (Commentary), 6A, and 6D.
15

16 “Third degree of relationship” includes the following persons: great-grandparent,
17 grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild,
18 nephew, and niece. See Canons 3E(5)(e), 3E(5)(i), and 6D(3)(a)(v).
19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

CANON 1

**A JUDGE SHALL UPHOLD THE INTEGRITY* AND
INDEPENDENCE* OF THE JUDICIARY**

An independent, impartial,* and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity* and independence* of the judiciary is preserved. The provisions of this code are to be construed and applied to further that objective. A judicial decision or administrative act later determined to be incorrect legally is not itself a violation of this code.

ADVISORY COMMITTEE COMMENTARY: Canon 1

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence* of judges. The integrity* and independence* of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law* and the provisions of this code. Public confidence in the impartiality* of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violations of this code diminish public confidence in the judiciary and thereby do injury to the system of government under law.*

The basic function of an independent, impartial, and honorable judiciary is to maintain the utmost integrity* in decisionmaking, and this code should be read and interpreted with that function in mind.*

CANON 2

**A JUDGE SHALL AVOID IMPROPRIETY* AND THE
APPEARANCE OF IMPROPRIETY* IN ALL OF THE JUDGE'S
ACTIVITIES**

A. Promoting Public Confidence

A judge shall respect and comply with the law* and shall act at all times in a manner that promotes public confidence in the integrity* and impartiality* of the judiciary. A judge shall not make statements, whether public or nonpublic, that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

ADVISORY COMMITTEE COMMENTARY: Canons 2 and 2A

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.

A judge must avoid all impropriety and appearance of impropriety.* A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by other members of the community and should do so freely and willingly.*

A judge must exercise caution when engaging in any type of electronic communication, including communication by text or email, or when participating in online social networking sites or otherwise posting material on the Internet, given the accessibility, widespread transmission, and permanence of electronic communications and material posted on the Internet. The same canons that govern a judge's ability to socialize and communicate in person, on paper, or over the telephone apply to electronic communications, including use of the Internet and social networking sites. These canons include, but are not limited to, Canons 2B(2) (lending the prestige of judicial office), 3B(7) (ex parte communications), 3B(9) (public comment about pending or impending proceedings*), 3E(2) (disclosure of information relevant to disqualification), and 4A (conducting extrajudicial activities to avoid casting doubt on the judge's capacity to act impartially,* demeaning the judicial office, or frequent disqualification).*

The prohibition against behaving with impropriety or the appearance of impropriety* applies to both the professional and personal conduct of a judge.*

The test for the appearance of impropriety is whether a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with integrity,* impartiality,* and competence.*

As to membership in organizations that practice invidious discrimination, see Commentary under Canon 2C.

As to judges making statements that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts, see Canon 3B(9) and its

1 *commentary concerning comments about a pending proceeding, * Canon 3E(3)(a)*
2 *concerning the disqualification of a judge who makes statements that commit the judge to*
3 *a particular result, and Canon 5B(1)(a) concerning statements made during an election*
4 *campaign that commit the candidate to a particular result. In addition, Code of Civil*
5 *Procedure section 170.2, subdivision (b), provides that, with certain exceptions, a judge*
6 *is not disqualified on the ground that the judge has, in any capacity, expressed a view on*
7 *a legal or factual issue presented in the proceeding before the judge.*
8

9 **B. Use of the Prestige of Judicial Office**

10
11 (1) A judge shall not allow family, social, political, or other relationships to influence
12 the judge's judicial conduct or judgment, nor shall a judge convey or permit others to
13 convey the impression that any individual is in a special position to influence the
14 judge.
15

16 (2) A judge shall not lend the prestige of judicial office or use the judicial title in any
17 manner, including any oral or written communication, to advance the pecuniary or
18 personal interests of the judge or others. This canon does not prohibit the following:
19

20 (a) A judge may testify as a character witness, provided the judge does so only
21 when subpoenaed.
22

23 (b) A judge may, without a subpoena, provide the Commission on Judicial
24 Performance with a written communication containing (i) factual information
25 regarding a matter pending before the commission or (ii) information related to the
26 character of a judge who has a matter pending before the commission, provided
27 that any such factual or character information is based on personal knowledge.*
28 In commission proceedings, a judge shall provide information responsive to a
29 subpoena or when officially requested to do so by the commission.
30

31 (c) A judge may provide factual information in State Bar disciplinary proceedings
32 and shall provide information responsive to a subpoena or when officially
33 requested to do so by the State Bar.
34

35 (d) A judge may respond to judicial selection inquiries, provide recommendations
36 (including a general character reference relating to the evaluation of persons being
37 considered for a judgeship), and otherwise participate in the process of judicial
38 selection.
39

40 (e) A judge may serve as a reference or provide a letter of recommendation only if
41 based on the judge's personal knowledge* of the individual. These written
42 communications may include the judge's title and may be written on stationery
43 that uses the judicial title.

1 (3) Except as permitted in subdivision (c) or otherwise authorized by law* or these
2 canons:

3
4 (a) A judge shall not advance the pecuniary or personal interests of the judge or
5 others by initiating communications with a sentencing judge or a representative of
6 a probation department about a proceeding pending* before the sentencing judge,
7 but may provide information in response to an official request. "Sentencing
8 judge" includes a judge who makes a disposition pursuant to Welfare and
9 Institutions Code section 725.

10
11 (b) A judge, other than the judge who presided over the trial of or sentenced the
12 person seeking parole, pardon, or commutation of sentence, shall not initiate
13 communications with the Board of Parole Hearings regarding parole or the Office
14 of the Governor regarding parole, pardon, or commutation of sentence, but may
15 provide these entities with information for the record in response to an official
16 request.

17
18 (c) A judge may initiate communications concerning a member of the judge's
19 family* with a representative of a probation department regarding sentencing, the
20 Board of Parole Hearings regarding parole, or the Office of the Governor
21 regarding parole, pardon, or commutation of sentence, provided the judge is not
22 identified as a judge in the communication.

23
24 **ADVISORY COMMITTEE COMMENTARY: Canon 2B**

25 *A strong judicial branch, based on the prestige that comes from effective and*
26 *ethical performance, is essential to a system of government in which the judiciary*
27 *functions independently of the executive and legislative branches. A judge should*
28 *distinguish between proper and improper use of the prestige of office in all of his or her*
29 *activities.*

30 *As to those communications that are permitted under this canon, a judge must*
31 *keep in mind the general obligations to maintain high standards of conduct as set forth in*
32 *Canon 1, and to avoid any impropriety* or the appearance of impropriety* as set forth in*
33 *Canon 2. A judge must also be mindful of Canon 2A, which requires a judge to act at all*
34 *times in a manner that promotes public confidence in the integrity* and impartiality* of*
35 *the courts.*

36 *A judge must avoid lending the prestige of judicial office for the advancement of*
37 *the private interests of the judge or others. For example, a judge must not use the*
38 *judicial position to gain advantage in a civil suit involving a member of the judge's*
39 *family,* or use his or her position to gain deferential treatment when stopped by a police*
40 *officer for a traffic offense.*

41 *If a judge posts on social networking sites such as Facebook or crowdsourced*
42 *sites such as Yelp or Trip Advisor, the judge may not lend the prestige of judicial office to*
43 *advance the pecuniary or personal interests of the judge or others. For example, a judge*

1 may not comment on, recommend, or criticize businesses, products, or services on such
2 sites if it is reasonably likely that the judge can be identified as a judge.

3 See canon 4C(3)(d)(iv) prohibiting the use of the prestige of judicial office for
4 fundraising or membership solicitation, but allowing a judge to be a speaker, guest of
5 honor, or recipient of an award for public or charitable service, provided the judge does
6 not personally solicit funds and complies with Canons 4A (1), (2), (3), and (4).

7 As to the use of a judge's title to identify a judge's role in the presentation and
8 creation of legal education programs and materials, see Commentary to Canon 4B. In
9 contracts for publication of a judge's writings, a judge should retain control over the
10 advertising, to the extent feasible, to avoid exploitation of the judge's office.

11 This canon does not afford a judge a privilege against testifying in response to any
12 official summons.

13 See also Canons 3D(1) and 3D(2) concerning a judge's obligation to take
14 appropriate corrective action regarding other judges who violate any provision of the
15 Code of Judicial Ethics and attorneys who violate any provision of the Rules of
16 Professional Conduct.

17 Except as set forth in Canon 2B(3)(a), this canon does not preclude consultations
18 among judges. Additional limitations on such consultations among judges are set forth in
19 Canon 3B(7)(a).

20 21 **C. Membership in Organizations**

22
23 A judge shall not hold membership in any organization that practices invidious
24 discrimination on the basis of race, sex, gender, gender identity,* gender expression,*
25 religion, national origin, ethnicity, or sexual orientation.

26
27 This canon does not apply to membership in a religious organization.

28 29 **ADVISORY COMMITTEE COMMENTARY: Canon 2C**

30 Membership by a judge in an organization that practices invidious discrimination
31 on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation
32 gives rise to a perception that the judge's impartiality* is impaired. The code prohibits
33 such membership by judges to preserve the fairness, impartiality,* independence,* and
34 honor of the judiciary, to treat all parties equally under the law,* and to avoid
35 impropriety* and the appearance of impropriety.*

36 Previously, Canon 2C contained exceptions to this prohibition for membership in
37 religious organizations, membership in an official military organization of the United
38 States and, so long as membership did not violate Canon 4A, membership in a nonprofit
39 youth organization. The exceptions for membership in an official military organization
40 of the United States and nonprofit youth organizations have been eliminated as
41 exceptions to the canon. The exception for membership in religious organizations has
42 been preserved.

1 Canon 2C refers to the current practices of the organization. Whether an
2 organization practices invidious discrimination is often a complex question to which
3 judges should be sensitive. The answer cannot be determined from a mere examination
4 of an organization's current membership rolls, but rather depends on how the
5 organization selects members and other relevant factors, such as whether the
6 organization is dedicated to the preservation of religious, ethnic, or cultural values of
7 legitimate common interest to its members, or whether it is in fact and effect an intimate,
8 purely private organization whose membership limitations could not be constitutionally
9 prohibited. Absent such factors, an organization is generally said to discriminate
10 invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex,
11 gender, gender identity, * gender expression, * national origin, ethnicity, or sexual
12 orientation persons who would otherwise be admitted to membership.

13 Although Canon 2C relates only to membership in organizations that invidiously
14 discriminate on the basis of race, sex, gender, gender identity, * gender expression, *
15 religion, national origin, ethnicity, or sexual orientation, a judge's membership in an
16 organization that engages in any discriminatory membership practices prohibited by
17 law* also violates Canon 2 and Canon 2A and gives the appearance of impropriety.* In
18 addition, it would be a violation of Canon 2 and Canon 2A for a judge to arrange a
19 meeting at a club that the judge knows* practices such invidious discrimination or for the
20 judge to use such a club regularly. Moreover, public manifestation by a judge of the
21 judge's knowing* approval of invidious discrimination on any basis gives the appearance
22 of impropriety* under Canon 2 and diminishes public confidence in the integrity* and
23 impartiality* of the judiciary in violation of Canon 2A.
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

CANON 3

**A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE
IMPARTIALLY,* COMPETENTLY, AND DILIGENTLY**

A. Judicial Duties in General

All of the judicial duties prescribed by law* shall take precedence over all other activities of every judge. In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities

(1) A judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.

ADVISORY COMMITTEE COMMENTARY: Canon 3B(1)

Canon 3B(1) is based upon the affirmative obligation contained in Code of Civil Procedure section 170.

(2) A judge shall be faithful to the law* regardless of partisan interests, public clamor, or fear of criticism, and shall maintain professional competence in the law.*

ADVISORY COMMITTEE COMMENTARY: Canon 3B(2)

Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office. Canon 1 provides that an incorrect legal ruling is not itself a violation of this code.*

(3) A judge shall require* order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require* similar conduct of lawyers and of all staff and court personnel under the judge's direction and control.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (a) bias, prejudice, or harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity,* gender expression,* religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment.

1 (6) A judge shall require* lawyers in proceedings before the judge to refrain from (a)
2 manifesting, by words or conduct, bias, prejudice, or harassment based upon race, sex,
3 gender, gender identity,* gender expression,* religion, national origin, ethnicity,
4 disability, age, sexual orientation, marital status, socioeconomic status, or political
5 affiliation, or (b) sexual harassment against parties, witnesses, counsel, or others.
6 This canon does not preclude legitimate advocacy when race, sex, gender, gender
7 identity,* gender expression,* religion, national origin, ethnicity, disability, age,
8 sexual orientation, marital status, socioeconomic status, political affiliation, or other
9 similar factors are issues in the proceeding.
10

11 (7) A judge shall accord to every person who has a legal interest in a proceeding, or
12 that person's lawyer, the full right to be heard according to law.* Unless otherwise
13 authorized by law,* a judge shall not independently investigate facts in a proceeding
14 and shall consider only the evidence presented or facts that may be properly judicially
15 noticed. This prohibition extends to information available in all media, including
16 electronic. A judge shall not initiate, permit, or consider ex parte communications,
17 that is, any communications to or from the judge outside the presence of the parties
18 concerning a pending* or impending* proceeding, and shall make reasonable efforts
19 to avoid such communications, except as follows:
20

21 (a) Except as stated below, a judge may consult with other judges. A judge
22 presiding over a case shall not engage in discussions about that case with a judge
23 who has previously been disqualified from hearing that case; likewise, a judge
24 who knows* he or she is or would be disqualified from hearing a case shall not
25 discuss that matter with the judge assigned to the case. A judge also shall not
26 engage in discussions with a judge who may participate in appellate review of the
27 matter, nor shall a judge who may participate in appellate review of a matter
28 engage in discussions with the judge presiding over the case.
29

30 A judge may consult with court personnel or others authorized by law,* as long as
31 the communication relates to that person's duty to aid the judge in carrying out the
32 judge's adjudicative responsibilities.
33

34 In any discussion with judges or court personnel, a judge shall make reasonable
35 efforts to avoid receiving factual information that is not part of the record or an
36 evaluation of that factual information. In such consultations, the judge shall not
37 abrogate the responsibility personally to decide the matter.
38

39 For purposes of Canon 3B(7)(a), "court personnel" includes bailiffs, court
40 reporters, court externs, research attorneys, courtroom clerks, and other employees
41 of the court, but does not include the lawyers in a proceeding before a judge,
42 persons who are appointed by the court to serve in some capacity in a proceeding,

1 or employees of other governmental entities, such as lawyers, social workers, or
2 representatives of the probation department.

3
4 *ADVISORY COMMITTEE COMMENTARY: Canon 3B(7)(a)*

5 *Regarding communications between a judge presiding over a matter and a judge*
6 *of a court with appellate jurisdiction over that matter, see Government Code section*
7 *68070.5.*

8 *Though a judge may have ex parte discussions with appropriate court personnel, a*
9 *judge may do so only on matters that are within the proper performance of that person's*
10 *duties. For example, a bailiff may inform the judge of a threat to the judge or to the*
11 *safety and security of the courtroom, but may not tell the judge ex parte that a defendant*
12 *was overheard making an incriminating statement during a court recess. A clerk may*
13 *point out to the judge a technical defect in a proposed sentence, but may not suggest to*
14 *the judge that a defendant deserves a certain sentence.*

15 *A sentencing judge may not consult ex parte with a representative of the probation*
16 *department about a matter pending before the sentencing judge.*

17 *This canon prohibits a judge who is presiding over a case from discussing that*
18 *case with another judge who has already been disqualified from hearing that case. A*
19 *judge also must be careful not to talk to a judge whom the judge knows* would be*
20 *disqualified from hearing the matter.*

21
22 (b) A judge may initiate, permit, or consider ex parte communications, where
23 circumstances require, for scheduling, administrative purposes, or emergencies
24 that do not deal with substantive matters provided:

25
26 (i) the judge reasonably believes that no party will gain a procedural or tactical
27 advantage as a result of the ex parte communication, and

28
29 (ii) the judge makes provision promptly to notify all other parties of the
30 substance of the ex parte communication and allows an opportunity to respond.

31
32 (c) A judge may initiate, permit, or consider any ex parte communication when
33 expressly authorized by law* to do so or when authorized to do so by stipulation
34 of the parties.

35
36 (d) If a judge receives an unauthorized ex parte communication, the judge shall
37 make provision promptly to notify the parties of the substance of the
38 communication and provide the parties with an opportunity to respond.

39
40 *ADVISORY COMMITTEE COMMENTARY: Canon 3B(7)*

41 *An exception allowing a judge, under certain circumstances, to obtain the advice*
42 *of a disinterested expert on the law* has been eliminated from Canon 3B(7) because*
43 *consulting with legal experts outside the presence of the parties is inconsistent with the*

1 core tenets of the adversarial system. Therefore, a judge shall not consult with legal
2 experts outside the presence of the parties. Evidence Code section 730 provides for the
3 appointment of an expert if a judge determines that expert testimony is necessary. A
4 court may also invite the filing of amicus curiae briefs.

5 An exception allowing a judge to confer with the parties separately in an effort to
6 settle the matter before the judge has been moved from this canon to Canon 3B(12).

7 This canon does not prohibit court personnel from communicating scheduling
8 information or carrying out similar administrative functions.

9 A judge is statutorily authorized to investigate and consult witnesses informally in
10 small claims cases. Code of Civil Procedure section 116.520, subdivision (c).

11
12 (8) A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A
13 judge shall manage the courtroom in a manner that provides all litigants the
14 opportunity to have their matters fairly adjudicated in accordance with the law.*

15
16 **ADVISORY COMMITTEE COMMENTARY: Canon 3B(8)**

17 The obligation of a judge to dispose of matters promptly and efficiently must not
18 take precedence over the judge's obligation to dispose of the matters fairly and with
19 patience. For example, when a litigant is self-represented, a judge has the discretion to
20 take reasonable steps, appropriate under the circumstances and consistent with the law*
21 and the canons, to enable the litigant to be heard. A judge should monitor and supervise
22 cases so as to reduce or eliminate dilatory practices, avoidable delays, and unnecessary
23 costs.

24 Prompt disposition of the court's business requires a judge to devote adequate
25 time to judicial duties, to be punctual in attending court and expeditious in determining
26 matters under submission, and to require* that court officials, litigants, and their lawyers
27 cooperate with the judge to those ends.

28
29 (9) A judge shall not make any public comment about a pending* or impending*
30 proceeding in any court, and shall not make any nonpublic comment that might
31 substantially interfere with a fair trial or hearing. The judge shall require* similar
32 abstention on the part of staff and court personnel subject to the judge's direction and
33 control. This canon does not prohibit judges from making statements in the course of
34 their official duties or from explaining the procedures of the court, and does not apply
35 to proceedings in which the judge is a litigant in a personal capacity. In connection
36 with a judicial election or recall campaign, this canon does not prohibit any judge
37 from making a public comment about a pending* proceeding, provided (a) the
38 comment would not reasonably be expected to affect the outcome or impair the
39 fairness of the proceeding, and (b) the comment is about the procedural, factual, or
40 legal basis of a decision about which a judge has been criticized during the election or
41 recall campaign. Other than cases in which the judge has personally participated, this
42 canon does not prohibit judges from discussing, in legal education programs and
43 materials, cases and issues pending in appellate courts. This educational exemption

1 does not apply to cases over which the judge has presided or to comments or
2 discussions that might interfere with a fair hearing of the case.

3
4 **ADVISORY COMMITTEE COMMENTARY: Canon 3B(9)**

5 *The requirement that judges abstain from public comment regarding a pending**
6 *or impending* proceeding continues during any appellate process and until final*
7 *disposition. A judge shall make reasonable efforts to ascertain whether a case is*
8 *pending* or impending* before commenting on it. This canon does not prohibit a judge*
9 *from commenting on proceedings in which the judge is a litigant in a personal capacity,*
10 *but in cases such as a writ of mandamus where the judge is a litigant in an official*
11 *capacity, the judge must not comment publicly.*

12 *“Making statements in the course of their official duties” and “explaining the*
13 *procedures of the court” include providing an official transcript or partial official*
14 *transcript of a court proceeding open to the public and explaining the rules of court and*
15 *procedures related to a decision rendered by a judge.*

16 *The provision allowing a judge to make a public comment about a pending**
17 *decision that is the subject of criticism during an election campaign applies to all judicial*
18 *elections, including recall elections. Depending on the circumstances, the judge should*
19 *consider whether it may be preferable for a third party, rather than the judge, to respond*
20 *or issue statements in connection with allegations concerning the decision. For purposes*
21 *of this provision, a recall campaign begins when a judge is served with a notice of*
22 *intention to circulate a recall petition (see Elec. Code, § 11006), and a judicial election*
23 *campaign begins when a judge or candidate for judicial office* files a declaration of*
24 *intention of candidacy for judicial office (see Elec. Code, § 8023).*

25 *Although this canon does not prohibit a judge from commenting on cases that are*
26 *not pending* or impending* in any court, a judge must be cognizant of the general*
27 *prohibition in Canon 2 against conduct involving impropriety* or the appearance of*
28 *impropriety.* A judge should also be aware of the mandate in Canon 2A that a judge*
29 *must act at all times in a manner that promotes public confidence in the integrity* and*
30 *impartiality* of the judiciary. In addition, when commenting on a case pursuant to this*
31 *canon, a judge must maintain the high standards of conduct, as set forth in Canon 1.*

32 *Although a judge is permitted to make nonpublic comments about pending* or*
33 *impending* cases that will not substantially interfere with a fair trial or hearing, the*
34 *judge should be cautious when making any such comments. There is always a risk that a*
35 *comment can be misheard, misinterpreted, or repeated. A judge making such a comment*
36 *must be mindful of the judge’s obligation under Canon 2A to act at all times in a manner*
37 *that promotes public confidence in the integrity* and impartiality* of the judiciary.*

38 *When a judge makes a nonpublic comment about a case pending* before that judge, the*
39 *judge must keep an open mind and not form an opinion prematurely or create the*
40 *appearance of having formed an opinion prematurely.*

1 (10) A judge shall not commend or criticize jurors for their verdict other than in a
2 court order or opinion in a proceeding, but may express appreciation to jurors for their
3 service to the judicial system and the community.

4
5 *ADVISORY COMMITTEE COMMENTARY: Canon 3B(10)*

6 *Commending or criticizing jurors for their verdict may imply a judicial*
7 *expectation in future cases and may impair a juror's ability to be fair and impartial* in a*
8 *subsequent case.*

9
10 (11) A judge shall not disclose or use, for any purpose unrelated to judicial duties,
11 nonpublic information* acquired in a judicial capacity.

12
13 (12) A judge may participate in settlement conferences or in other efforts to resolve
14 matters in dispute, including matters pending before the judge. A judge may, with the
15 ~~express consent of the parties or their lawyers, confer separately with the parties~~
16 and/or their lawyers during such resolution efforts. At all times during such
17 resolution efforts, a judge shall remain impartial* and shall not engage in conduct that
18 may reasonably be perceived as coercive.

19
20 *ADVISORY COMMITTEE COMMENTARY: Canon 3B(12)*

21 *While the judge plays an important role in overseeing efforts to resolve disputes,*
22 *including conducting settlement discussions, a judge should be careful that efforts to*
23 *resolve disputes do not undermine any party's right to be heard according to law.**

24 *The judge should keep in mind the effect that the judge's participation in dispute*
25 *resolution efforts may have on the judge's impartiality* or the appearance of*
26 *impartiality* if the case remains with the judge for trial after resolution efforts are*
27 *unsuccessful. Accordingly, a judge may wish to consider whether: (1) the parties or their*
28 *counsel have requested or objected to the participation by the trial judge in such*
29 *discussions; (2) the parties and their counsel are relatively sophisticated in legal matters*
30 *or the particular legal issues involved in the case; (3) a party is unrepresented; (4) the*
31 *case will be tried by the judge or a jury; (5) the parties will participate with their counsel*
32 *in settlement discussions and, if so, the effect of personal contact between the judge and*
33 *parties; and (6) it is appropriate during the settlement conference for the judge to express*
34 *an opinion on the merits or worth of the case or express an opinion on the legal issues*
35 *that the judge may later have to rule upon.*

36 *If a judge assigned to preside over a trial believes participation in resolution*
37 *efforts could influence the judge's decisionmaking during trial, the judge may decline to*
38 *engage in such efforts.*

39 *Where dispute resolution efforts of any type are unsuccessful, the judge should*
40 *consider whether, due to events that occurred during the resolution efforts, the judge may*
41 *be disqualified under the law* from presiding over the trial. See, e.g., Code of Civil*
42 *Procedure section 170.1, subdivision (a)(6)(A).*

1 **C. Administrative Responsibilities**
2

3 (1) A judge shall diligently discharge the judge's administrative responsibilities
4 impartially,* on the basis of merit, without bias or prejudice, free of conflict of
5 interest, and in a manner that promotes public confidence in the integrity* of the
6 judiciary. A judge shall not, in the performance of administrative duties, engage in
7 speech, gestures, or other conduct that would reasonably be perceived as (a) bias,
8 prejudice, or harassment, including but not limited to bias, prejudice, or harassment
9 based upon race, sex, gender, gender identity,* gender expression,* religion, national
10 origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic
11 status, or political affiliation, or (b) sexual harassment.

12
13 *ADVISORY COMMITTEE COMMENTARY: Canon 3C(1)*

14 *In considering what constitutes a conflict of interest under this canon, a judge*
15 *should be informed by Code of Civil Procedure section 170.1, subdivision (a)(6).*
16

17 (2) A judge shall maintain professional competence in judicial administration, and
18 shall cooperate with other judges and court officials in the administration of court
19 business.

20
21 (3) A judge shall require* staff and court personnel under the judge's direction and
22 control to observe appropriate standards of conduct and to refrain from (a)
23 manifesting bias, prejudice, or harassment based upon race, sex, gender, gender
24 identity,* gender expression,* religion, national origin, ethnicity, disability, age,
25 sexual orientation, marital status, socioeconomic status, or political affiliation, or (b)
26 sexual harassment in the performance of their official duties.

27
28 (4) A judge with supervisory authority for the judicial performance of other judges
29 shall take reasonable measures to ensure the prompt disposition of matters before
30 them and the proper performance of their other judicial responsibilities.

31
32 (5) A judge shall not make unnecessary court appointments. A judge shall exercise
33 the power of appointment impartially,* on the basis of merit, without bias or
34 prejudice, free of conflict of interest, and in a manner that promotes public confidence
35 in the integrity* of the judiciary. A judge shall avoid nepotism and favoritism. A
36 judge shall not approve compensation of appointees above the reasonable value of
37 services rendered.

38
39 *ADVISORY COMMITTEE COMMENTARY: Canon 3C(5)*

40 *Appointees of a judge include assigned counsel and officials such as referees,*
41 *commissioners, special masters, receivers, and guardians. Consent by the parties to an*
42 *appointment or an award of compensation does not relieve the judge of the obligation*
43 *prescribed by Canon 3C(5).*

1 **D. Disciplinary Responsibilities**

2
3 (1) Whenever a judge has reliable information that another judge has violated any
4 provision of the Code of Judicial Ethics, that judge shall take appropriate corrective
5 action, which may include reporting the violation to the appropriate authority. (See
6 Commentary to Canon 3D(2).)

7
8 (2) Whenever a judge has personal knowledge,* or concludes in a judicial decision,
9 that a lawyer has committed misconduct or has violated any provision of the Rules of
10 Professional Conduct, the judge shall take appropriate corrective action, which may
11 include reporting the violation to the appropriate authority.

12
13 *ADVISORY COMMITTEE COMMENTARY: Canons 3D(1) and 3D(2)*

14 *Appropriate corrective action could include direct communication with the judge*
15 *or lawyer who has committed the violation, writing about the misconduct in a judicial*
16 *decision, or other direct action, such as a confidential referral to a judicial or lawyer*
17 *assistance program, or a report of the violation to the presiding judge, appropriate*
18 *authority, or other agency or body. Judges should note that in addition to the action*
19 *required by Canon 3D(2), California law imposes additional mandatory reporting*
20 *requirements to the State Bar on judges regarding lawyer misconduct. See Business and*
21 *Professions Code sections 6086.7 and 6086.8, subdivision (a), and California Rules of*
22 *Court, rules 10.609 and 10.1017.*

23 *"Appropriate authority" means the authority with responsibility for initiation of*
24 *the disciplinary process with respect to a violation to be reported.*

25
26 (3) A judge shall promptly report in writing to the Commission on Judicial
27 Performance when he or she is charged in court by misdemeanor citation,
28 prosecutorial complaint, information, or indictment with any crime in the United
29 States as specified below. Crimes that must be reported are: (1) all crimes, other than
30 those that would be considered misdemeanors not involving moral turpitude or
31 infractions under California law; and (2) all misdemeanors involving violence
32 (including assaults), the use or possession of controlled substances, the misuse of
33 prescriptions, or the personal use or furnishing of alcohol. A judge also shall
34 promptly report in writing upon conviction of such crimes.

35
36 If the judge is a retired judge serving in the Temporary Assigned Judges Program, he
37 or she shall promptly report such information in writing to the Chief Justice rather
38 than to the Commission on Judicial Performance. If the judge is a subordinate
39 judicial officer,* he or she shall promptly report such information in writing to both
40 the presiding judge of the court in which the subordinate judicial officer* sits and the
41 Commission on Judicial Performance.

42
43 (4) A judge shall cooperate with judicial and lawyer disciplinary agencies.

1 *ADVISORY COMMITTEE COMMENTARY: Canons 3D(3) and 3D(4)*

2 *See Government Code section 68725, which requires judges to cooperate with and*
3 *give reasonable assistance and information to the Commission on Judicial Performance,*
4 *and rule 104 of the Rules of the Commission on Judicial Performance, which requires a*
5 *respondent judge to cooperate with the commission in all proceedings in accordance with*
6 *section 68725.*

7
8 (5) A judge shall not retaliate, directly or indirectly, against a person known* or
9 suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

10
11 **E. Disqualification and Disclosure**

12
13 (1) A judge shall disqualify himself or herself in any proceeding in which
14 disqualification is required by law.*

15
16 *ADVISORY COMMITTEE COMMENTARY: Canon 3E(1)*

17 *The term "proceeding" as used in this canon encompasses prefiling judicial*
18 *determinations. Thus, if a judge has a disqualifying interest in a matter, the judge is*
19 *disqualified from taking any action in the matter, even if it predates the actual filing of a*
20 *case, such as making a probable cause determination, signing a search or arrest*
21 *warrant, setting bail, or ordering an own recognizance release. Interpreting*
22 *"proceeding" to include prefiling judicial determinations effectuates the intent of the*
23 *canon because it assures the parties and the public of the integrity* and fairness of the*
24 *judicial process.*

25
26 (2) In all trial court proceedings, a judge shall disclose on the record as follows:

27
28 (a) Information relevant to disqualification

29
30 A judge shall disclose information that is reasonably relevant to the question of
31 disqualification under Code of Civil Procedure section 170.1, even if the judge
32 believes there is no actual basis for disqualification.

33
34 (b) Campaign contributions in trial court elections

35
36 (i) Information required to be disclosed

37
38 In any matter before a judge who is or was a candidate for judicial office* in a
39 trial court election, the judge shall disclose any contribution or loan of \$100 or
40 more from a party, individual lawyer, or law office or firm in that matter as
41 required by this canon, even if the amount of the contribution or loan would
42 not require disqualification. Such disclosure shall consist of the name of the

1 contributor or lender, the amount of each contribution or loan, the cumulative
2 amount of the contributor's contributions or lender's loans, and the date of
3 each contribution or loan. The judge shall make reasonable efforts to obtain
4 current information regarding contributions or loans received by his or her
5 campaign and shall disclose the required information on the record.
6

7 (ii) Manner of disclosure
8

9 The judge shall ensure that the required information is conveyed on the record
10 to the parties and lawyers appearing in the matter before the judge. The judge
11 has discretion to select the manner of disclosure, but the manner used shall
12 avoid the appearance that the judge is soliciting campaign contributions.
13

14 (iii) Timing of disclosure
15

16 Disclosure shall be made at the earliest reasonable opportunity after receiving
17 each contribution or loan. The duty commences no later than one week after
18 receipt of the first contribution or loan, and continues for a period of two years
19 after the candidate takes the oath of office, or two years from the date of the
20 contribution or loan, whichever event is later.
21

22 *ADVISORY COMMITTEE COMMENTARY: Canon 3E(2)(b)*

23 *Code of Civil Procedure section 170.1, subdivision (a)(9)(C) requires a judge to*
24 *"disclose any contribution from a party or lawyer in a matter that is before the court that*
25 *is required to be reported under subdivision (f) of Section 84211 of the Government*
26 *Code, even if the amount would not require disqualification under this paragraph." This*
27 *statute further provides that the "manner of disclosure shall be the same as that provided*
28 *in Canon 3E of the Code of Judicial Ethics." Canon 3E(2)(b) sets forth the information*
29 *the judge must disclose, the manner for making such disclosure, and the timing thereof.*

30 *"Contribution" includes monetary and in-kind contributions. See Cal. Code*
31 *Regs., tit. 2, § 18215, subd. (b)(3). See generally Government Code section 84211,*
32 *subdivision (f).*

33 *Disclosure of campaign contributions is intended to provide parties and lawyers*
34 *appearing before a judge during and after a judicial campaign with easy access to*
35 *information about campaign contributions that may not require disqualification but could*
36 *be relevant to the question of disqualification of the judge. The judge is responsible for*
37 *ensuring that the disclosure is conveyed to the parties and lawyers appearing in the*
38 *matter. The canon provides that the judge has discretion to select the manner of making*
39 *the disclosure. The appropriate manner of disclosure will depend on whether all of the*
40 *parties and lawyers are present in court, whether it is more efficient or practicable given*
41 *the court's calendar to make a written disclosure, and other relevant circumstances that*
42 *may affect the ability of the parties and lawyers to access the required information. The*

1 following alternatives for disclosure are non-exclusive. If all parties are present in court,
2 the judge may conclude that the most effective and efficient manner of providing
3 disclosure is to state orally the required information on the record in open court. In the
4 alternative, again if all parties are present in court, a judge may determine that it is more
5 appropriate to state orally on the record in open court that parties and lawyers may
6 obtain the required information at an easily accessible location in the courthouse, and
7 provide an opportunity for the parties and lawyers to review the available information.
8 Another alternative, particularly if all or some parties are not present in court, is that the
9 judge may disclose the campaign contribution in a written minute order or in the official
10 court minutes and notify the parties and the lawyers of the written disclosure. See
11 California Supreme Court Committee on Judicial Ethics Opinions, CJEO Formal
12 Opinion No. 2013-002, pp. 7-8. If a party appearing in a matter before the judge is
13 represented by a lawyer, it is sufficient to make the disclosure to the lawyer.

14 In addition to the disclosure obligations set forth in Canon 3E(2)(b), a judge must,
15 pursuant to Canon 3E(2)(a), disclose on the record any other information that may be
16 relevant to the question of disqualification. As examples, such an obligation may arise as
17 a result of contributions or loans of which the judge is aware made by a party, lawyer, or
18 law office or firm appearing before the judge to a third party in support of the judge or in
19 opposition to the judge's opponent; a party, lawyer, or law office or firm's relationship to
20 the judge or role in the campaign; or the aggregate contributions or loans from lawyers
21 in one law office or firm.

22 Canon 3E(2)(b) does not eliminate the obligation of the judge to recuse himself or
23 herself where the nature of the contribution or loan, the extent of the contributor's or
24 lender's involvement in the judicial campaign, the relationship of the contributor or
25 lender, or other circumstance requires recusal under Code of Civil Procedure section
26 170.1, and particularly section 170.1, subdivision (a)(6)(A).

27
28 (3) A judge shall disqualify himself or herself in accordance with the following:
29

30 (a) Statements that commit the judge to a particular result
31

32 A judge is disqualified if the judge, while a judge or candidate for judicial office,*
33 made a statement, other than in a court proceeding, judicial decision, or opinion,
34 that a person aware of the facts might reasonably believe commits the judge to
35 reach a particular result or rule in a particular way in a proceeding.
36

37 (b) Bond ownership
38

39 Ownership of a corporate bond issued by a party to a proceeding and having a fair
40 market value exceeding \$1,500 is disqualifying. Ownership of a government bond
41 issued by a party to a proceeding is disqualifying only if the outcome of the
42 proceeding could substantially affect the value of the judge's bond. Ownership in

1 a mutual or common investment fund that holds bonds is not a disqualifying
2 financial interest.

3
4 *ADVISORY COMMITTEE COMMENTARY: Canon 3E(3)(b)*

5 *The distinction between corporate and government bonds is consistent with the*
6 *Political Reform Act (see Gov. Code, § 82034), which requires disclosure of corporate*
7 *bonds, but not government bonds. Canon 3E(3) is intended to assist judges in complying*
8 *with Code of Civil Procedure section 170.1, subdivision (a)(3) and Canon 3E(5)(d).*
9

10 (4) An appellate justice shall disqualify himself or herself in any proceeding if for any
11 reason:

12
13 (a) the justice believes his or her recusal would further the interests of justice; or

14
15 (b) the justice substantially doubts his or her capacity to be impartial;* or

16
17 (c) the circumstances are such that a reasonable person aware of the facts would
18 doubt the justice's ability to be impartial.*

19
20 (5) Disqualification of an appellate justice is also required in the following instances:

21
22 (a) The appellate justice has served as a lawyer in the pending* proceeding, or has
23 served as a lawyer in any other proceeding involving any of the same parties if
24 that other proceeding related to the same contested issues of fact and law as the
25 present proceeding, or has given advice to any party in the present proceeding
26 upon any issue involved in the proceeding.

27
28 *ADVISORY COMMITTEE COMMENTARY: Canon 3E(5)(a)*

29 *Canon 3E(5)(a) is consistent with Code of Civil Procedure section 170.1,*
30 *subdivision (a)(2), which addresses disqualification of trial court judges based on prior*
31 *representation of a party in the proceeding.*
32

33 (b) Within the last two years, (i) a party to the proceeding, or an officer, director or
34 trustee thereof, either was a client of the justice when the justice was engaged in
35 the private practice of law or was a client of a lawyer with whom the justice was
36 associated in the private practice of law; or (ii) a lawyer in the proceeding was
37 associated with the justice in the private practice of law.

38
39 (c) The appellate justice represented a public officer or entity and personally
40 advised or in any way represented that officer or entity concerning the factual or
41 legal issues in the present proceeding in which the public officer or entity now
42 appears.
43

1 (d) The appellate justice, his or her spouse or registered domestic partner,* or a
2 minor child residing in the household, has a financial interest or is either a
3 fiduciary* who has a financial interest in the proceeding, or is a director, advisor,
4 or other active participant in the affairs of a party. A financial interest is defined
5 as ownership of more than a 1 percent legal or equitable interest in a party, or a
6 legal or equitable interest in a party of a fair market value exceeding \$1,500.
7 Ownership in a mutual or common investment fund that holds securities does not
8 itself constitute a financial interest; holding office in an educational, religious,
9 charitable, service,* or civic organization does not confer a financial interest in the
10 organization's securities; and a proprietary interest of a policyholder in a mutual
11 insurance company or mutual savings association or similar interest is not a
12 financial interest unless the outcome of the proceeding could substantially affect
13 the value of the interest. A justice shall make reasonable efforts to keep informed
14 about his or her personal and fiduciary* interests and those of his or her spouse or
15 registered domestic partner* and of minor children living in the household.
16

17 (e)(i) The justice or his or her spouse or registered domestic partner,* or a person
18 within the third degree of relationship* to either of them, or the spouse or
19 registered domestic partner* thereof, is a party or an officer, director, or trustee
20 of a party to the proceeding, or
21

22 (ii) a lawyer or spouse or registered domestic partner* of a lawyer in the
23 proceeding is the spouse, registered domestic partner,* former spouse, former
24 registered domestic partner,* child, sibling, or parent of the justice or of the
25 justice's spouse or registered domestic partner,* or such a person is associated
26 in the private practice of law with a lawyer in the proceeding.
27

28 (f) The justice
29

30 (i) served as the judge before whom the proceeding was tried or heard in
31 the lower court,
32

33 (ii) has personal knowledge* of disputed evidentiary facts concerning the
34 proceeding, or
35

36 (iii) has a personal bias or prejudice concerning a party or a party's lawyer.
37

38 (g) A temporary or permanent physical impairment renders the justice unable
39 properly to perceive the evidence or conduct the proceedings.
40

41 (h) The justice has a current arrangement concerning prospective employment or
42 other compensated service as a dispute resolution neutral or is participating in, or,
43 within the last two years has participated in, discussions regarding prospective

1 employment or service as a dispute resolution neutral, or has been engaged in such
2 employment or service, and any of the following applies:

3
4 (i) The arrangement is, or the prior employment or discussion was, with a
5 party to the proceeding;

6
7 (ii) The matter before the justice includes issues relating to the enforcement of
8 either an agreement to submit a dispute to an alternative dispute resolution
9 process or an award or other final decision by a dispute resolution neutral;

10
11 (iii) The justice directs the parties to participate in an alternative dispute
12 resolution process in which the dispute resolution neutral will be an individual
13 or entity with whom the justice has the arrangement, has previously been
14 employed or served, or is discussing or has discussed the employment or
15 service; or

16
17 (iv) The justice will select a dispute resolution neutral or entity to conduct an
18 alternative dispute resolution process in the matter before the justice, and
19 among those available for selection is an individual or entity with whom the
20 justice has the arrangement, with whom the justice has previously been
21 employed or served, or with whom the justice is discussing or has discussed
22 the employment or service.

23
24 For purposes of Canon 3E(5)(h), “participating in discussions” or “has participated
25 in discussions” means that the justice (i) solicited or otherwise indicated an
26 interest in accepting or negotiating possible employment or service as an
27 alternative dispute resolution neutral, or (ii) responded to an unsolicited statement
28 regarding, or an offer of, such employment or service by expressing an interest in
29 that employment or service, making any inquiry regarding the employment or
30 service, or encouraging the person making the statement or offer to provide
31 additional information about that possible employment or service. If a justice’s
32 response to an unsolicited statement regarding a question about, or offer of,
33 prospective employment or other compensated service as a dispute resolution
34 neutral is limited to responding negatively, declining the offer, or declining to
35 discuss such employment or service, that response does not constitute participating
36 in discussions.

37
38 For purposes of Canon 3E(5)(h), “party” includes the parent, subsidiary, or other
39 legal affiliate of any entity that is a party and is involved in the transaction,
40 contract, or facts that gave rise to the issues subject to the proceeding.

41
42 For purposes of Canon 3E(5)(h), “dispute resolution neutral” means an arbitrator,
43 a mediator, a temporary judge* appointed under article VI, section 21 of the

1 California Constitution, a referee appointed under Code of Civil Procedure section
2 638 or 639, a special master, a neutral evaluator, a settlement officer, or a
3 settlement facilitator.
4

5 (i) The justice's spouse or registered domestic partner* or a person within the third
6 degree of relationship* to the justice or his or her spouse or registered domestic
7 partner,* or the person's spouse or registered domestic partner,* was a witness in
8 the proceeding.
9

10 (j) The justice has received a campaign contribution of \$5,000 or more from a
11 party or lawyer in a matter that is before the court, and either of the following
12 applies:
13

14 (i) The contribution was received in support of the justice's last election, if the
15 last election was within the last six years; or
16

17 (ii) The contribution was received in anticipation of an upcoming election.
18

19 Notwithstanding Canon 3E(5)(j), a justice shall disqualify himself or herself based on
20 a contribution of a lesser amount if required by Canon 3E(4).
21

22 The disqualification required under Canon 3E(5)(j) may be waived if all parties that
23 did not make the contribution agree to waive the disqualification.
24

25 *ADVISORY COMMITTEE COMMENTARY: Canon 3E*

26 *Canon 3E(1) sets forth the general duty to disqualify applicable to a judge of any*
27 *court. Sources for determining when recusal or disqualification is appropriate may*
28 *include the applicable provisions of the Code of Civil Procedure, other provisions of the*
29 *Code of Judicial Ethics, the Code of Conduct for United States Judges, the American Bar*
30 *Association's Model Code of Judicial Conduct, and related case law.*

31 *The decision whether to disclose information under Canon 3E(2) is a decision*
32 *based on the facts of the case before the judge. A judge is required to disclose only*
33 *information that is related to the grounds for disqualification set forth in Code of Civil*
34 *Procedure section 170.1.*

35 *Canon 3E(4) sets forth the general standards for recusal of an appellate justice.*
36 *The term "appellate justice" includes justices of both the Courts of Appeal and the*
37 *Supreme Court. Generally, the provisions concerning disqualification of an appellate*
38 *justice are intended to assist justices in determining whether recusal is appropriate and*
39 *to inform the public why recusal may occur.*

40 *The rule of necessity may override the rule of disqualification. For example, a*
41 *judge might be required to participate in judicial review of a judicial salary statute, or*
42 *might be the only judge available in a matter requiring judicial action, such as a hearing*
43 *on probable cause or a temporary restraining order. In the latter case, the judge must*

1 promptly disclose on the record the basis for possible disqualification and use reasonable
2 efforts to transfer the matter to another judge as soon as practicable.

3 In some instances, membership in certain organizations may have the potential to
4 give an appearance of partiality, although membership in the organization generally may
5 not be barred by Canon 2C, Canon 4, or any other specific canon. A judge holding
6 membership in an organization should disqualify himself or herself whenever doing so
7 would be appropriate in accordance with Canon 3E(1), 3E(4), or 3E(5) or statutory
8 requirements. In addition, in some circumstances, the parties or their lawyers may
9 consider a judge's membership in an organization relevant to the question of
10 disqualification, even if the judge believes there is no actual basis for disqualification. In
11 accordance with this canon, a judge should disclose to the parties his or her membership
12 in an organization, in any proceeding in which that information is reasonably relevant to
13 the question of disqualification under Code of Civil Procedure section 170.1, even if the
14 judge concludes there is no actual basis for disqualification.

15
16 (6) It shall not be grounds for disqualification that the justice:

17
18 (a) Is or is not a member of a racial, ethnic, religious, sexual, or similar group and
19 the proceeding involves the rights of such a group;

20
21 (b) Has in any capacity expressed a view on a legal or factual issue presented in
22 the proceeding, except as provided in Canon 3E(5)(a), (b), or (c);

23
24 (c) Has as a lawyer or public official participated in the drafting of laws* or in the
25 effort to pass or defeat laws,* the meaning, effect, or application of which is in
26 issue in the proceeding unless the judge believes that his or her prior involvement
27 was so well known* as to raise a reasonable doubt in the public mind as to his or
28 her capacity to be impartial.*

29
30 *ADVISORY COMMITTEE COMMENTARY: Canon 3E(6)*

31 Canon 3E(6) is substantively the same as Code of Civil Procedure section 170.2,
32 which pertains to trial court judges.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

CANON 4

**A JUDGE SHALL SO CONDUCT THE JUDGE'S QUASI-JUDICIAL AND
EXTRAJUDICIAL ACTIVITIES AS TO MINIMIZE THE RISK OF
CONFLICT WITH JUDICIAL OBLIGATIONS**

A. Extrajudicial Activities in General

A judge shall conduct all of the judge's extrajudicial activities so that they do not

- (1) cast reasonable doubt on the judge's capacity to act impartially,*
- (2) demean the judicial office,
- (3) interfere with the proper performance of judicial duties, or
- (4) lead to frequent disqualification of the judge.

ADVISORY COMMITTEE COMMENTARY: Canon 4A

Complete separation of a judge from extrajudicial activities is neither possible nor wise; a judge should not become isolated from the community in which he or she lives. Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions that may do so include inappropriate use of humor or the use of demeaning remarks. See Canon 2C and accompanying Commentary.*

Because a judge's judicial duties take precedence over all other activities (see Canon 3A), a judge must avoid extrajudicial activities that might reasonably result in the judge being disqualified.

B. Quasi-Judicial and Avocational Activities

A judge may speak, write, lecture, teach, and participate in activities concerning legal and nonlegal subject matters, subject to the requirements of this code.

ADVISORY COMMITTEE COMMENTARY: Canon 4B

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice,* including revision of substantive and procedural law* and improvement of criminal and juvenile justice. To the extent that time permits, a judge may do so, either independently or through a bar or judicial association or other group dedicated to the improvement of the law.* It may be necessary to promote legal education programs and materials by identifying authors and speakers by judicial title.*

1 *This is permissible, provided such use of the judicial title does not contravene Canons 2A*
2 *and 2B.*

3 *Judges are not precluded by their office from engaging in other social, community,*
4 *and intellectual endeavors so long as they do not interfere with the obligations under*
5 *Canons 2C and 4A.*

7 **C. Governmental, Civic, or Charitable Activities**

9 (1) A judge shall not appear at a public hearing or officially consult with an executive
10 or legislative body or public official except on matters concerning the law, the legal
11 system, or the administration of justice,* or in matters involving the judge's private
12 economic or personal interests.

13 **ADVISORY COMMITTEE COMMENTARY: Canon 4C(1)**

15 *When deciding whether to appear at a public hearing or to consult with an*
16 *executive or legislative body or public official on matters concerning the law, the legal*
17 *system, or the administration of justice,* a judge should consider if that conduct would*
18 *violate any other provisions of this code. For a list of factors to consider, see the*
19 *explanation of "law, the legal system, or the administration of justice" in the*
20 *Terminology section. See also Canon 2B regarding the obligation to avoid improper*
21 *influence.*

23 (2) A judge shall not accept appointment to a governmental committee or commission
24 or other governmental position that is concerned with issues of fact or policy on
25 matters other than the improvement of the law, the legal system, or the administration
26 of justice.* A judge may, however, serve in the military reserve or represent a
27 national, state, or local government on ceremonial occasions or in connection with
28 historical, educational, or cultural activities.

30 **ADVISORY COMMITTEE COMMENTARY: Canon 4C(2)**

31 *Canon 4C(2) prohibits a judge from accepting any governmental position except*
32 *one relating to the law, legal system, or administration of justice* as authorized by*
33 *Canon 4C(3). The appropriateness of accepting extrajudicial assignments must be*
34 *assessed in light of the demands on judicial resources and the need to protect the courts*
35 *from involvement in extrajudicial matters that may prove to be controversial. Judges*
36 *shall not accept governmental appointments that are likely to interfere with the*
37 *effectiveness and independence* of the judiciary, or that constitute a public office within*
38 *the meaning of article VI, section 17 of the California Constitution.*

39 *Canon 4C(2) does not govern a judge's service in a nongovernmental position.*
40 *See Canon 4C(3) permitting service by a judge with organizations devoted to the*
41 *improvement of the law, the legal system, or the administration of justice* and with*
42 *educational, religious, charitable, service,* or civic organizations not conducted for*
43 *profit. For example, service on the board of a public educational institution, other than a*

1 *law school, would be prohibited under Canon 4C(2), but service on the board of a public*
2 *law school or any private educational institution would generally be permitted under*
3 *Canon 4C(3).*

4
5 (3) Subject to the following limitations and the other requirements of this code,
6

7 (a) a judge may serve as an officer, director, trustee, or nonlegal advisor of an
8 organization or governmental agency devoted to the improvement of the law, the
9 legal system, or the administration of justice* provided that such position does not
10 constitute a public office within the meaning of article VI, section 17 of the
11 California Constitution;
12

13 (b) a judge may serve as an officer, director, trustee, or nonlegal advisor of an
14 educational, religious, charitable, service,* or civic organization not conducted for
15 profit;
16

17 *ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)*

18 *Canon 4C(3) does not apply to a judge's service in a governmental position*
19 *unconnected with the improvement of the law, the legal system, or the administration of*
20 *justice.* See Canon 4C(2).*

21 *Canon 4C(3) uses the phrase, "Subject to the following limitations and the other*
22 *requirements of this code." As an example of the meaning of the phrase, a judge*
23 *permitted by Canon 4C(3) to serve on the board of a service organization* may be*
24 *prohibited from such service by Canon 2C or 4A if the institution practices invidious*
25 *discrimination or if service on the board otherwise casts reasonable doubt on the judge's*
26 *capacity to act impartially* as a judge.*

27 *Service by a judge on behalf of a civic or charitable organization may be governed*
28 *by other provisions of Canon 4 in addition to Canon 4C. For example, a judge is*
29 *prohibited by Canon 4G from serving as a legal advisor to a civic or charitable*
30 *organization.*

31 *Service on the board of a homeowners association or a neighborhood protective*
32 *group is proper if it is related to the protection of the judge's own economic interests.*
33 *See Canons 4D(2) and 4D(4). See Canon 2B regarding the obligation to avoid improper*
34 *use of the prestige of a judge's office.*

35
36 (c) a judge shall not serve as an officer, director, trustee, or nonlegal advisor if it is
37 likely that the organization
38

39 (i) will be engaged in judicial proceedings that would ordinarily come before
40 the judge, or
41

1 (ii) will be engaged frequently in adversary proceedings in the court of which
2 the judge is a member or in any court subject to the appellate jurisdiction of
3 the court of which the judge is a member.
4

5 *ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)(c)*

6 *The changing nature of some organizations and of their relationship to the law**
7 *makes it necessary for the judge regularly to reexamine the activities of each*
8 *organization with which the judge is affiliated to determine if it is proper for the judge to*
9 *continue the affiliation. Some organizations regularly engage in litigation to achieve*
10 *their goals or fulfill their purposes. Judges should avoid a leadership role in such*
11 *organizations as it could compromise the appearance of impartiality.**
12

13 (d) a judge as an officer, director, trustee, nonlegal advisor, or as a member or
14 otherwise
15

16 (i) may assist such an organization in planning fundraising and may
17 participate in the management and investment of the organization's funds.
18 However, a judge shall not personally participate in the solicitation of funds or
19 other fundraising activities, except that a judge may privately solicit funds for
20 such an organization from members of the judge's family* or from other
21 judges (excluding court commissioners, referees, court-appointed arbitrators,
22 hearing officers, temporary judges,* and retired judges who serve in the
23 Temporary Assigned Judges Program, practice law, or provide alternative
24 dispute resolution services);
25

26 (ii) may make recommendations to public and private fund-granting
27 organizations on projects and programs concerning the law, the legal system,
28 or the administration of justice;*

29
30 (iii) shall not personally participate in membership solicitation if the
31 solicitation might reasonably be perceived as coercive or if the membership
32 solicitation is essentially a fundraising mechanism, except as permitted in
33 Canon 4C(3)(d)(i);
34

35 (iv) shall not permit the use of the prestige of his or her judicial office for
36 fundraising or membership solicitation but may be a speaker, guest of honor,
37 or recipient of an award for public or charitable service provided the judge
38 does not personally solicit funds and complies with Canons 4A(1), (2), (3),
39 and (4).
40

41 *ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)(d)*

42 *A judge may solicit membership or endorse or encourage membership efforts for*
43 *an organization devoted to the improvement of the law, the legal system, or the*

1 administration of justice,* or a nonprofit educational, religious, charitable, service,* or
2 civic organization as long as the solicitation cannot reasonably be perceived as coercive
3 and is not essentially a fundraising mechanism. Solicitation of funds or memberships for
4 an organization similarly involves the danger that the person solicited will feel obligated
5 to respond favorably if the solicitor is in a position of influence or control. A judge must
6 not engage in direct, individual solicitation of funds or memberships in person, in
7 writing, or by telephone except in the following cases: (1) a judge may solicit other
8 judges (excluding court commissioners, referees, retired judges, court-appointed
9 arbitrators, hearing officers, and temporary judges*) for funds or memberships; (2) a
10 judge may solicit other persons for membership in the organizations described above if
11 neither those persons nor persons with whom they are affiliated are likely ever to appear
12 before the court on which the judge serves; and (3) a judge who is an officer of such an
13 organization may send a general membership solicitation mailing over the judge's
14 signature.

15 When deciding whether to make recommendations to public and private fund-
16 granting organizations on projects and programs concerning the law, the legal system, or
17 the administration of justice,* a judge should consider whether that conduct would
18 violate any other provision of this code. For a list of factors to consider, see the
19 explanation of "law, the legal system, or the administration of justice" in the
20 Terminology section.

21 Use of an organization's letterhead for fundraising or membership solicitation
22 does not violate Canon 4C(3)(d), provided the letterhead lists only the judge's name and
23 office or other position in the organization, and designates the judge's judicial title only
24 if other persons whose names appear on the letterhead have comparable designations. In
25 addition, a judge must also make reasonable efforts to ensure that the judge's staff, court
26 officials, and others subject to the judge's direction and control do not solicit funds on
27 the judge's behalf for any purpose, charitable or otherwise.

28
29 (e) A judge may encourage lawyers to provide pro bono publico legal services.
30

31 **ADVISORY COMMITTEE COMMENTARY: Canon 4C(3)(e)**

32 In addition to appointing lawyers to serve as counsel for indigent parties in
33 individual cases, a judge may promote broader access to justice by encouraging lawyers
34 to participate in pro bono publico legal services, as long as the judge does not employ
35 coercion or abuse the prestige of judicial office.
36

37 **D. Financial Activities**
38

39 (1) A judge shall not engage in financial and business dealings that
40

41 (a) may reasonably be perceived to exploit the judge's judicial position, or
42

1 (b) involve the judge in frequent transactions or continuing business relationships
2 with lawyers or other persons likely to appear before the court on which the judge
3 serves.

4
5 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(1)*

6 *The Time for Compliance provision of this code (Canon 6F) postpones the time for*
7 *compliance with certain provisions of this canon in some cases. A judge must avoid*
8 *financial and business dealings that involve the judge in frequent transactions or*
9 *continuing business relationships with persons likely to appear either before the judge*
10 *personally or before other judges on the judge's court. A judge shall discourage*
11 *members of the judge's family* from engaging in dealings that would reasonably appear*
12 *to exploit the judge's judicial position or that would involve family members in frequent*
13 *transactions or continuing business relationships with persons likely to appear before the*
14 *judge. This rule is necessary to avoid creating an appearance of exploitation of office or*
15 *favoritism and to minimize the potential for disqualification.*

16 *Participation by a judge in financial and business dealings is subject to the*
17 *general prohibitions in Canon 4A against activities that tend to reflect adversely on*
18 *impartiality,* demean the judicial office, or interfere with the proper performance of*
19 *judicial duties. Such participation is also subject to the general prohibition in Canon 2*
20 *against activities involving impropriety* or the appearance of impropriety* and the*
21 *prohibition in Canon 2B against the misuse of the prestige of judicial office.*

22 *In addition, a judge must maintain high standards of conduct in all of the judge's*
23 *activities, as set forth in Canon 1.*

24
25 (2) A judge may, subject to the requirements of this code, hold and manage
26 investments of the judge and members of the judge's family,* including real estate,
27 and engage in other remunerative activities. A judge shall not participate in, nor
28 permit the judge's name to be used in connection with, any business venture or
29 commercial advertising that indicates the judge's title or affiliation with the judiciary
30 or otherwise lend the power or prestige of his or her office to promote a business or
31 any commercial venture.

32
33 (3) A judge shall not serve as an officer, director, manager, or employee of a business
34 affected with a public interest, including, without limitation, a financial institution,
35 insurance company, or public utility.

36
37 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(3)*

38 *Although participation by a judge in business activities might otherwise be*
39 *permitted by Canon 4D, a judge may be prohibited from participation by other provisions*
40 *of this code when, for example, the business entity frequently appears before the judge's*
41 *court or the participation requires significant time away from judicial duties. Similarly,*
42 *a judge must avoid participating in any business activity if the judge's participation*
43 *would involve misuse of the prestige of judicial office. See Canon 2B.*

1 (4) A judge shall manage personal investments and financial activities so as to
2 minimize the necessity for disqualification. As soon as reasonably possible, a judge
3 shall divest himself or herself of investments and other financial interests that would
4 require frequent disqualification.

5
6 (5) Under no circumstance shall a judge accept a gift,* bequest, or favor if the donor
7 is a party whose interests have come or are reasonably likely to come before the
8 judge. A judge shall discourage members of the judge's family residing in the judge's
9 household* from accepting similar benefits from parties who have come or are
10 reasonably likely to come before the judge.

11
12 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(5)*

13 *In addition to the prohibitions set forth in Canon 4D(5) regarding gifts,* other*
14 *laws* may be applicable to judges, including, for example, Code of Civil Procedure*
15 *section 170.9 and the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.).*

16 *Canon 4D(5) does not apply to contributions to a judge's campaign for judicial*
17 *office, a matter governed by Canon 5, although such contributions may give rise to an*
18 *obligation by the judge to disqualify or disclose. See Canon 3E(2)(b) and accompanying*
19 *Commentary and Code of Civil Procedure section 170.1, subdivision (a)(9).*

20 *Because a gift,* bequest, or favor to a member of the judge's family residing in the*
21 *judge's household* might be viewed as intended to influence the judge, a judge must*
22 *inform those family members of the relevant ethical constraints upon the judge in this*
23 *regard and urge them to take these constraints into account when making decisions about*
24 *accepting such gifts,* bequests, or favors. A judge cannot, however, reasonably be*
25 *expected to know or control all of the financial or business activities of all family*
26 *members residing in the judge's household.**

27 *The application of Canon 4D(5) requires recognition that a judge cannot*
28 *reasonably be expected to anticipate all persons or interests that may come before the*
29 *court.*

30
31 (6) A judge shall not accept and shall discourage members of the judge's family
32 residing in the judge's household* from accepting a gift,* bequest, favor, or loan from
33 anyone except as hereinafter set forth. Gifts* that are permitted by Canons 4D(6)(a)
34 through (i) may only be accepted if the gift,* bequest, favor, or loan would neither
35 influence nor reasonably be perceived as intended to influence the judge in the
36 performance of judicial duties:

37
38 (a) a gift,* bequest, favor, or loan from a person whose preexisting relationship
39 with the judge would prevent the judge under Canon 3E from hearing a case
40 involving that person;

1 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(a)*

2 *Upon appointment or election as a judge or within a reasonable period of time*
3 *thereafter, a judge may attend an event honoring the judge's appointment or election as a*
4 *judge provided that (1) the judge would otherwise be disqualified from hearing any*
5 *matter involving the person or entity holding or funding the event, and (2) a reasonable*
6 *person would not conclude that attendance at the event undermines the judge's*
7 *integrity,* impartiality,* or independence.**

8
9 (b) a gift* for a special occasion from a relative or friend, if the gift* is fairly
10 commensurate with the occasion and the relationship;

11
12 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(b)*

13 *A gift* to a judge, or to a member of the judge's family residing in the judge's*
14 *household,* that is excessive in value raises questions about the judge's impartiality**
15 *and the integrity* of the judicial office and might require disqualification of the judge*
16 *where disqualification would not otherwise be required. See, however, Canon 4D(6)(a).*

17
18 (c) commercial or financial opportunities and benefits, including special pricing
19 and discounts, and loans from lending institutions in their regular course of
20 business, if the same opportunities and benefits or loans are made available on the
21 same terms to similarly situated persons who are not judges;

22
23 (d) any gift* incidental to a public testimonial, or educational or resource materials
24 supplied by publishers on a complimentary basis for official use, or a discounted
25 or complimentary membership in a bar-related association, or an invitation to the
26 judge and the judge's spouse or registered domestic partner* or guest to attend a
27 bar-related function or an activity devoted to the improvement of the law, the legal
28 system, or the administration of justice;*

29
30 (e) advances or reimbursement for the reasonable cost of travel, transportation,
31 lodging, and subsistence that is directly related to participation in any judicial,
32 educational, civic, or governmental program or bar-related function or activity
33 devoted to the improvement of the law, the legal system, or the administration of
34 justice;*

35
36 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(e)*

37 *Acceptance of an invitation to a law-related function is governed by Canon*
38 *4D(6)(d); acceptance of an invitation paid for by an individual lawyer or group of*
39 *lawyers is governed by Canon 4D(6)(g). See also Canon 4H(2) and accompanying*
40 *Commentary.*

41
42 (f) a gift,* award, or benefit incident to the business, profession, or other separate
43 activity of a spouse or registered domestic partner* or other member of the judge's

1 family residing in the judge's household,* including gifts,* awards, and benefits
2 for the use of both the spouse or registered domestic partner* or other family
3 member and the judge;

4
5 (g) ordinary social hospitality;

6
7 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(g)*

8 *Although Canon 4D(6)(g) does not preclude ordinary social hospitality, a judge*
9 *should carefully weigh acceptance of such hospitality to avoid any appearance of*
10 *impropriety* or bias or any appearance that the judge is misusing the prestige of judicial*
11 *office. See Canons 2 and 2B. A judge should also consider whether acceptance would*
12 *affect the integrity,* impartiality,* or independence* of the judiciary. See Canon 2A.*

13
14 (h) an invitation to the judge and the judge's spouse, registered domestic partner,*
15 or guest to attend an event sponsored by an educational, religious, charitable,
16 service,* or civic organization with which the judge is associated or involved, if
17 the same invitation is offered to persons who are not judges and who are similarly
18 engaged with the organization.

19
20 (i) a nominal gift,* provided the gift* is not from a lawyer, law firm, or other
21 person likely to appear before the court on which the judge serves, unless one or
22 more of the exceptions in this canon applies.

23
24 *ADVISORY COMMITTEE COMMENTARY: Canon 4D(6)(i)*

25 *For example, nominal gifts* include snacks or a token memento from jurors,*
26 *keychains or pens provided by vendors at legal conferences, or handicrafts or art*
27 *projects from students.*

28 *A judge should carefully weigh acceptance of any nominal gift to avoid any*
29 *appearance of impropriety* or bias or any appearance that the judge is misusing the*
30 *prestige of judicial office. See Canons 2 and 2B. A judge should also consider whether*
31 *acceptance would affect the integrity,* impartiality,* or independence* of the judiciary.*
32 *See Canon 2A.*

33
34 (7) A judge may accept the following, provided that doing so would neither influence
35 nor reasonably be perceived as intended to influence the judge in the performance of
36 judicial duties:

37
38 (a) a scholarship or fellowship awarded on the same terms and based on the same
39 criteria applied to other applicants;

40
41 (b) rewards and prizes given to competitors or participants in random drawings,
42 contests, or other events that are open to persons who are not judges.

1 *ADVISORY COMMITTEE COMMENTARY: Canons 4D(6) and 4D(7)*

2 *The references to such scholarships, fellowships, rewards, and prizes were moved*
3 *from Canon 4D(6) to Canon 4D(7) because they are not considered to be gifts* under*
4 *this code, and a judge may accept them.*

5
6 **E. Fiduciary* Activities**

7
8 (1) A judge shall not serve as executor, administrator, or other personal
9 representative, trustee, guardian, attorney in fact, or other fiduciary,* except for the
10 estate, trust, or person of a member of the judge's family,* and then only if such
11 service will not interfere with the proper performance of judicial duties. A judge may,
12 however, act as a health care representative pursuant to an advance health care
13 directive for a person whose preexisting relationship with the judge would prevent the
14 judge from hearing a case involving that person under Canon 3E(1).

15
16 (2) A judge shall not serve as a fiduciary* if it is likely that the judge as a fiduciary*
17 will be engaged in proceedings that would ordinarily come before the judge, or if the
18 estate, trust, or minor or conservatee will be engaged in contested proceedings in the
19 court on which the judge serves or one under its appellate jurisdiction.

20
21 (3) The same restrictions on financial activities that apply to a judge personally also
22 apply to the judge while acting in a fiduciary* capacity.

23
24 *ADVISORY COMMITTEE COMMENTARY: Canon 4E*

25 *The Time for Compliance provision of this code (Canon 6F) postpones the time for*
26 *compliance with certain provisions of this canon in some cases.*

27 *The restrictions imposed by this canon may conflict with the judge's obligation as*
28 *a fiduciary.* For example, a judge shall resign as trustee if detriment to the trust would*
29 *result from divestiture of trust holdings the retention of which would place the judge in*
30 *violation of Canon 4D(4).*

31
32 **F. Service as Arbitrator or Mediator**

33
34 A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions
35 in a private capacity unless expressly authorized by law.*

36
37 *ADVISORY COMMITTEE COMMENTARY: Canon 4F*

38 *Canon 4F does not prohibit a judge from participating in arbitration, mediation,*
39 *or settlement conferences performed as part of his or her judicial duties.*

40
41 **G. Practice of Law**

42
43 A judge shall not practice law.

1 *ADVISORY COMMITTEE COMMENTARY: Canon 4G*

2 *This prohibition refers to the practice of law in a representative capacity and not*
3 *in a pro se capacity. A judge may act for himself or herself in all legal matters, including*
4 *matters involving litigation and matters involving appearances before or other dealings*
5 *with legislative and other governmental bodies. However, in so doing, a judge must not*
6 *abuse the prestige of office to advance the interests of the judge or member of the judge's*
7 *family.* See Canon 2B.*

8 *This prohibition applies to subordinate judicial officers,* magistrates, special*
9 *masters, and judges of the State Bar Court.*

10
11 **H. Compensation, Reimbursement, and Honoraria**

12
13 A judge may receive compensation and reimbursement of expenses as provided by law*
14 for the extrajudicial activities permitted by this code, if the source of such payments does
15 not give the appearance of influencing the judge's performance of judicial duties or
16 otherwise give the appearance of impropriety.*

17
18 (1) Compensation shall not exceed a reasonable amount nor shall it exceed what a
19 person who is not a judge would receive for the same activity.

20
21 (2) Expense reimbursement shall be limited to the actual cost of travel, food, lodging,
22 and other costs reasonably incurred by the judge and, where appropriate to the
23 occasion, by the judge's spouse, registered domestic partner,* or guest. Any payment
24 in excess of such an amount is compensation.

25
26 (3) No judge shall accept any honorarium. "Honorarium" means any payment made
27 in consideration for a speech given, an article published, or attendance at any public
28 or private conference, convention, meeting, social event, meal, or like gathering.
29 "Honorarium" does not include earned income for personal services that are
30 customarily provided in connection with the practice of a bona fide business, trade, or
31 profession, such as teaching or writing for a publisher, and does not include fees or
32 other things of value received pursuant to Penal Code section 94.5 for performance of
33 a marriage. For purposes of this canon, "teaching" includes presentations to impart
34 educational information to lawyers in events qualifying for credit under Minimum
35 Continuing Legal Education, to students in bona fide educational institutions, and to
36 associations or groups of judges.

37
38 *ADVISORY COMMITTEE COMMENTARY: Canon 4H*

39 *Judges should not accept compensation or reimbursement of expenses if*
40 *acceptance would appear to a reasonable person to undermine the judge's integrity,**
41 *impartiality,* or independence.**

42 *A judge must assure himself or herself that acceptance of reimbursement or fee*
43 *waivers would not appear to a reasonable person to undermine the judge's*

1 *independence, * integrity, * or impartiality. * The factors a judge should consider when*
2 *deciding whether to accept reimbursement or a fee waiver for attendance at a particular*
3 *activity include whether:*

4
5 *(a) the sponsor is an accredited educational institution or bar association rather*
6 *than a trade association or a for-profit entity;*

7
8 *(b) the funding comes largely from numerous contributors rather than from a*
9 *single entity, and whether the funding is earmarked for programs with specific*
10 *content;*

11
12 *(c) the content is related or unrelated to the subject matter of a pending* or*
13 *impending* proceeding before the judge, or to matters that are likely to come*
14 *before the judge;*

15
16 *(d) the activity is primarily educational rather than recreational, and whether the*
17 *costs of the event are reasonable and comparable to those associated with similar*
18 *events sponsored by the judiciary, bar associations, or similar groups;*

19
20 *(e) information concerning the activity and its funding sources is available upon*
21 *inquiry;*

22
23 *(f) the sponsor or source of funding is generally associated with particular parties*
24 *or interests currently appearing or likely to appear in the judge's court, thus*
25 *possibly requiring disqualification of the judge;*

26
27 *(g) differing viewpoints are presented;*

28
29 *(h) a broad range of judicial and nonjudicial participants are invited; or*

30
31 *(i) the program is designed specifically for judges.*

32
33 *Judges should be aware of the statutory limitations on accepting gifts. **

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

CANON 5

**A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE* SHALL NOT ENGAGE
IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH
THE INDEPENDENCE,* INTEGRITY,* OR IMPARTIALITY* OF THE
JUDICIARY**

Judges and candidates for judicial office* are entitled to entertain their personal views on political questions. They are not required to surrender their rights or opinions as citizens. They shall, however, not engage in political activity that may create the appearance of political bias or impropriety.* Judicial independence,* impartiality,* and integrity* shall dictate the conduct of judges and candidates for judicial office.*

Judges and candidates for judicial office* shall comply with all applicable election, election campaign, and election campaign fundraising laws* and regulations.

ADVISORY COMMITTEE COMMENTARY: Canon 5

The term "political activity" should not be construed so narrowly as to prevent private comment.

A. Political Organizations*

Judges and candidates for judicial office* shall not

(1) act as leaders or hold any office in a political organization;*

(2) make speeches for a political organization* or candidate for nonjudicial office, or publicly endorse or publicly oppose a candidate for nonjudicial office; or

(3) personally solicit funds for a political organization* or nonjudicial candidate; or make contributions to a political party or political organization* or to a nonjudicial candidate in excess of \$500 in any calendar year per political party or political organization* or candidate, or in excess of an aggregate of \$1,000 in any calendar year for all political parties or political organizations* or nonjudicial candidates.

ADVISORY COMMITTEE COMMENTARY: Canon 5A

This provision does not prohibit a judge or a candidate for judicial office from signing a petition to qualify a measure for the ballot, provided the judge does not use his or her official title.*

Although attendance at political gatherings is not prohibited, any such attendance should be restricted so that it would not constitute an express public endorsement of a nonjudicial candidate or a measure not affecting the law, the legal system, or the administration of justice otherwise prohibited by this canon.*

1 Subject to the monetary limitation herein to political contributions, a judge or a
2 candidate for judicial office* may purchase tickets for political dinners or other similar
3 dinner functions. Any admission price to such a political dinner or function in excess of
4 the actual cost of the meal will be considered a political contribution. The prohibition in
5 Canon 5A(3) does not preclude judges from contributing to a campaign fund for
6 distribution among judges who are candidates for reelection or retention, nor does it
7 apply to contributions to any judge or candidate for judicial office.*

8 Under this canon, a judge may publicly endorse or oppose a candidate for judicial
9 office.* Such positions are permitted because judicial officers have a special obligation
10 to uphold the integrity,* impartiality,* and independence* of the judiciary and are in a
11 unique position to know the qualifications necessary to serve as a competent judicial
12 officer.

13 Although family members of the judge or candidate for judicial office* are not
14 subject to the provisions of this code, a judge or candidate for judicial office* shall not
15 avoid compliance with this code by making contributions through a spouse or registered
16 domestic partner* or other family member.

17 18 **B. Conduct During Judicial Campaigns and Appointment Process**

19
20 (1) A candidate for judicial office* or an applicant seeking appointment to judicial
21 office shall not:

22
23 (a) make statements to the electorate or the appointing authority that commit the
24 candidate or the applicant with respect to cases, controversies, or issues that are
25 likely to come before the courts, or

26
27 (b) knowingly,* or with reckless disregard for the truth, make false or misleading
28 statements about the identity, qualifications, present position, or any other fact
29 concerning himself or herself or his or her opponent or other applicants.

30
31 (2) A candidate for judicial office* shall review and approve the content of all
32 campaign statements and materials produced by the candidate or his or her campaign
33 committee before its dissemination. A candidate shall take appropriate corrective
34 action if the candidate learns of any misrepresentations made in his or her campaign
35 statements or materials. A candidate shall take reasonable measures to prevent any
36 misrepresentations being made in his or her support by third parties. A candidate
37 shall take reasonable measures to ensure that appropriate corrective action is taken if
38 the candidate learns of any misrepresentations being made in his or her support by
39 third parties.

40
41 (3) Every candidate for judicial office* shall complete a judicial campaign ethics
42 course approved by the Supreme Court no earlier than one year before or no later than
43 60 days after the filing of a declaration of intention by the candidate, the formation of

1 a campaign committee, or the receipt of any campaign contribution, whichever is
2 earliest. If a judge appears on the ballot as a result of a petition indicating that a
3 write-in campaign will be conducted for the office, the judge shall complete the
4 course no later than 60 days after receiving notice of the filing of the petition, the
5 formation of a campaign committee, or the receipt of any campaign contribution,
6 whichever is earliest.

7
8 Unless a judge forms a campaign committee or solicits or receives campaign
9 contributions, this requirement does not apply to judges who are unopposed for
10 election and will not appear on the ballot.

11
12 Unless an appellate justice forms a campaign committee or solicits or receives
13 campaign contributions, this requirement does not apply to appellate justices.

14
15 **ADVISORY COMMITTEE COMMENTARY: Canon 5B**

16 *The purpose of Canon 5B is to preserve the integrity* of the appointive and*
17 *elective process for judicial office and to ensure that the public has accurate information*
18 *about candidates for judicial office.* Compliance with these provisions will enhance the*
19 *integrity,* impartiality,* and independence* of the judiciary and better inform the public*
20 *about qualifications of candidates for judicial office.**

21 *This code does not contain the "announce clause" that was the subject of the*
22 *United States Supreme Court's decision in Republican Party of Minnesota v. White*
23 *(2002) 536 U.S. 765. That opinion did not address the "commit clause," which is*
24 *contained in Canon 5B(1)(a). The phrase "appear to commit" has been deleted because,*
25 *although candidates for judicial office* cannot promise to take a particular position on*
26 *cases, controversies, or issues prior to taking the bench and presiding over individual*
27 *cases, the phrase may have been overinclusive.*

28 *Canon 5B(1)(b) prohibits knowingly making false or misleading statements during*
29 *an election campaign because doing so would violate Canons 1 and 2A, and may violate*
30 *other canons.*

31 *The time limit for completing a judicial campaign ethics course in Canon 5B(3) is*
32 *triggered by the earliest of one of the following: the filing of a declaration of intention,*
33 *the formation of a campaign committee, or the receipt of any campaign contribution. If a*
34 *judge's name appears on the ballot as a result of a petition indicating that a write-in*
35 *campaign will be conducted, the time limit for completing the course is triggered by the*
36 *earliest of one of the following: the notice of the filing of the petition, the formation of a*
37 *campaign committee, or the receipt of any campaign contribution. A financial*
38 *contribution by a candidate for judicial office* to his or her own campaign constitutes*
39 *receipt of a campaign contribution.*

40
41 (4) In judicial elections, judges may solicit campaign contributions or endorsements for
42 their own campaigns or for other judges and attorneys who are candidates for judicial
43 office.* Judges are permitted to solicit such contributions and endorsements from

1 anyone, including attorneys and other judges, except that a judge shall not solicit
2 campaign contributions or endorsements from California state court commissioners,
3 referees, court-appointed arbitrators, hearing officers, and retired judges serving in the
4 Temporary Assigned Judges Program, or from California state court personnel. In
5 soliciting campaign contributions or endorsements, a judge shall not use the prestige of
6 judicial office in a manner that would reasonably be perceived as coercive. See Canons
7 1, 2, 2A, and 2B.

8
9 **ADVISORY COMMITTEE COMMENTARY: Canon 5B(4)**

10 *Regarding campaign contributions for a judge's own campaign, see Canon*
11 *3E(2)(b) and accompanying Commentary addressing disclosure of campaign*
12 *contributions. See also Code of Civil Procedure section 170.1, subdivision (a)(9), which*
13 *provides that a judge is disqualified if the judge has received a campaign contribution*
14 *exceeding \$1,500 from a party or an attorney in the proceeding. Although it is improper*
15 *for a judge to receive a gift* from an attorney subject to exceptions noted in Canon*
16 *4D(6), a judge's campaign may receive attorney contributions. See also Government*
17 *Code section 8314, which prohibits any elected state or local officer from using public*
18 *resources, including buildings, telephones, and state-compensated time, for a campaign*
19 *activity. Under section 8314, subdivision (b)(2), "campaign activity" does not include*
20 *"the incidental and minimal use of public resources, such as equipment or office space,*
21 *for campaign purposes, including the referral of unsolicited political mail, telephone*
22 *calls, and visitors to private political entities."*

23 *Even though it is permissible for a judge to solicit endorsements and campaign*
24 *funds for attorneys who are candidates for judicial office,* the judge must be cautious.*
25 *Such solicitation may raise issues of disqualification and disclosure under Code of Civil*
26 *Procedure section 170.1, subdivision (a), and Canon 3E. Even if the judge is not*
27 *disqualified, disclosure may be required under Canon 3E(2)(a). For example, a judge*
28 *who has solicited campaign funds or endorsements for a candidate who is an attorney*
29 *must consider disclosing that solicitation in all cases in which the attorney candidate*
30 *appears before the judge. The judge should also consider Canon 4A(1) and Canon*
31 *4A(4), which require a judge to conduct extrajudicial activities so they do not cast*
32 *reasonable doubt on the judge's capacity to act impartially* or lead to frequent*
33 *disqualification.*

34 *"Judicial elections" includes recall elections.*
35

36 **C. Speaking at Political Gatherings**
37

38 Candidates for judicial office* may speak to political gatherings only on their own behalf
39 or on behalf of another candidate for judicial office.*
40
41
42
43

1 **D. Measures to Improve the Law**

2
3 A judge or candidate for judicial office* may engage in activity in relation to measures
4 concerning improvement of the law, the legal system, or the administration of justice,*
5 only if the conduct is consistent with this code.

6
7 *ADVISORY COMMITTEE COMMENTARY: Canon 5D*

8 *When deciding whether to engage in activity relating to measures concerning the*
9 *law, the legal system, or the administration of justice,* such as commenting publicly on*
10 *ballot measures, a judge must consider whether the conduct would violate any other*
11 *provisions of this code. See the explanation of "law, the legal system, or the*
12 *administration of justice" in the Terminology section.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

CANON 6

COMPLIANCE WITH THE CODE OF JUDICIAL ETHICS

A. Judges

Anyone who is an officer of the state judicial system and who performs judicial functions including, but not limited to, a subordinate judicial officer,* a magistrate, a court-appointed arbitrator, a judge of the State Bar Court, a temporary judge,* or a special master, is a judge within the meaning of this code. All judges shall comply with this code except as provided below.

ADVISORY COMMITTEE COMMENTARY: Canon 6A

For the purposes of this canon, if a retired judge is serving in the Temporary Assigned Judges Program, the judge is considered to "perform judicial functions." Because retired judges who are privately retained may perform judicial functions, their conduct while performing those functions should be guided by this code.

B. Retired Judge Serving in the Temporary Assigned Judges Program

A retired judge who has filed an application to serve on assignment, meets the eligibility requirements set by the Chief Justice for service, and has received an acknowledgment of participation in the Temporary Assigned Judges Program shall comply with all provisions of this code, except for the following:

4C(2)—Appointment to governmental positions

4E—Fiduciary* activities

C. Retired Judge as Arbitrator or Mediator

A retired judge serving in the Temporary Assigned Judges Program is not required to comply with Canon 4F of this code relating to serving as an arbitrator or mediator, or performing judicial functions in a private capacity, except as otherwise provided in the *Standards and Guidelines for Judicial Assignments* promulgated by the Chief Justice.

ADVISORY COMMITTEE COMMENTARY: Canon 6C

Article VI, section 6 of the California Constitution provides that a "retired judge who consents may be assigned to any court" by the Chief Justice. Retired judges who are serving in the Temporary Assigned Judges Program pursuant to the above provision are bound by Canon 6B, including the requirement of Canon 4G barring the practice of law. Other provisions of California law, and standards and guidelines for eligibility*

1 *and service set by the Chief Justice, further define the limitations on who may serve on*
2 *assignment.*

3
4 **D. Temporary Judge,* Referee, or Court-Appointed Arbitrator¹**
5

6 A temporary judge,* a person serving as a referee pursuant to Code of Civil Procedure
7 section 638 or 639, or a court-appointed arbitrator shall comply only with the following
8 code provisions:
9

10 (1) A temporary judge,* a referee, or a court-appointed arbitrator shall comply with
11 Canons 1 [integrity* and independence* of the judiciary], 2A [promoting public
12 confidence], 3B(3) [order and decorum], 3B(4) [patient, dignified, and courteous
13 treatment], 3B(6) [require* lawyers to refrain from manifestations of any form of bias
14 or prejudice], 3D(1) [action regarding misconduct by another judge], and 3D(2)
15 [action regarding misconduct by a lawyer], when the temporary judge,* referee, or
16 court-appointed arbitrator is actually presiding in a proceeding or communicating with
17 the parties, counsel, or staff or court personnel while serving in the capacity of a
18 temporary judge,* referee, or court-appointed arbitrator in the case.
19

20 (2) A temporary judge,* referee, or court-appointed arbitrator shall, from the time of
21 notice and acceptance of appointment until termination of the appointment:
22

23 (a) Comply with Canons 2B(1) [not allow family or other relationships to
24 influence judicial conduct], 3B(1) [hear and decide all matters unless disqualified],
25 3B(2) [be faithful to and maintain competence in the law*], 3B(5) [perform
26 judicial duties without bias or prejudice], 3B(7) [accord full right to be heard to
27 those entitled; avoid ex parte communications, except as specified], 3B(8) [dispose
28 of matters fairly and promptly], 3B(12) [remain impartial* and not engage in
29 coercive conduct during efforts to resolve disputes], 3C(1) [discharge
30 administrative responsibilities without bias and with competence and
31 cooperatively], 3C(3) [require* staff and court personnel to observe standards of
32 conduct and refrain from bias and prejudice], and 3C(5) [make only fair,
33 necessary, and appropriate appointments];
34

35 (b) Not personally solicit memberships or donations for religious, service,*
36 educational, civic, or charitable organizations from the parties and lawyers
37 appearing before the temporary judge,* referee, or court-appointed arbitrator;
38

39 (c) Under no circumstance accept a gift,* bequest, or favor if the donor is a party,
40 person, or entity whose interests are reasonably likely to come before the

¹ Reference should be made to relevant commentary to analogous or individual canons cited or described in this canon and appearing elsewhere in this code.

1 temporary judge,* referee, or court-appointed arbitrator. A temporary judge,*
2 referee, or court-appointed arbitrator shall discourage members of the judge's
3 family residing in the judge's household* from accepting benefits from parties
4 who are reasonably likely to come before the temporary judge,* referee, or court-
5 appointed arbitrator.

6
7 (3) A temporary judge* shall, from the time of notice and acceptance of appointment
8 until termination of the appointment, disqualify himself or herself in any proceeding
9 as follows:

10
11 (a) A temporary judge*—other than a temporary judge solely conducting
12 settlement conferences—is disqualified to serve in a proceeding if any one or more
13 of the following are true:

14
15 (i) the temporary judge* has personal knowledge* (as defined in Code of Civil
16 Procedure section 170.1, subdivision (a)(1)) of disputed evidentiary facts
17 concerning the proceeding;

18
19 (ii) the temporary judge* has served as a lawyer (as defined in Code of Civil
20 Procedure section 170.1, subdivision (a)(2)) in the proceeding;

21
22 (iii) the temporary judge,* within the past five years, has given legal advice to,
23 or served as a lawyer (as defined in Code of Civil Procedure section 170.1,
24 subdivision (a)(2)), except that this provision requires disqualification if the
25 temporary judge* represented a party in the past five years rather than the
26 two-year period specified in section 170.1, subdivision (a)(2)) for a party in
27 the present proceeding;

28
29 *ADVISORY COMMITTEE COMMENTARY: Canon 6D(3)(a)(iii)*

30 *The application of Canon 6D(3)(a)(iii), providing that a temporary judge* is*
31 *disqualified if he or she has given legal advice or served as a lawyer for a party to the*
32 *proceeding in the past five years, may depend on the type of assignment and the amount*
33 *of time available to investigate whether the temporary judge* has previously represented*
34 *a party. If time permits, the temporary judge* must conduct such an investigation. Thus,*
35 *if a temporary judge* is privately compensated by the parties or is presiding over a*
36 *particular matter known* in advance of the hearing, the temporary judge* is presumed to*
37 *have adequate time to investigate. If, however, a temporary judge* is assigned to a high*
38 *volume calendar, such as traffic or small claims, and has not been provided with the*
39 *names of the parties prior to the assignment, the temporary judge* may rely on his or her*
40 *memory to determine whether he or she has previously represented a party.*
41

1 (iv) the temporary judge* has a financial interest (as defined in Code of Civil
2 Procedure sections 170.1, subdivision (a)(3), and 170.5) in the subject matter
3 in the proceeding or in a party to the proceeding;
4

5 (v) the temporary judge,* or the spouse or registered domestic partner* of the
6 temporary judge,* or a person within the third degree of relationship* to either
7 of them, or the spouse or registered domestic partner* of such a person is a
8 party to the proceeding or is an officer, director, or trustee of a party;
9

10 (vi) a lawyer or a spouse or registered domestic partner* of a lawyer in the
11 proceeding is the spouse, former spouse, registered domestic partner,* former
12 registered domestic partner,* child, sibling, or parent of the temporary judge*
13 or the temporary judge's spouse or registered domestic partner,* or if such a
14 person is associated in the private practice of law with a lawyer in the
15 proceeding;
16

17 (vii) for any reason:
18

19 (A) the temporary judge* believes his or her recusal would further the
20 interests of justice;
21

22 (B) the temporary judge* believes there is a substantial doubt as to his or
23 her capacity to be impartial;* or
24

25 (C) a person aware of the facts might reasonably entertain a doubt that the
26 temporary judge* would be able to be impartial.* Bias or prejudice toward
27 an attorney in the proceeding may be grounds for disqualification; or
28

29 (viii) the temporary judge* has received a campaign contribution of \$1,500 or
30 more from a party or lawyer in a matter that is before the court and the
31 contribution was received in anticipation of an upcoming election.
32

33 (b) A temporary judge* before whom a proceeding was tried or heard is
34 disqualified from participating in any appellate review of that proceeding.
35

36 (c) If the temporary judge* has a current arrangement concerning prospective
37 employment or other compensated service as a dispute resolution neutral or is
38 participating in, or, within the last two years has participated in, discussions
39 regarding prospective employment or service as a dispute resolution neutral, or has
40 been engaged in such employment or service, and any of the following applies:
41

42 (i) The arrangement or current employment is, or the prior employment or
43 discussion was, with a party to the proceeding;

1 (ii) The temporary judge* directs the parties to participate in an alternative
2 dispute resolution process in which the dispute resolution neutral will be an
3 individual or entity with whom the temporary judge* has the arrangement, is
4 currently employed or serves, has previously been employed or served, or is
5 discussing or has discussed the employment or service; or
6

7 (iii) The temporary judge* will select a dispute resolution neutral or entity to
8 conduct an alternative dispute resolution process in the matter before the
9 temporary judge,* and among those available for selection is an individual or
10 entity with whom the temporary judge* has the arrangement, is currently
11 employed or serves, has previously been employed or served, or is discussing
12 or has discussed the employment or service.
13

14 For the purposes of Canon 6D(3)(c), the definitions of “participating in
15 discussions,” “has participated in discussions,” “party,” and “dispute resolution
16 neutral” are set forth in Code of Civil Procedure section 170.1, subdivision (a)(8),
17 except that the words “temporary judge” shall be substituted for the word “judge”
18 in such definitions.
19

20 (d) A lawyer is disqualified from serving as a temporary judge* in a family law or
21 unlawful detainer proceeding if in the same type of proceeding:
22

23 (i) the lawyer holds himself or herself out to the public as representing
24 exclusively one side; or
25

26 (ii) the lawyer represents one side in 90 percent or more of the cases in which
27 he or she appears.
28

29 *ADVISORY COMMITTEE COMMENTARY: Canon 6D(3)(d)*

30 *Under Canon 6D(3)(d), “one side” means a category of persons such as*
31 *landlords, tenants, or litigants exclusively of one gender.*
32

33 (4) After a temporary judge* who has determined himself or herself to be disqualified
34 from serving under Canon 6D(3)(a)–(d) has disclosed the basis for his or her
35 disqualification on the record, the parties and their lawyers may agree to waive the
36 disqualification and the temporary judge* may accept the waiver. The temporary
37 judge* shall not seek to induce a waiver and shall avoid any effort to discover which
38 lawyers or parties favored or opposed a waiver.
39

40 *ADVISORY COMMITTEE COMMENTARY: Canon 6D(4)*

41 *Provisions addressing waiver of mandatory disqualifications or limitations, late*
42 *discovery of grounds for disqualification or limitation, notification of the court when a*
43 *disqualification or limitation applies, and requests for disqualification by the parties are*

1 *located in rule 2.818 of the California Rules of Court. Rule 2.818 states that the waiver*
2 *must be in writing, must recite the basis for the disqualification or limitation, and must*
3 *state that it was knowingly* made. It also states that the waiver is effective only when*
4 *signed by all parties and their attorneys and filed in the record.*
5

6 (5) A temporary judge,* referee, or court-appointed arbitrator shall, from the time of
7 notice and acceptance of appointment until termination of the appointment:
8

9 (a) In all proceedings, disclose in writing or on the record information as required
10 by law,* or information that is reasonably relevant to the question of
11 disqualification under Canon 6D(3), including personal or professional
12 relationships known* to the temporary judge,* referee, or court-appointed
13 arbitrator, that he or she or his or her law firm has had with a party, lawyer, or law
14 firm in the current proceeding, even though the temporary judge,* referee, or
15 court-appointed arbitrator concludes that there is no actual basis for
16 disqualification; and
17

18 (b) In all proceedings, disclose in writing or on the record membership of the
19 temporary judge,* referee, or court-appointed arbitrator in any organization that
20 practices invidious discrimination on the basis of race, sex, gender, religion,
21 national origin, ethnicity, or sexual orientation, except for membership in a
22 religious organization.
23

24 (6) A temporary judge,* referee, or court-appointed arbitrator, from the time of notice
25 and acceptance of appointment until the case is no longer pending in any court, shall
26 not make any public comment about a pending* or impending* proceeding in which
27 the temporary judge,* referee, or court-appointed arbitrator has been engaged, and
28 shall not make any nonpublic comment that might substantially interfere with such
29 proceeding. The temporary judge,* referee, or court-appointed arbitrator shall
30 require* similar abstention on the part of staff and court personnel subject to his or
31 her control. This canon does not prohibit the following:
32

33 (a) Statements made in the course of the official duties of the temporary judge,*
34 referee, or court-appointed arbitrator; and
35

36 (b) Explanations about the procedures of the court.
37

38 (7) From the time of appointment and continuing for two years after the case is no
39 longer pending* in any court, a temporary judge,* referee, or court-appointed
40 arbitrator shall under no circumstances accept a gift,* bequest, or favor from a party,
41 person, or entity whose interests have come before the temporary judge,* referee, or
42 court-appointed arbitrator in the matter. The temporary judge,* referee, or court-
43 appointed arbitrator shall discourage family members residing in the household of the

1 temporary judge,* referee, or court-appointed arbitrator from accepting any benefits
2 from such parties, persons or entities during the time period stated in this subdivision.
3 The demand for or receipt by a temporary judge,* referee, or court-appointed
4 arbitrator of a fee for his or her services rendered or to be rendered would not be a
5 violation of this canon.

6
7 (8) A temporary judge,* referee, or court-appointed arbitrator shall, from the time of
8 notice and acceptance of appointment and continuing indefinitely after the termination
9 of the appointment:

10
11 (a) Comply with Canon 3B(11) [no disclosure of nonpublic information* acquired
12 in a judicial capacity] (except as required by law*);

13
14 (b) Not commend or criticize jurors sitting in a proceeding before the temporary
15 judge,* referee, or court-appointed arbitrator for their verdict other than in a court
16 order or opinion in such proceeding, but may express appreciation to jurors for
17 their service to the judicial system and the community; and

18
19 (c) Not lend the prestige of judicial office to advance his, her, or another person's
20 pecuniary or personal interests and not use his or her judicial title in any written
21 communication intended to advance his, her, or another person's pecuniary or
22 personal interests, except to show his, her, or another person's qualifications.

23
24 (9)(a) A temporary judge* appointed under rule 2.810 of the California Rules of
25 Court, from the time of the appointment and continuing indefinitely after the
26 termination of the appointment, shall not use his or her title or service as a
27 temporary judge* (1) as a description of the lawyer's current or former principal
28 profession, vocation, or occupation on a ballot designation for judicial or other
29 elected office, (2) in an advertisement about the lawyer's law firm or business, or
30 (3) on a letterhead, business card, or other document that is distributed to the
31 public identifying the lawyer or the lawyer's law firm.

32
33 (b) This canon does not prohibit a temporary judge* appointed under rule 2.810 of
34 the California Rules of Court from using his or her title or service as a temporary
35 judge* on an application to serve as a temporary judge,* including an application
36 in other courts, on an application for employment or for an appointment to a
37 judicial position, on an individual resume or a descriptive statement submitted in
38 connection with an application for employment or for appointment or election to a
39 judicial position, or in response to a request for information about the public
40 service in which the lawyer has engaged.

41
42 (10) A temporary judge,* referee, or court-appointed arbitrator shall comply with
43 Canon 6D(2) until the appointment has been terminated formally or until there is no

1 reasonable probability that the temporary judge,* referee, or court-appointed
2 arbitrator will further participate in the matter. A rebuttable presumption that the
3 appointment has been formally terminated will arise if, within one year from the
4 appointment or from the date of the last hearing scheduled in the matter, whichever is
5 later, neither the appointing court nor counsel for any party in the matter has informed
6 the temporary judge,* referee, or court-appointed arbitrator that the appointment
7 remains in effect.

8
9 (11) A lawyer who has been a temporary judge,* referee, or court-appointed arbitrator
10 in a matter shall not accept any representation relating to the matter without the
11 informed written consent of all parties.

12
13 (12) When by reason of serving as a temporary judge,* referee, or court-appointed
14 arbitrator in a matter, he or she has received confidential information from a party, the
15 person shall not, without the informed written consent of the party, accept
16 employment in another matter in which the confidential information is material.

17
18 **ADVISORY COMMITTEE COMMENTARY: Canon 6D**

19 *Any exceptions to the canons do not excuse a judicial officer's separate statutory*
20 *duty to disclose information that may result in the judicial officer's recusal or*
21 *disqualification.*

22
23 **E. Judicial Candidate**

24
25 A candidate for judicial office* shall comply with the provisions of Canon 5.

26
27 **F. Time for Compliance**

28
29 A person to whom this code becomes applicable shall comply immediately with all
30 provisions of this code except Canons 4D(4) and 4E and shall comply with Canons 4D(4)
31 and 4E as soon as reasonably possible and in any event within a period of one year.

32
33 **ADVISORY COMMITTEE COMMENTARY: Canon 6F**

34 *If serving as a fiduciary* when selected as a judge, a new judge may,*
35 *notwithstanding the prohibitions in Canon 4E, continue to serve as a fiduciary* but only*
36 *for that period of time necessary to avoid adverse consequences to the beneficiary of the*
37 *fiduciary* relationship and in no event longer than one year.*

38
39 **G. (Canon 6G repealed effective June 1, 2005; adopted December 30, 2002.)**

40
41 **H. Judges on Leave Running for Other Public Office**

1 A judge who is on leave while running for other public office pursuant to article VI,
2 section 17 of the California Constitution shall comply with all provisions of this code,
3 except for the following, insofar as the conduct relates to the campaign for public office
4 for which the judge is on leave:

5
6 2B(2)—Lending the prestige of judicial office to advance the judge's personal interest

7
8 4C(1)—Appearing at public hearings

9
10 5—Engaging in political activity (including soliciting and accepting campaign
11 contributions for the other public office).

12
13 *ADVISORY COMMITTEE COMMENTARY: Canon 6H*

14 *These exceptions are applicable only during the time the judge is on leave while*
15 *running for other public office. All of the provisions of this code will become applicable*
16 *at the time a judge resumes his or her position as a judge. Conduct during elections for*
17 *judicial office is governed by Canon 5.*
18

Bagley-Keene Open Meeting Act – 2022 Government Code

11120.

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.
(Amended by Stats. 1981, Ch. 968, Sec. 4.)

11121.

As used in this article, "state body" means each of the following:

(a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(e) Notwithstanding subdivision (a) of Section 11121.1, the State Bar of California, as described in Section 6001 of the Business and Professions Code. This subdivision shall become operative on April 1, 2016.

(Amended by Stats. 2015, Ch. 537, Sec. 22. (SB 387) Effective January 1, 2016.)

11121.1.

As used in this article, "state body" does not include any of the following:

(a) Except as provided in subdivision (e) of Section 11121, state agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

(Amended by Stats. 2015, Ch. 537, Sec. 23. (SB 387) Effective January 1, 2016.)

11121.9.

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

(Amended by Stats. 1981, Ch. 968, Sec. 7.1.)

11121.95.

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

(Added by Stats. 1997, Ch. 949, Sec. 1. Effective January 1, 1998.)

11122.

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

(Amended by Stats. 1981, Ch. 968, Sec. 7.3.)

11122.5.

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) (1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or

through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2) (A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

(Amended by Stats. 2009, Ch. 150, Sec. 1. (AB 1494) Effective January 1, 2010.)

11123.

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(Amended by Stats. 2014, Ch. 510, Sec. 1. (AB 2720) Effective January 1, 2015.)

11123.1.

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(Added by Stats. 2002, Ch. 300, Sec. 1. Effective January 1, 2003.)

11123.5.

(a) In addition to the authorization to hold a meeting by teleconference pursuant to subdivision (b) of Section 11123, any state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body may hold an open meeting by teleconference as described in this section,

provided the meeting complies with all of the section's requirements and, except as set forth in this section, it also complies with all other applicable requirements of this article.

(b) A member of a state body as described in subdivision (a) who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.

(c) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its Internet Web site and by emailing notice to any person who has requested notice of meetings of the state body under this article. The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public. The notice of the meeting shall also identify the primary physical meeting location designated pursuant to subdivision (e).

(d) This section does not affect the requirement prescribed by this article that the state body post an agenda of a meeting at least 10 days in advance of the meeting. The agenda shall include information regarding the physical meeting location designated pursuant to subdivision (e), but is not required to disclose information regarding any remote location.

(e) A state body described in subdivision (a) shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. A quorum of the members of the state body shall be in attendance at the primary physical meeting location, and members of the state body participating remotely shall not count towards establishing a quorum. All decisions taken during a meeting by teleconference shall be by rollcall vote. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.

(f) When a member of a state body described in subdivision (a) participates remotely in a meeting subject to this section's requirements, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely. The applicable teleconference phone number or Internet Web site, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice described in subdivision (a) that is available to the public.

(g) Upon discovering that a means of remote access required by subdivision (f) has failed during a meeting, the state body described in subdivision (a) shall end or adjourn the meeting in accordance with Section 11128.5. In addition to any other requirements that may apply, the state body shall provide notice of the meeting's end or adjournment on its Internet Web site and by email to any person who has requested notice of meetings of the state body under this article. If the meeting will be adjourned and reconvened on the same day, further notice shall be provided by an automated message on a telephone line posted on the state body's agenda, or by a similar means, that will communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of the meeting or observe the meeting.

(h) For purposes of this section:

(1) "Participate remotely" means participation in a meeting at a location other than the physical location designated in the agenda of the meeting.

(2) "Remote location" means a location other than the primary physical location designated in the agenda of a meeting.

(3) "Teleconference" has the same meaning as in Section 11123.

(i) This section does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of this article.

(Added by Stats. 2018, Ch. 881, Sec. 1. (AB 2958) Effective January 1, 2019.)

11124.

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Amended by Stats. 1981, Ch. 968, Sec. 8.)

11124.1.

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Amended by Stats. 2009, Ch. 88, Sec. 42. (AB 176) Effective January 1, 2010.

Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)

11124.1.

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Amended by Stats. 2021, Ch. 615, Sec. 161. (AB 474) Effective January 1, 2022.

Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

11125.

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by

any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.
(Amended by Stats. 2002, Ch. 300, Sec. 2. Effective January 1, 2003.)

11125.1.

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.
(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.
(2) Distributed to all persons who request or have requested copies of these writings.
(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5

(commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252. *(Amended by Stats. 2005, Ch. 188, Sec. 1. Effective January 1, 2006. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)*

11125.1.

(a) Notwithstanding Section 7922.000 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 7924.100, 7924.105, 7924.110, 7924.510, or 7924.700 of this code, any provision listed in Section 7920.505 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named taxpayer or feepayer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 7920.545.

(Amended by Stats. 2021, Ch. 615, Sec. 162. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

11125.2.

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

(Amended by Stats. 1981, Ch. 968, Sec. 10.3.)

11125.3.

(a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

(Amended by Stats. 2001, Ch. 243, Sec. 9. Effective January 1, 2002.)

11125.4.

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less

than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

(Amended by Stats. 2007, Ch. 92, Sec. 1. Effective January 1, 2008.)

11125.5.

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

(Amended by Stats. 1999, Ch. 393, Sec. 3. Effective January 1, 2000. As provided in Sec. 7 of Ch. 393, amendment is to be implemented on July 1, 2001, or other date authorized by Dept. of Information Technology pursuant to Executive Order D-3-99.)

11125.6.

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4

would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Added by Stats. 1998, Ch. 1052, Sec. 21. Effective January 1, 1999.)

11125.7.

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator or other translating technology to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to any of the following:

(1) Closed sessions held pursuant to Section 11126.

(2) Decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(3) Hearings conducted by the California Victim Compensation Board pursuant to Sections 13963 and 13963.1.

(4) Agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.
(Amended by Stats. 2021, Ch. 63, Sec. 1. (AB 1291) Effective January 1, 2022.)

11125.8.

(a) Notwithstanding Section 11131.5, in any hearing that the California Victim Compensation Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

(Amended by Stats. 2016, Ch. 31, Sec. 72. (SB 836) Effective June 27, 2016.)

11125.9.

Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as

described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

(Added by Stats. 1997, Ch. 301, Sec. 1. Effective January 1, 1998.)

11126.

(a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of their right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of

the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board or the Cannabis Control Appeals Panel from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection

therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was

held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) Notwithstanding any other law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if

feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and

Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or

meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

(Amended by Stats. 2019, Ch. 40, Sec. 15. (AB 97) Effective July 1, 2019. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)

11126.

(a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of their right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

- (3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.
- (4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.
- (5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.
- (6) Prevent the Alcoholic Beverage Control Appeals Board or the Cannabis Control Appeals Panel from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.
- (7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.
- (B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.
- (C) For purposes of this paragraph, the negotiator may be a member of the state body.
- (D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.
- (E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).
- (8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.
- (9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.
- (10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.
- (11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.
- (12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.
- (13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the Department of Resources Recycling and Recovery or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The

Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) Notwithstanding any other law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(3) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subparagraph (A) of paragraph (2), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (B) or (C) of paragraph (2), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 7927.205.

(4) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(5) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of Emergency Services or the Governor concerning

matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), former Part 6.3 (commencing with Section 12695), former Part 6.4 (commencing with Section 12699.50), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

(Amended by Stats. 2021, Ch. 615, Sec. 163. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

11126.1.

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

(Amended by Stats. 1981, Ch. 968, Sec. 13. Superseded on January 1, 2023; see amendment by Stats. 2021, Ch. 615.)

11126.1.

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. The minute book may, but need not, consist of a recording of the closed session.

(Amended by Stats. 2021, Ch. 615, Sec. 164. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

11126.2.

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats. 2004, Ch. 576, Sec. 2. Effective January 1, 2005.)

11126.3.

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed

by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

(Amended by Stats. 2001, Ch. 243, Sec. 11. Effective January 1, 2002.)

11126.4.

(a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade

secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(Added by Stats. 2005, Ch. 274, Sec. 1. Effective January 1, 2006.)

11126.4.5.

(a) This article does not prohibit the Tribal Nation Grant Panel from holding a closed session when discussing matters involving information relating to the administration of Article 2.3 (commencing with Section 12019.30) of Chapter 1 of Part 2 that describes, directly or indirectly, the internal affairs of an eligible tribe, including, but not limited to, the finances and competitive business plans of an eligible tribe.

(b) Discussion in closed session authorized by this section shall be limited to the confidential information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session, the Tribal Nation Grant Panel shall publicly announce the type of information to be discussed in closed session, which shall be recorded in the minutes.

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(e) For purposes of this section, the terms "Tribal Nation Grant Panel" and "eligible tribe" shall have the same meanings as set forth in Article 2.3 (commencing with Section 12019.30) of Chapter 1 of Part 2.

(Added by Stats. 2018, Ch. 801, Sec. 1. (AB 880) Effective January 1, 2019.)

11126.5.

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

(Amended by Stats. 1981, Ch. 968, Sec. 15.)

11126.7.

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

(Amended by Stats. 1981, Ch. 968, Sec. 16.)

11127.

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

(Amended by Stats. 1981, Ch. 968, Sec. 17.)

11128.

Each closed session of a state body shall be held only during a regular or special meeting of the body.

(Amended by Stats. 1981, Ch. 968, Sec. 18.)

11128.5.

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

(Added by Stats. 1997, Ch. 949, Sec. 11. Effective January 1, 1998.)

11129.

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the

hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Amended by Stats. 1997, Ch. 949, Sec. 12. Effective January 1, 1998.)

11130.

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(Amended by Stats. 2009, Ch. 88, Sec. 43. (AB 176) Effective January 1, 2010.)

11130.3.

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

(Amended by Stats. 1999, Ch. 393, Sec. 5. Effective January 1, 2000.)

11130.5.

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

(Amended by Stats. 1985, Ch. 936, Sec. 2.)

11130.7.

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

(Amended by Stats. 1997, Ch. 949, Sec. 14. Effective January 1, 1998.)

11131.

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

(Amended by Stats. 2007, Ch. 568, Sec. 32. Effective January 1, 2008.)

11131.5.

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

(Added by Stats. 1997, Ch. 949, Sec. 16. Effective January 1, 1998.)

11132.

Except as expressly authorized by this article, no closed session may be held by any state body.

(Added by Stats. 1987, Ch. 1320, Sec. 4.)

11133.

(a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

(Added by Stats. 2021, Ch. 165, Sec. 2. (AB 361) Effective September 16, 2021.

Repealed as of January 31, 2022, by its own provisions.)



A Handy Guide
to
The Bagley-Keene Open Meeting Act 2004

California Attorney General's Office

INTRODUCTION

The Bagley-Keene Open Meeting Act (“the Act” or “the Bagley-Keene Act”), set forth in Government Code sections 11120-11132¹, covers all state boards and commissions. Generally, it requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session. Following is a brief summary of the Act’s major provisions. Although we believe that this summary is a helpful road map, it is no substitute for consulting the actual language of the Act and the court cases and administrative opinions that interpret it.

If you wish to obtain additional copies of this pamphlet, they may be ordered or downloaded via the Attorney General’s Home Page, located on the World Wide Web at <http://caag.state.ca.us>. You may also write to the Attorney General’s Office, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550 or call us at (800) 952-5225 (for callers within California), or (916) 322-3360 (for callers outside of California); the TTY/TDD telephone numbers are (800) 952-5548 (for callers within California), or (916) 324-5564 (for callers outside of California).

PURPOSE OF THE ACT

Operating under the requirements of the Act can sometimes be frustrating for both board members and staff. This results from the lack of efficiency built into the Act and the unnatural communication patterns brought about by compliance with its rules.

If efficiency were the top priority, the Legislature would create a department and then permit the department head to make decisions. However, when the Legislature creates a multimember board, it makes a different value judgment. Rather than striving strictly for efficiency, it concludes that there is a higher value to having a group of individuals with a variety of experiences, backgrounds and viewpoints come together to develop a consensus. Consensus is developed through debate, deliberation and give and take. This process can sometimes take a long time and is very different in character than the individual-decision-maker model.

Although some individual decision-makers follow a consensus-building model in the way that they make decisions, they’re not required to do so. When the Legislature creates a multimember body, it is mandating that the government go through this consensus building process.

When the Legislature enacted the Bagley-Keene Act, it imposed still another value judgment on the governmental process. In effect, the Legislature said that when a body sits down to develop its consensus, there needs to be a seat at the table reserved for the public. (§ 11120.) By reserving this place for the public, the Legislature has provided the public with the ability to monitor and participate in the decision-making process. If the body were permitted to meet in secret, the public’s role in the decision-making process would be negated. Therefore, absent a specific reason to keep

¹All statutory references are to the Government Code.

the public out of the meeting, the public should be allowed to monitor and participate in the decision-making process.

If one accepts the philosophy behind the creation of a multimember body and the reservation of a seat at the table for the public, many of the particular rules that exist in the Bagley-Keene Act become much easier to accept and understand. Simply put, some efficiency is sacrificed for the benefits of greater public participation in government.

BODIES COVERED BY THE ACT: General Rule

The general rule for determining whether a body is covered by the Act involves a two part test (§ 11121(a)):

First, the Act covers multimember bodies. A multimember body is two or more people. Examples of multimember bodies are: state boards, commissions, committees, panels, and councils. Second, the body must be created by statute or required by law to conduct official meetings. If a body is created by statute, it is covered by the Act regardless of whether it is decision-making or advisory.

■ Advisory Bodies

The Act governs two types of advisory bodies: (1) those advisory bodies created by the Legislature and (2) those advisory bodies having three or more members that are created by formal action of another body. (§11121(c).) If an advisory body created by formal action of another body has only two members, it is not covered by the Bagley-Keene Act. Accordingly, that body can do its business without worrying about the notice and open meeting requirements of the Act. However, if it consists of three people, then it would qualify as an advisory committee subject to the requirements of the Act.

When a body authorizes or directs an individual to create a new body, that body is deemed to have been created by formal action of the parent body even if the individual makes all decisions regarding composition of the committee. The same result would apply where the individual states an intention to create an advisory body but seeks approval or ratification of that decision by the body.

Finally, the body will probably be deemed to have acted by formal action whenever the chair of the body, acting in his or her official capacity, creates an advisory committee. Ultimately, unless the advisory committee is created by staff or an individual board member, independent of the body's authorization or desires, it probably should be viewed as having been created by formal action of the body.

■ **Delegated Body**

The critical issue for this type of body is whether the committee exercises some power that has been delegated to it by another body. If the body has been delegated the power to act, it is a delegated committee. (§ 11121(b).) A classic example is the executive committee that is given authority to act on behalf of the entire body between meetings. Such executive committees are delegated committees and are covered by the requirements of the Act.

There is no specific size requirement for the delegated body. However, to be a body, it still must be comprised of multiple members. Thus, a single individual is not a delegated body.

■ **Commissions Created by the Governor**

The Act specifically covers commissions created by executive order. (§ 11121(a).) That leaves open two potential issues for resolution with respect to this type of body. First, what's an executive order as opposed to other exercises of power by the Governor? Second, when is a body a "commission" within the meaning of this provision? There is neither case law nor an Attorney General opinion addressing either of these issues in this context.

■ **Body Determined by Membership**

The next kind of body is determined by who serves on it. Under this provision, a body becomes a state body when a member of a state body, in his or her official capacity, serves as a representative on another body, either public or private, which is funded in whole or in part by the representative's state body. (§ 11121(d).) It does not come up often, but the Act should be consulted whenever a member of one body sits as a representative on another body.

In summary, the foregoing are the general types of bodies that are defined as state bodies under the Bagley-Keene Act. As will be discussed below, these bodies are subject to the notice and open meeting requirements of the Act.

MEMBERS-TO-BE

The open meeting provisions of the Act basically apply to new members at the time of their election or appointment, even if they have not yet started to serve. (§ 11121.95.) The purpose of this provision is to prevent newly appointed members from meeting secretly among themselves or with holdover members of a body in sufficient numbers so as to constitute a quorum. The Act also requires bodies to provide their new members with a copy of the Act. (§ 11121.9.) We recommend that this Handy Guide be used to satisfy that requirement.

WHAT IS A MEETING?

The issue of what constitutes a meeting is one of the more troublesome and controversial issues under the Act. A meeting occurs when a quorum of a body convenes, either serially or all together, in one place, to address issues under the body's jurisdiction. (§ 11122.5.) Obviously, a meeting would include a gathering where members were debating issues or voting on them. But a meeting also includes situations in which the body is merely receiving information. To the extent that a body receives information under circumstances where the public is deprived of the opportunity to monitor the information provided, and either agree with it or challenge it, the open-meeting process is deficient.

Typically, issues concerning the definition of a meeting arise in the context of informal gatherings such as study sessions or pre-meeting get-togethers. The study session historically arises from the body's desire to study a subject prior to its placement on the body's agenda. However, if a quorum is involved, the study session should be treated as a meeting under the Act. With respect to pre-meeting briefings, this office opined that staff briefings of the city council a half hour before the noticed city council meeting to discuss the items that would appear on the council's meeting agenda were themselves meetings subject to open meeting laws.² To the extent that a briefing is desirable, this office recommends that the executive officer prepare a briefing paper which would then be available to the members of the body, as well as, to the public.

■ Serial Meetings

The Act expressly prohibits the use of direct communication, personal intermediaries, or technological devices that are employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body outside of an open meeting. (§ 11122.5(b).) Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body's members. For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body. Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred. In addition, a serial meeting occurs when intermediaries for board members have a meeting to discuss issues. For example, when a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives acting as intermediaries.

²42 Ops.Cal.Atty.Gen. 61 (1963); see also 32 Ops.Cal.Atty.Gen. 240 (1958).

In the *Stockton Newspapers* case, the court concluded that a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting.³ In that case, the attorney individually polled the members of the body for their approval on a real estate transaction. The court concluded that even though the meeting was conducted in a serial fashion, it nevertheless was a meeting for the purposes of the Act.

An executive officer may receive spontaneous input from board members on the agenda or on any other topic. But problems arise if there are systematic communications through which a quorum of the body acquires information or engages in debate, discussion, lobbying, or any other aspect of the deliberative process, either among themselves or between board members and the staff.

Although there are no cases directly on point, if an executive officer receives the same question on substantive matters addressed in an upcoming agenda from a quorum of the body, this office recommends that a memorandum addressing these issues be provided to the body and the public so they will receive the same information.

This office has opined that under the Brown Act (the counterpart to the Bagley-Keene Act which is applicable to local government bodies) that a majority of the board members of a local public agency may not e-mail each other to discuss current topics related to the body's jurisdiction even if the e-mails are also sent to the secretary and chairperson of the agency, posted on the agency's Internet website, and made available in printed form at the next public meeting of the board.⁴

The prohibition applies only to communications employed by a quorum to develop a collective concurrence concerning action to be taken by the body. Conversations that advance or clarify a member's understanding of an issue, or facilitate an agreement or compromise among members, or advance the ultimate resolution of an issue, are all examples of communications that contribute to the development of a concurrence as to action to be taken by the body. Accordingly, with respect to items that have been placed on an agenda or that are likely to be placed upon an agenda, members of state bodies should avoid serial communications of a substantive nature that involve a quorum of the body.

In conclusion, serial meeting issues will arise most commonly in connection with rotating staff briefings, telephone calls or e-mail communications among a quorum of board members. In these situations, part of the deliberative process by which information is received and processed, mulled over and discussed, is occurring without participation of the public.

Just remember, serial-meeting provisions basically mean that what the body can not do as a group it can not do through serial communications by a quorum of its members.

³*Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 105. See also, 65 Ops.Cal.Atty.Gen. 63, 66 (1982); 63 Ops.Cal.Atty.Gen. 820, 828-829 (1980).

⁴ Cal.Atty.Gen., Indexed Letter, No. IL 00-906 (February 20, 2001).

■ Contacts by the Public

One of the more difficult areas has to do with the rights of the public to contact individual members. For example, a communication from a member of the public to discuss an issue does not violate the Act. (§ 11122.5(c)(1).) The difficulty arises when the individual contacts a quorum of the body.

So long as the body does not solicit or orchestrate such contacts, they would not constitute a violation of the Bagley-Keene Act. Whether its good policy for a body to allow these individual contacts to occur is a different issue.

■ Social Gatherings

The Act exempts purely social situations from its coverage. (§ 11122.5(c)(5).) However, this construction is based on the premise that matters under the body's jurisdiction will not be discussed or considered at the social occasion. It may be useful to remind board members to avoid "shop talk" at the social event. Typically, this is difficult because service on the body is their common bond.

■ Conferences and Retreats

Conferences are exempt from the Act's coverage so long as they are open to the public and involve subject matter of general interest to persons or bodies in a given field. (§ 11122.5(c)(2).) While in attendance at a conference, members of a body should avoid private discussions with other members of their body about subjects that may be on an upcoming agenda. However, if the retreat or conference is designed to focus on the laws or issues of a particular body it would not be exempt under the Act.

■ Teleconference Meetings

The Act provides for audio or audio and visual teleconference meetings for the benefit of the public and the body. (§ 11123.) When a teleconference meeting is held, each site from which a member of the body participates must be accessible to the public. [Hence, a member cannot participate from his or her car, using a car phone or from his or her home, unless the home is open to the public for the duration of the meeting.] All proceedings must be audible and votes must be taken by rollcall. All other provisions of the Act also apply to teleconference meetings. For these reasons, we recommend that a properly equipped and accessible public building be utilized for teleconference meetings. This section does not prevent the body from providing additional locations from which the public may observe the proceedings or address the state body by electronic means.

NOTICE AND AGENDA REQUIREMENTS

The notice and agenda provisions require bodies to send the notice of its meetings to persons who have requested it. (§ 11125(a).) In addition, at least ten days prior to the meeting, bodies must

prepare an agenda of all items to be discussed or acted upon at the meeting. (§ 11125(b).) In practice, this usually translates to boards and commissions sending out the notice and agenda to all persons on their mailing lists. The notice needs to state the time and the place of the meeting and give the name, phone number and address of a contact person who can answer questions about the meeting and the agenda. (§ 11125(a).) The agenda needs to contain a brief description of each item to be transacted or discussed at the meeting, which as a general rule need not exceed 20 words in length. (§ 11125(b).)

The agenda items should be drafted to provide interested lay persons with enough information to allow them to decide whether to attend the meeting or to participate in that particular agenda item. Bodies should not label topics as “discussion” or “action” items unless they intend to be bound by such descriptions. Bodies should not schedule items for consideration at particular times, unless they assure that the items will not be considered prior to the appointed time.

The notice and agenda requirements apply to both open and closed meetings. There is a tendency to think that agendas need not be prepared for closed session items because the public cannot attend. But the public’s ability to monitor closed sessions directly depends upon the agenda requirement which tells the public what is going to be discussed.

REGULAR MEETINGS

The Act, itself, does not directly define the term “regular meeting.” Nevertheless, there are several references in the Act concerning regular meetings. By inference and interpretation, the regular meeting is a meeting of the body conducted under normal or ordinary circumstances. A regular meeting requires a 10-day notice. This simply means that at least 10 days prior to the meeting, notice of the meeting must be given along with an agenda that sufficiently describes the items of business to be transacted or discussed. (§§ 11125(a), 11125(b).) The notice for a meeting must also be posted on the Internet, and the web site address must be included on the written agenda. In addition, upon request by any person with a disability, the notice must be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations. The notice must contain information regarding the manner in which and the deadline by which a request for any disability-related modification or accommodation, including auxiliary aids or services, may be made by a person requiring these aids or services in order to participate in the meeting.

In two special situations, items may be added to the agenda within the 10-day notice period, provided that they are added and notice is given no later than 48 hours prior to the meeting. (§ 11125.) The first such situation is where the body concludes that the topic it wishes to add would qualify for an emergency meeting as defined in the Act. (§ 11125.3(a)(1).) The second situation is where there is a need for immediate action and the need for action came to the attention of the body after the agenda was mailed in accordance with the 10-day notice requirement. (§ 11125.3(a)(2).) This second situation requires a two-thirds vote or a unanimous vote if two-thirds of the members are not present.

Changes made to the agenda under this section must be delivered to the members of the body and to national wires services at least 48 hours before the meeting and must be posted on the Internet as soon as practicable.

SPECIAL MEETINGS

A few years ago, special meetings were added to the Act to provide relief to agencies that, due to the occurrence of unforeseen events, had a need to meet on short notice and were hamstrung by the Act's 10-day notice requirement. (§ 11125.4.) The special meeting requires that notice be provided at least 48 hours before the meeting to the members of the body and all national wire services, along with posting on the Internet.

The purposes for which a body can call a special meeting are quite limited. Examples include pending litigation, legislation, licensing matters and certain personnel actions. At the commencement of the special meeting, the body is required to make a finding that the 10-day notice requirement would impose a substantial hardship on the body or that immediate action is required to protect the public interest and must provide a factual basis for the finding. The finding must be adopted by two-thirds vote and must contain articulable facts that support it. If all of these requirements are not followed, then the body can not convene the special meeting and the meeting must be adjourned.

EMERGENCY MEETINGS

The Act provides for emergency meetings in rare instances when there exists a crippling disaster or a work stoppage that would severely impair public health and safety. (§ 11125.5.) An emergency meeting requires a one-hour notice to the media and must be held in open session. The Act also sets forth a variety of other technical procedural requirements that must be satisfied.

PUBLIC PARTICIPATION

Since one of the purposes of the Act is to protect and serve the interests of the general public to monitor and participate in meetings of state bodies, bodies covered by the Act are prohibited from imposing any conditions on attendance at a meeting. (§ 11124.) For example, while the Act does not prohibit use of a sign-in sheet, notice must be clearly given that signing-in is voluntary and not a pre-requisite to either attending the meeting or speaking at the meeting. On the other hand, security measures that require identification in order to gain admittance to a government building are permitted so long as security personnel do not share the information with the body.

In addition, members of the public are entitled to record and to broadcast (audio and/or video) the meetings, unless to do so would constitute a persistent disruption. (§ 11124.1.)

To ensure public participation, the Legislature expressly afforded an opportunity to the public to speak or otherwise participate at meetings, either before or during the consideration of each agenda item. (§11125.7.) The Legislature also provided that at any meeting the body can elect to consider comments from the public on any matter under the body's jurisdiction. And while the body cannot act on any matter not included on the agenda, it can schedule issues raised by the public for consideration at future meetings. Public comment protected by the Act includes criticism of the programs, policies and officials of the state body.

ACCESS TO RECORDS

Under the Act, the public is entitled to have access to the records of the body. (§ 11125.1.) In general, a record includes any form of writing. When materials are provided to a majority of the body either before or during the meeting, they must also be made available to the public without delay, unless the confidentiality of such materials is otherwise protected. Any records provided to the public, must be available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the applicable federal rules and regulations, upon request by a person with a disability.

Notwithstanding the foregoing, the Act makes Government Code section 6254, the most comprehensive exemption under the California Public Records Act, applicable to records provided to the body. That is, if the record that is being provided to the board members is a record that is otherwise exempt from disclosure under section 6254 of the Government Code, then the record need not be disclosed to members of the public. (§ 11125.1(a).) However, the public interest balancing test, set forth in Government Code section 6255, is expressly made inapplicable to records provided to members of the body.

If an agency has received a request for records, the Public Records Act allows the agency to charge for their duplication. (§ 11125.1(c).) Please be aware that the Public Records Act limits the amount that can be charged to the direct cost of duplication. This has been interpreted to mean a pro-rata share of the equipment cost and probably a pro-rata share of the employee cost in order to make the copies. It does not include anything other than the mere reproduction of the records. (See, § 6253.9 for special rules concerning computer records.) Accordingly, an agency may not recover for the costs of retrieving or redacting a record.

ACCESSABILITY OF MEETING LOCATIONS

The Act requires that the place and manner of the meeting be nondiscriminatory. (§ 11131.) As such, the body cannot discriminate on the basis of race, religion, national origin, etc. The meeting site must also be accessible to the disabled. Furthermore, the agency may not charge a fee for attendance at a meeting governed by the Act.

CLOSED SESSIONS

Although, as a general rule, all items placed on an agenda must be addressed in open session, the Legislature has allowed closed sessions in very limited circumstances, which will be discussed in detail below. Closed sessions may be held legally only if the body complies with certain procedural requirements. (§ 11126.3)

As part of the required general procedures, the closed session must be listed on the meeting agenda and properly noticed. (§ 11125(b).) Prior to convening into closed session, the body must publically announce those issues that will be considered in closed session. (§ 11126.3.) This can be done by a reference to the item as properly listed on the agenda. In addition, the agenda should cite the statutory authority or provision of the Act which authorizes the particular closed session. (§11125(b).) After the closed session has been completed, the body is required to reconvene in public. (§ 11126.3(f).) However, the body is required to make a report only where the body makes a decision to hire or fire an individual. (§ 11125.2.) Bodies under the Bagley-Keene Act are required to keep minutes of their closed sessions. (§ 11126.1.) Under the Act, these minutes are confidential, and are disclosable only to the board itself or to a reviewing court.

Courts have narrowly construed the Act's closed-session exceptions. For example, voting by secret ballot at an open-meeting is considered to be an improper closed session. Furthermore, closed sessions may be improperly convened if they are attended by persons other than those directly involved in the closed session as part of their official duties.

■ Personnel Exception

The personnel exception generally applies only to employees. (§ 11126(a) and (b).) However, a body's appointment pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution (usually the body's executive director) has been designated an employee for purposes of the personnel exception. On the other hand, under the Act, members of the body are not to be considered employees, and there exists no personnel exception or other closed session vehicle for board members to deal with issues that may arise between them. Board elections, team building exercises, and efforts to address personality problems that may arise between members of the board, cannot be handled in closed session.

Only certain categories of subject matter may be considered at a closed session authorized under the personnel exception. (§ 11126(a)(1).) The purpose of the personnel exception is to protect the privacy of the employee, and to allow the board members to speak candidly. It can be used to consider appointments, employment, evaluation of performance, discipline or dismissal, as well as to hear charges or complaints about an employee's actions. Although the personnel exception is appropriate for discussion of an employee's competence or qualifications for appointment or employment, we do not think that discussion of employee compensation may be conducted in closed

session in light of an appellate court decision interpreting a similar exception in the Brown Act, (the counterpart to the Bagley-Keene Act which is applicable to local government bodies).⁵

The Act requires compliance with specific procedures when the body addresses a complaint leveled against an employee by a third person or initiates a disciplinary action against an employee. Under either circumstance, the Act requires 24-hour written notice to the employee. (§ 11126(a)(2).) Failure to provide such notice voids any action taken in closed session.

Upon receiving notice, the employee has the right to insist that the matter be heard in public session. (§ 11126(a)(2).) However, the opposite is not true. Under the Act, an employee has no right to have the matter heard in closed session. If the body decides to hold an open session, the Bagley-Keene Act does not provide any other option for the employee. Considerations, such as the employee's right to privacy, are not addressed under the Bagley-Keene Act.

If an employee asserts his or her right to have the personnel matter addressed in open session, the body must present the issues and information/evidence concerning the employee's performance or conduct in the open session. However, the body is still entitled to conduct its deliberations in closed session. (§ 11126(a)(4).)

■ **Pending Litigation Exception**

The purpose of the pending litigation exception is to permit the agency to confer with its attorney in circumstances where, if that conversation were to occur in open session, it would prejudice the position of the agency in the litigation. (§ 11126(e)(1).) The term "litigation" refers to an adjudicatory proceeding that is held in either a judicial or an administrative forum. (§11126(e)(2)(c)(iii).) For purposes of the Act, litigation is "pending" in three basic situations. (§11126(e)(2).) First, where the agency is a party to existing litigation. Secondly, where under existing facts and circumstances, the agency has substantial exposure to litigation. And thirdly, where the body is meeting for the purpose of determining whether to initiate litigation. All of these situations constitute pending litigation under the exception.

For purposes of the Bagley-Keene Act, the pending litigation exception constitutes the exclusive expression of the attorney-client privilege. (§ 11126(e)(2).) In general, this means that independent statutes and case law that deal with attorney-client privilege issues do not apply to interpretations of the pending litigation provision of the Bagley-Keene Act. Accordingly, the specific language of the Act must be consulted to determine what is authorized for discussion in closed session.

Because the purpose of the closed session exception is to confer with legal counsel, the attorney must be present during the entire closed session devoted to the pending litigation. The Act's pending litigation exception covers both the receipt of advice from counsel and the making of

⁵*San Diego Union v. City Council* (1983) 146 Cal.App.3d 947.

litigation decisions (e.g., whether to file an action, and if so, what approach should be taken, whether settlement should be considered, and if so, what the settlement terms should be.

What happens in a situation where a body desires legal advice from counsel, but the Act's pending litigation exception does not apply? In such a case, legal counsel can either (1) provide the legal advice orally and discuss it in open session; or (2) deliver a one-way legal advice memorandum to the board members. The memorandum would constitute a record containing an attorney-client privileged communication and would be protected from disclosure under section 6254(k) of the Public Records Act. (11125.1(a).) However, when the board members receive that memorandum, they may discuss it only in open session, unless there is a specific exception that applies which allows them to consider it in closed session.⁶

■ **Deliberations Exception**

The purpose of the deliberations exception is to permit a body to deliberate on decisions in a proceeding under the Administrative Procedures Act, or under similar provisions of law, in closed session. (§ 11126(c)(3).)

■ **Real Property Exception**

Under the Act, the real-property exception provides that the body can, in closed session, advise its negotiator in situations involving real estate transactions and in negotiations regarding price and terms of payment. (§ 11126(c)(7).) However, before meeting in closed session, the body must identify the specific parcel in question and the party with whom it is negotiating. Again, the Act requires that the body properly notice its intent to hold a closed session and to cite the applicable authority enabling it to do so.

■ **Security Exception**

A state body may, upon a two-thirds vote of those present, conduct a closed session to consider matters posing a potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could adversely affect their safety or security. (11126(c)(18).) After such a closed session, the state body must reconvene in open session prior to adjournment and report that a closed session was held along with a description of the general nature of the matters considered, and whether any action was taken in closed session.

Whenever a state body utilizes this closed session exception, it must also provide specific written notice to the Legislative Analyst who must retain this information for at least four years. (11126(c)(18)(D).) This closed session exception will sunset in 2006. (11126(h).)

⁶*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 381.

REMEDIES FOR VIOLATIONS

The Act provides for remedies and penalties in situations where violations have allegedly occurred. Depending on the particular circumstances, the decision of the body may be overturned (§ 11130.3), violations may be stopped or prevented (§ 11130), costs and fees may be awarded (§11130.5), and in certain situations, there may be criminal misdemeanor penalties imposed as well. (§ 11130.7.)

Within 90 days of a decision or action of the body, any interested person may file suit alleging a violation of the Act and seeking to overturn the decision or action. Among other things, such suit may allege an unauthorized closed session or an improperly noticed meeting. Although the body is permitted to cure and correct a violation so as to avoid having its decision overturned, this can be much like trying to put toothpaste back in the tube. If possible, the body should try to return to a point prior to when the violation occurred and then proceed properly. For example, if the violation involves improper notice, we recommend that the body invalidate its decision, provide proper notice, and start the process over. To the extent that information has been received, statements made, or discussions have taken place, we recommend that the body include all of this on the record to ensure that everyone is aware of these events and has had an opportunity to respond.

In certain situations where a body has violated the Act, the decision can not be set aside or overturned; namely, where the action taken concerns the issuance of bonds, the entering into contracts where there has been detrimental reliance, the collection of taxes, and, in situations where there has been substantial compliance with the requirements of the Act. (11130.3(b).)

Another remedy in dealing with a violation of the Act involves filing a lawsuit to stop or prevent future violations of the Act. (§ 11130.) In general, these legal actions are filed as injunctions, writs of mandates, or suits for declaratory relief. The Legislature has also authorized the Attorney General, the District Attorney or any other interested person to use these remedies to seek judicial redress for past violations of the Act.

A prevailing plaintiff may recover the costs of suit and attorney's fees from the body (not individual members). (§ 11130.5.) On the other hand, if the body prevails, it may recover attorney's fees and costs only if the plaintiff's suit was clearly frivolous and totally without merit.

The Act provides for misdemeanor penalties against individual members of the body if the member attends a meeting in violation of the Act with the intent to deprive the public of information to which he or she knows, or has reason to know, the public is entitled to receive. (§ 11130.7.)

STATE OF CALIFORNIA

MEMO



**To: BOARD DEVELOPMENT COMMITTEE
KATHRYN ELLEN DOI, CHAIR
RAMON ALVAREZ C., MEMBER**

Date: February 22, 2022

**From: TIMOTHY M. CORCORAN
DANIELLE R. PHOMSOPHA**

**Subject: BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE
POLITICAL REFORM ACT AND PUBLIC RECORDS ACT**

Attached are detailed summaries of the Political Reform Act and Public Records Act that encompass changes effective after January 1, 2019 through January 1, 2022. A brief summary of the Acts and changes are as follows:

The Political Reform Act

The Political Reform Act ("PRA"), Government Code¹ section 81000, et seq., is the basic ethics law in California. Although a significant focus of the PRA is on campaign financing, election committees and lobbying, the main purpose of the PRA, in relation to the Board's operations, is to ensure that Board decisions are made fairly without regard to who is affected by those decisions. The PRA provides that Board members and staff are required to publicly disclose their financial interests in entities specified in the Board's conflict of interest regulation (Form 700 or Statement of Economic Interests) and to refrain from participating in decisions in which there is such an interest.

Effective January 1, 2020, the following statutes were added to the Political Reform Act:

1. Section 81005 was added to allow for the extension of the filing deadline for statements where the filing deadline falls on a Saturday, Sunday or official State holiday. The deadline is extended to the next regular business day.
2. Section 81010.5 states that a filing officer or filing official's failure to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements disclosing information required by this Act or any conflict of interest code.
3. The definition of "spouse" was codified in Section 82048.8 to include registered domestic partners recognized by state law.
4. Section 87206.5 describes the information that must be provided when disclosing a leasehold interest.

¹ All statutory references are to the Government Code.

5. The description of when a gift is both “received” and “accepted” is described in Section 89503.5

In addition, the following relevant regulation changes were made:

1. The gift limit was adjusted to \$520 for the period of January 1, 2021 through December 31, 2022.
2. Bright-line materiality standards were established for evaluating the following:
 - a. Financial interests in a business entity (see Attachment 1)
 - b. Financial interests in real property (see Attachment 2)
 - c. Financial interests in a source of income (see Attachment 3)
 - d. Financial interests in a source of gift (See Attachment 4)
 - e. Financial interests in an official’s personal finances (See Attachment 5)
3. 2 CCR section 18944.1 was amended to clarify the requirements for agency-provided tickets or passes to be exempt from qualification as gifts under the Political Reform Act.
 - a. Relating to this clarification, 2 CCR section 18946 was also amended to clarify how to determine the “fair value” of a ticket when the price on the ticket does not reflect the actual cost for a ticket in a luxury box or suite.
4. 2 CCR section 18703 was amended to address how the “public generally exception” (A governmental decision’s financial effect on a public official’s financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on the official’s financial interest is not unique compared to the effect on the significant segment) applies and expands the exception in instances where the only relevant interest is an official’s primary residence. Further amendments clarify the application of the special circumstances exception provided in the regulation. (See Attachment 6)

Public Records Act

The California Public Records Act (“CPRA”), Government Code section 6250 et seq., provides public access to state and local government information. It is the other major “sunshine law” that ensures citizens have knowledge of the activities and workings of government. The policy supporting the CPRA is expressed by the legislative intent of the law as follows: “the Legislature...finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.” (Gov. Code § 6250)

The CPRA favors disclosure unless there is a specific reason not to, which is usually based on confidentiality and privacy considerations. These reasons, set forth as specific statutory exemptions, have been interpreted and evaluated by the courts over the years. Nondisclosure can also be justified if it can be established that the public interest in nondisclosure outweighs the public interest in disclosure. The state policy favoring disclosure was emphasized with the passage of Proposition 59, which states in part as

follows: “A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access.”

The substantive changes to the Public Records Act are as follows:

1. Effective January 1, 2023, all relevant statutes beginning with Government Code section 6250 are repealed and renumbered. Further information regarding the renumbering and any relevant amendments will be provided in the update for 2023.
2. Effective January 1, 2020, a requester can use the Board's equipment for copying or reproducing the records on-site without being charged any fees or costs so long as the copying or reproduction does not damage the records or require access to the Board's computer systems.

In addition, relevant case law has also recently held the following:

1. The term “extraction” in Government Code section 6253.9(b)(2), is designed to address retrieving responsive data from an unproducible government database. However, the term “extraction” does not cover every process that might be colloquially described as taking information out (i.e., redaction). *National Lawyers Guild v. City of Hayward* (2020) 9 Cal.5th 488. Thus, the Board cannot charge requesters for any time taken to redact electronic copies of documents.
2. In the case of *Anderson-Barker v. Superior Court* (2019) 31 Cal.App.5th 528, the 2nd District Court of Appeal found that a state agency must disclose records pursuant to the PRA in both its actual and constructive possession, with constructive possession meaning “the right to control the records.” However, the agency must have a possessory interest in the records and only potential access to the information requested is insufficient. The agency must have created or obtained the records, rather than just have the ability to obtain such records.

If you have any questions or comments, please contact me at (916) 445-1888 or Danielle at (916) 327-3129. This matter is being agendaized for information only at the March 30, 2022, General Meeting.

Attachments as stated.

cc: Bismarck Obando, President

1 Adopt 2 Cal. Code Regs., Section 18702.1 to read:

2 **§ 18702.1. Materiality Standard: Financial Interest in a Business Entity.**

3 (a) The reasonably foreseeable financial effect of a governmental decision on an official's
4 financial interest in a business entity is material if any of the following criteria are met:

5 (1) Explicitly Involved. The entity is a named party in, or the subject of, the decision,
6 including any decision in which the entity:

7 (A) Initiates the proceeding by filing an application, claim, appeal, or other request for
8 action concerning the entity with the official's agency;

9 (B) Offers to sell a product or service to the agency;

10 (C) Bids on, or enters into, a contract with the agency, or is identified as a subcontractor
11 on a bid or contract with the agency;

12 (D) Is the named or intended manufacturer or vendor of any products to be purchased by
13 the agency with an aggregate cost of \$1,000 or more in any 12-month period;

14 (E) Applies for a permit, license, grant, tax credit, exception, variance, or other
15 entitlement from the agency;

16 (F) Is the subject of any inspection, action, or proceeding under the regulatory authority
17 of the agency; or

18 (G) Is subject to an action taken by the agency that is directed at the entity.

19 (2) Gross Revenues and Assets or Liabilities. The decision may result in an increase or
20 decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in
21 an amount equal to or more than:

22 (A) \$1,000,000; or

1 (B) Five percent of the entity's annual gross revenues and the increase or decrease is at
2 least \$10,000.

3 (3) Expenses. The decision may cause the entity to incur or avoid additional expenses or
4 to reduce or eliminate expenses in an amount equal to or more than:

5 (A) \$250,000; or

6 (B) One percent of the entity's annual gross revenues and the change in expenses is at
7 least \$2,500.

8 (4) Real Property. The official knows or has reason to know that the entity has an interest
9 in real property and:

10 (A) The property is a named party in, or the subject of, the decision under Regulations
11 18701(a) and 18702.2(a)(1) through (6); or

12 (B) There is clear and convincing evidence the decision would have a substantial effect
13 on the property.

14 (b) Exception: Small Shareholder. If the official's only interest in the entity is an
15 investment interest with a value of \$25,000 or less, and if that investment interest is less than one
16 percent of the entity's shares, the decision's effect on the official's investment interest in the
17 entity is only material under subdivisions (a)(2)-(3) or (a)(4)(B) of this regulation.

18 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5,
19 87102.6, 87102.8 and 87103, Government Code.

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

§ 18702.2. Materiality Standard: Financial Interest in Real Property.

(a) The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision:

(1) Involves the adoption of or amendment to a development plan or criteria applying to the parcel;

(2) Determines the parcel's zoning or rezoning, other than a zoning decision applicable to all properties designated in that category; annexation or de-annexation; inclusion in or exclusion from any city, county, district, or local government subdivision or other boundaries, other than elective district boundaries;

(3) Would impose, repeal, or modify any taxes, fees, or assessments that apply to the parcel;

(4) Authorizes the sale, purchase, or lease of the parcel;

(5) Involves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property;

(6) Involves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the parcel will receive new or improved services that provide a benefit or detriment disproportionate to other properties receiving the services;

(7) Involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property; or

(8) Involves property located more than 500 feet but less than 1,000 feet from the property line of the parcel, and the decision would change the parcel's:

(A) Development potential;

(B) Income producing potential;

(C) Highest and best use;

(D) Character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or

(E) Market value.

(b) The financial effect of a governmental decision on a parcel of real property in which an official has a financial interest involving property 1,000 feet or more from the property line of the official's property is presumed not to be material. This presumption may be rebutted with clear and convincing evidence the governmental decision would have a substantial effect on the official's property.

(c) Leasehold Interests. The reasonably foreseeable financial effects of a governmental decision on any real property in which a governmental official has a leasehold interest as the lessee of the property is material only if the governmental decision will:

(1) Change the termination date of the lease;

(2) Increase or decrease the potential rental value of the property;

(3) Change the official's actual or legally allowable use of the property; or

(4) Impact the official's use and enjoyment of the property.

(d) Exceptions. The financial effect of a governmental decision on a parcel of real property in which an official has a financial interest is not material if:

(1) The decision solely concerns repairs, replacement or maintenance of existing streets, water, sewer, storm drainage or similar facilities.

(2) The decision solely concerns the adoption or amendment of a general plan and all of the following apply:

(A) The decision only identifies planning objectives or is otherwise exclusively one of policy. A decision will not qualify under this subdivision if the decision is initiated by the public official, by a person that is a financial interest to the public official, or by a person representing either the public official or a financial interest to the public official.

(B) The decision requires a further decision or decisions by the public official's agency before implementing the planning or policy objectives, such as permitting, licensing, rezoning, or the approval of or change to a zoning variance, land use ordinance, or specific plan or its equivalent.

(C) The decision does not concern an identifiable parcel or parcels or development project. A decision does not “concern an identifiable parcel or parcels” solely because, in the proceeding before the agency in which the decision is made, the parcel or parcels are merely included in an area depicted on a map or diagram offered in connection with the decision, provided that the map or diagram depicts all parcels located within the agency's jurisdiction and economic interests of the official are not singled out.

(D) The decision does not concern the agency's prior, concurrent, or subsequent approval of, or change to, a permit, license, zoning designation, zoning variance, land use ordinance, or specific plan or its equivalent.

(e) Definitions. The definitions below apply to this regulation:

(1) A decision “solely concerns the adoption or amendment of a general plan” when the decision, in the manner described in Sections 65301 and 65301.5, grants approval of, substitutes for, or modifies any component of, a general plan, including elements, a statement of development policies, maps, diagrams, and texts, or any other component setting forth objectives, principles, standards, and plan proposals, as described in Sections 65302 and 65303.

(2) “General plan” means “general plan” as used in Sections 65300, et seq.

(3) “Specific plan” or its equivalent means a plan adopted by the jurisdiction to meet the purposes described in Sections 65450, et seq.

(4) Real property in which an official has a financial interest does not include any common area as part of the official's ownership interest in a common interest development as defined in the Davis-Stirling Common Interest Development Act (Civil Code Sections 4000 et seq.)

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 7-24-85; effective thirtieth day thereafter (Register 85, No. 30).
2. Repealer of subsection (h) filed 6-22-87; operative 7-22-87 (Register 87, No. 26).
3. Amendment filed 10-17-88; operative 11-16-88 (Register 88, No. 43).
4. Change without regulatory effect amending subsection (a)(2) filed 11-27-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 48).
5. Amendment of subsections (a)(1)-(3) and (d) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).

6. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
7. Editorial correction of History 6 (Register 2000, No. 25).
8. Amendment of subsection (a) filed 10-26-2004; operative 11-25-2004 (Register 2004, No. 44).
9. Change without regulatory effect renumbering former section 18702.2 to section 18704.2 and renumbering section 18705.2 to section 18702.2, including amendment of section heading and subsections (a)(5) and (a)(11), filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 18).
10. Amendment of subsection (a)(8) filed 7-10-2015; operative 7-10-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 28).
11. Amendment filed 2-20-2019; operative 2-20-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative

Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2019, No. 8).

This database is current through 6/14/19 Register 2019, No. 24

2 CCR § 18702.2, 2 CA ADC § 18702.2

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

§ 18702.3. Materiality Standard: Financial Interest in a Source of Income.

(a) The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a source of income is material if any of the following criteria are met:

(1) The source is a named party in, or the subject of, the decision including a claimant, applicant, respondent, or contracting party.

(2) The source is an individual and:

(A) The decision may affect the individual's income, investments, or other assets or liabilities (other than an interest in a business entity or real property) by \$1,000 or more; or

(B) The official knows or has reason to know that the individual has an interest in a business entity that will be financially affected under the materiality standards in Regulation 18702.1; or

(C) The official knows or has reason to know that the individual has an interest in real property and:

(i) The property is a named party in, or the subject of, the decision as defined in Regulations 18701(a) and 18702.2(a)(1) through (6); or

(ii) There is clear and convincing evidence the decision would have a substantial effect on the property.

(3) The source is a nonprofit organization and one of the following applies:

(A) The decision may result in an increase or decrease of the organization's annual gross receipts, or the value of the organization's assets or liabilities, in an amount equal to or more than:

(i) \$1,000,000; or

(ii) Five percent of the organization's annual gross receipts and the increase or decrease is equal to or greater than \$10,000.

(B) The decision may cause the organization to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than:

(i) \$250,000; or

(ii) One percent of the organization's annual gross receipts and the change in expenses is equal to or greater than \$2,500.

(C) The official knows or has reason to know that the organization has an interest in real property and:

(i) The property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6); or

(ii) There is clear and convincing evidence the decision would have a substantial effect on the property.

(4) The source is a business entity that will be financially affected under the materiality standards in Regulation 18702.1.

(b) Nexus. Any reasonably foreseeable financial effect on a source of income to a public official or the official's spouse is material if the decision will achieve, defeat, aid, or hinder a purpose or goal of the source and the official or the official's spouse receives or is promised the income for achieving the purpose or goal.

(c) Exception: Income from Retail Sales of a Business Entity. For purposes of applying Section 87103.5:

(1) The retail customers of a business entity constitute a significant segment of the public generally if the business is open to the public, and provides goods or services to customers that comprise a broad base of persons representative of the jurisdiction.

(2) Income from an individual customer is not distinguishable from the amount of income received from other customers when the official is unable to recognize a significant monetary difference between the business provided by the individual customer and the general clientele of the business. An official is unable to recognize a significant monetary difference when:

(A) The business is of the type that sales to any one customer will not have a significant impact on the business's annual net sales; or

(B) The business has no records that distinguish customers by amount of sales, and the official has no other information that the customer provides significantly more income to the business than an average customer.

(d) Government Entities. Where a government entity qualifies as a source of income as defined in Section 82030, including where a public official is paid by the entity as a consultant or contractor, this Regulation does not apply. Under Regulation 18703(e)(7), an official with an interest in a governmental entity is disqualified from taking part in a decision only if there is a unique effect on the official.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 10-17-88; operative 11-16-88 (Register 88, No. 43).

2. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
3. Editorial correction of History 2 (Register 2000, No. 25).
4. Change without regulatory effect renumbering former section 18702.3 to section 18704.3 and renumbering former section 18705.3 to section 18702.3, including amendment of section, filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 18).
5. Repealer and new section filed 9-6-2019; operative 10-6-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2019, No. 36).

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

§ 18702.4. Materiality Standard: Financial Interest in Source of Gift.

The financial effect of a governmental decision on the source of a gift to a public official, as identified in Section 87103(e), is material if:

(a) The source is a claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding; or

(b) The source is an individual that will be financially affected under the standards applied to an official in Regulation 18702.5, or the official knows or has reason to know that the individual has an interest in a business entity or real property that will be financially affected under the standards applied to a financial interest in Regulation 18702.1 or 18702.2, respectively; or

(c) The source is a nonprofit organization that will be financially affected under the materiality standards applied to a nonprofit source of income interest in Regulation 18702.3; or

(d) The source is a business entity that will be financially affected under the standards as applied to a financial interest in Regulation 18702.1.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 10-17-88; operative 11-16-88 (Register 88, No. 43).
2. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).

3. Editorial correction of History 2 (Register 2000, No. 25).
4. Amendment of subsection (c)(2) filed 6-14-2005; operative 7-14-2005 (Register 2005, No. 24).
5. Change without regulatory effect renumbering former section 18702.4 to new section 18704.4 and renumbering former section 18705.4 to section 18702.4, including amendment of section, filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 18).
6. Amendment of subsection (c) filed 7-10-2015; operative 7-10-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 28).
7. Amendment of subsection (c) filed 1-21-2020; operative 2-20-2020 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 4).

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

§ 18702.5. Materiality Standard: Financial Interest in an Official's Personal Finances.

(a) A governmental decision's reasonably foreseeable financial effect on a public official's financial interest in personal finances or those of immediate family, also referred to as a "personal financial effect," is material if the decision may result in the official or the official's immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.

(b) Notwithstanding subdivision (a), a personal financial effect is not material if the decision would:

(1) Affect only the salary, per diem, or reimbursement for expenses the public official or a member of the official's immediate family receives from a federal, state, or local government agency unless the decision is to appoint (other than an appointing decision permitted under subdivision (b)(2) and (3)), hire, fire, promote, demote, suspend without pay or otherwise take disciplinary action with financial sanction against the official or a member of the official's immediate family, or to set a salary for the official or a member of the official's immediate family which is different from salaries paid to other employees of the government agency in the same job classification or position, or when the member of the public official's immediate family member is the only person in the job classification or position.

(2) Appoint the official to be a member of any group or body created by law or formed by the official's agency for a special purpose. However, if the official will receive a stipend for attending meetings of the group or body aggregating \$500 or more in any 12-month period, the

effect on the official's personal finances is material unless the appointing body posts all of the following on its website:

(A) A list of each appointed position and its term.

(B) The amount of the stipend for each appointed position.

(C) The name of the official who has been appointed to the position.

(D) The name of any official who has been appointed to be an alternate for the position.

(3) Appoint the official to be an officer of the governing body of which the official is already a member, such as a decision to appoint a city councilmember to be the city's mayor.

(4) Establish or change the benefits or retirement plan of the official or the official's immediate family member, and the decision applies equally to all employees or retirees in the same bargaining unit or other representative group.

(5) Result in the payment of any travel expenses incurred by the official or the official's immediate family member while attending a meeting as an authorized representative of an agency.

(6) Permit the official's use of any government property, including automobiles or other modes of transportation, mobile communication devices, or other agency-provided equipment for carrying out the official's duties, including any nominal, incidental, negligible, or inconsequential personal use while on duty.

(7) Result in the official's receipt of any personal reward from the official's use of a personal charge card or participation in any other membership rewards program, so long as the reward is associated with the official's approved travel expenses and is no different from the reward offered to the public.

(c) If the decision would have a reasonably foreseeable financial effect on the official's financial interest in a business entity or real property, any related effect on the official's personal finances is not considered separately. The financial effect on the business entity or real property is analyzed only under the respective materiality standards in Regulations 18702.1 and 18702.2. Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 6-10-2003; operative 6-10-2003 (Register 2003, No. 24). For prior history, see Register 98, No. 48.
2. Amendment of subsection (b)(1)(A) filed 10-26-2004; operative 11-25-2004 (Register 2004, No. 44).
3. Change without regulatory effect renumbering former section 18702.5 to section 18704.5 and renumbering former section 18705.5 to section 18702.5, including amendment of subsection (c), filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 18).
4. Amendment of section heading and repealer and new section filed 1-15-2020; operative 2-14-2020 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992

(FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 3).

5. Amendment of subsections (a) and (b)(1) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).

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

§ 18703. Public Generally.

(a) General Rule. A governmental decision's financial effect on a public official's financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on the official's financial interest is not unique compared to the effect on the significant segment.

(b) A significant segment of the public is:

(1) At least 25 percent of:

(A) All businesses or non-profit entities within the official's jurisdiction;

(B) All real property, commercial real property, or residential real property within the official's jurisdiction; or

(C) All individuals within the official's jurisdiction.

(2) At least 15 percent of residential real property within the official's jurisdiction if the only interest an official has in the governmental decision is the official's primary residence.

(c) A unique effect on a public official's financial interest includes a disproportionate effect on:

(1) The development potential or use of the official's real property or on the income producing potential of the official's real property or business entity.

(2) The official's business entity or real property resulting from the proximity of a project that is the subject of a decision.

(3) The official's interests in business entities or real properties resulting from the cumulative effect of the official's multiple interests in similar entities or properties that is substantially greater than the effect on a single interest.

(4) The official's interest in a business entity or real property resulting from the official's substantially greater business volume or larger real property size when a decision affects all interests by the same or similar rate or percentage.

(5) A person's income, investments, assets or liabilities, or real property if the person is a source of income or gifts to the official.

(6) The official's personal finances or those of the official's immediate family.

(d) “Jurisdiction” means the jurisdiction of the state or local government agency as defined in Section 82035, or the designated geographical area the official was elected to represent, or the area to which the official's authority and duties are limited if not elected.

(e) Specific Rules for Special Circumstances. The financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally where there is no unique effect on the official's interest if the official establishes:

(1) Public Services and Utilities. The decision sets or adjusts the amount of an assessment, tax, fee, or rate for water, utility, or other broadly provided public services that is applied equally, proportionally, or by the same percentage to the official's interest and all businesses, properties, or individuals subject to the assessment, tax, fee, or rate. This exception does not apply if the decision would impose the assessment, tax or fee, or determine the boundaries of a property, or who is subject to the assessment, tax, or fee. Under this exception, an official is only permitted to take part in setting or adjusting the amount of the assessment, tax,

or fee, once the decisions to implement, and determine the property or persons subject to the assessment, tax, or fee, have already been made.

(2) General Use or Licensing Fees. The decision affects the official's personal finances as a result of an increase or decrease to a general fee or charge, such as parking rates, permits, license fees, application fees, or any general fee that applies to the entire jurisdiction.

(3) Limited Neighborhood Effects. The decision affects residential real property limited to a specific location, encompassing more than 50, or five percent of the residential real properties in the official's jurisdiction, and the decision establishes, amends, or eliminates ordinances that restrict on-street parking, impose traffic controls, deter vagrancy, reduce nuisance or improve public safety, provided the body making the decision gathers sufficient evidence to support the need for the action at the specific location.

(4) Rental Properties. The decision is limited to establishing, eliminating, amending, or otherwise affecting the respective rights or liabilities of tenants and owners of residential rental property, including a decision regarding a rent control ordinance or tenant protection measures, provided all of the following criteria are met:

(A) The decision is applicable to all residential rental properties within the official's jurisdiction other than those excepted by the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.40, et seq.).

(B) The official owns three or fewer residential rental units. For purposes of this regulation, a residential rental unit is each individual unit consisting of a single-family household.

(C) The only interests affected by the decision are:

(i) Interests resulting from the official's lease of residential real property, as the lessor of the property.

(ii) An interest in the official's primary residence as either a lessee or owner of the property.

(5) Required Representative Interest. The decision is made by a board or commission and the law that establishes the board or commission requires certain appointees have a representative interest in a particular industry, trade, or profession or other identified interest, and the public official is an appointed member representing that interest. This provision applies only if the effect is on the industry, trade, or profession or other identified interest represented.

(6) State of Emergency. The decision is made pursuant to an official proclamation of a state of emergency when required to mitigate against the effects directly arising out of the emergency.

(7) Governmental Entities. The decision affects a federal, state, or local governmental entity in which the official has an interest.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 2-20-76; effective thirtieth day thereafter (Register 76, No. 8).
2. Amendment of subsection (d) filed 4-28-82; effective thirtieth day thereafter (Register 82, No. 18).
3. Amendment of initial paragraph only filed 11-13-85; effective thirtieth day thereafter (Register 85, No. 46).

4. Repealer and new section filed 11-29-93; operative 12-29-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 49).
5. Editorial correction of printing error in subsection (a) (Register 94, No. 25).
6. Amendment of subsections (b)-(b)(3) filed 12-5-94; operative 12-5-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 49).
7. Editorial correction of subsection (a)(1)(A)(i) (Register 95, No. 50).
8. Amendment filed 3-26-96; operative 3-26-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 13).
9. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
10. Editorial correction of History 9 (Register 2000, No. 25).
11. Amendment of section heading and repealer and new section filed 5-18-2015; operative 6-17-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2015, No. 21).
12. Amendment filed 10-19-2020; operative 11-18-2020 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 43).

13. Amendment of subsection (c)(6) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).



Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- Elected State Officers and Candidates for Elective State Office
- Members of State Boards and Commissions
- Designated Employees of State Government Agencies
- State Officials Who Manage Public Investments

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC

Email advice: advice@fppc.ca.gov

Web site: www.fppc.ca.gov

October 2021

Introduction

The Political Reform Act¹ (the “Act”) imposes limits on gifts, prohibits honoraria payments², and imposes limits and other restrictions on the receipt of travel payments and personal loans by the following state officials:

- Elected state officers, candidates for elective state office, and other state officials specified in Section 87200;³
- Members of state boards and commissions; and
- Designated employees of state agencies (i.e., officials and employees of state agencies who file statements of economic interests (Form 700) under their agency’s conflict of interest code).

The gift limit increased to **\$520** for calendar years **2021** and **2022**. The gift limit in 2020 was **\$500**.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. It contains highlights of the law, but does not carry the weight of law. For more information, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website.

Enforcement

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as \$5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)

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.

² The gift limit and honoraria prohibitions do not apply to judges (although they do apply to candidates for judicial office) or to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official. (Sections 89502 and 89503.)

³ State officials specified in Section 87200 include elected state officers, candidates for elective state office, members of the Public Utilities Commission, Energy Resources Conservation and Development Commission, Fair Political Practices Commission, California Coastal Commission, and the High-Speed Rail Authority, and officials who manage public investments.

Gifts

Limitations

Elected state officers, candidates for elective state office, and other state agency officials and employees are subject to two gift limits:

1. **\$10 Lobbyist Gift Limit.** Elected state officers, candidates for elective state office, and most legislative employees may not accept gifts aggregating to more than \$10 in a calendar month either from or arranged by any single registered state lobbyist or lobbying firm. State agency officials, including board and commission members, officials who manage public investments, and employees, may not accept gifts aggregating to more than \$10 in a calendar month either from or arranged by a single registered state lobbyist or lobbying firm if the lobbyist or firm is registered to lobby the official or employee's agency. (Sections 86201-86204.)

2. **\$520 Gift Limit.** Gifts from any other single source may not exceed \$520 (2021-2022 limit) in a calendar year. For officials and employees who file statements of economic interests (Form 700) under a state agency's conflict of interest code ("designated employees"), this limit applies only if the official or employee would be required to report income or gifts from that source on the Form 700, as outlined in the "disclosure category" portion of the agency's conflict of interest code. (Section 89503.)⁴

What is a "Gift"?

A "gift" is any payment or other benefit that confers a *personal* benefit for which a public official does not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See Regulation 18946 for valuation guidelines.)

Except as discussed below, a public official has "received" or "accepted" a gift when they have actual possession of the gift or when they takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

Gifts to Family Members

Under certain circumstances, a gift to an official's family member⁵ is considered a gift to the official. (Regulation 18943.) Anything given to a family member is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

⁴ Section 89503 provides for a biennial adjustment to the gift limit to reflect changes in the Consumer Price Index. For 2021-2022, the gift limit is \$520. (Section 89503; Regulation 18940.2.) Gifts from a single source that aggregate to \$50 or more must be disclosed and gifts aggregating to \$520 or more received by an official during any 12-month period may subject the official to disqualification with respect to the source (Section 87103(e).) Designated employees should obtain a copy of their conflict of interest code from their agency. Some conflict of interest codes require very limited disclosure of income and gifts. Gifts from sources that are not required to be disclosed on the Form 700 are not subject to the \$520 gift limit but still may subject the public official to disqualification.

⁵ For purposes of this rule, an official's "family member" includes the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of their own support.

Source of Gift

Under most circumstances, it is clear who the source of a gift is, but if the circumstances indicate that the gift is being provided by an intermediary, the public official must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls must be aggregated as one source to comply with the reporting and limit requirements. For example, separate gifts from the owner of a company and from the company itself would be treated as if from one source if the owner has more than a 50 percent interest in the company, unless the making of the gift was determined by someone else in the company. In that case, the gift from the company would be aggregated with any gifts made by that determining individual. (Regulation 18945.1.)

Group gifts, where a public official receives a single gift from multiple donors (such as a retirement gift from coworkers), need not be reported unless any person contributes \$50 or more to the total cost of the gift. In that case, the public official would only report a gift from each of those persons. (Regulation 18945.2.)

Valuing Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.) For example, for ticketed events, the value is the face value of the ticket.

General Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
No	No	No	No	No

The following payments are exceptions to the definition of gift and are not considered gifts or income.

- 1. Return or Reimbursement of Gift.** Items that are returned (unused) to the donor, or for which the public official reimburses the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)
- 2. Donation of Gift to Nonprofit Group.** Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official (or immediate family member) does not hold a position, or to a government agency, within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)
- 3. Gifts from Family.** Gifts from the public official's spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless they are acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first cousins once removed.

4. Informational Material. Informational material provided to assist the public official in the performance of their official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.

“Informational material” may also include scale models, pictorial representations, maps, and other such items. However, if the item’s fair market value is more than \$520, the public official has the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials, are considered informational material. However, this exception does not apply to meals or lodging. Furthermore, the exception generally does not apply to transportation to the site, except for any portion of the transportation that is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

5. Inheritance. A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

6. Campaign Contributions. Campaign contributions to an official, including rebates or discounts received in connection with campaign activities (Section 82028(b)(4); Regulations 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related expenses, including payments for transportation, lodging or food (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. Plaques. Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)

8. Ceremonial Role. Free admission to a ticketed event (including any benefits included in the price of the ticket such as a free meal) for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers’ game, so long as the official’s agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(13); Regulation 18942.3; also see discussion of Form 802 below under “Gifts Exceptions Requiring Alternate Reporting.”)

9. Event Where Official Makes a Speech. Free admission, and food and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event. (Regulation 18942(a)(11).)

10. Attending Wedding Reception. Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(15).)

11. Bereavement Offerings. Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(16).)

12. Act of Neighborliness. Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(17).)

13. Campaign or Nonprofit Fundraiser. Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket(s) must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

14. Unused Passes or Tickets. Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the public official does not use or give to another person. (Regulation 18946.1.)

15. Items Provided to Government Agency. Subject to certain conditions, items provided to a government agency and used by public officials in the agency for agency business. This may include passes or tickets to (see Regulation 18944.1) or payments for other types of items or activities (see Regulation 18944). An agency must disclose specified payments on a form provided by the FPPC and post the form on its website. (See discussion of Forms 801 and 802 below under “Gift Exceptions Requiring Alternate Reporting.”) Contact the FPPC for detailed information.

16. Emergency Leave Credits. Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by the public official's employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

17. Disaster Relief. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity and must be available to the general public. (Regulation 18942(a)(10).)

18. Agency Raffle. Items awarded in an agency raffle received by the agency from an employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

19. Employee Gift Exchange. Items received by an employee during an employee gift exchange, so long as the items received are provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

Limited Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
No	No	No	No	Maybe

1. Home Hospitality. Gifts of hospitality including food, drink or occasional lodging that an official receives in an individual's home when the individual or a member of their family is present. (Regulation 18942(a)(7).) Such hospitality provided by a lobbyist is a gift unless the home hospitality is related to another purpose unconnected with the lobbyist's professional activities. Generally, this means functions like children's birthday parties, soccer team parties, neighborhood barbeques, etc., where other guests attend who are not part of the lobbying process. (Regulation 18942.2.)

2. Reciprocal Holiday Gifts. Gifts commonly exchanged between an official and another individual (other than a lobbyist registered to lobby the official's agency) on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

3. Reciprocal Exchanges. Reciprocal exchanges between an official and another individual (other than a lobbyist registered to lobby the official's agency) that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is \$520 or more. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the total value over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

4. Dating Relationship. Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws if the dating partner is a lobbyist or an individual who files lobbying reports and is registered to lobby the official's agency, or is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D). (Regulation 18942(a)(18)(A).)

5. Acts of Human Compassion. Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942(a)(18)(B).) This exception does not apply if the person providing the benefit to the official is a lobbyist or an individual who files lobbying reports and is registered to lobby the official's agency, or is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

6. Long-Time Friend. Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with business before the official. (Regulation 18942(a)(18)(C).) This exception does not apply if the person providing the benefit to the official is a lobbyist or an individual who files lobbying reports and is registered to lobby the official's agency, or is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

7. Existing Personal Relationship. Benefits received from an individual who is not a lobbyist registered to lobby the official's agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(19).)

Very Limited Gift Exception

Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
Yes - ½ value as gift	Yes	No	No	Yes

Wedding Gifts. Wedding gifts are not subject to the \$520 gift limit, but they are subject to the \$10 lobbyist/lobbying firm gift limit. In addition, wedding gifts are reportable. However, for purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

Gift Exceptions Requiring Alternate Reporting

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
Yes - As Income	Yes	No	No	No

Prize or Award. A prize or award received in a bona fide contest or competition, or game of chance.

Note: Unlike the other exceptions, payments that fall into this exception must be reported as income if valued at \$500 or more. To qualify for this exception the contest or competition must be unrelated to the official's duties. (Regulation 18942(a)(14).)

Agency Reports

Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
Yes - On 801 or 802	No	No	No	No

The following exceptions are also applicable to payments made to a government agency that are used by officials in the agency under certain conditions to conduct agency business. These types of payments are not treated as gifts or income to the officials who use them, so long as the payments meet certain conditions and they are reported by the officials' agency. These reports must appear on either a Form 801 or Form 802, instead of the official reporting the items on a statement of economic interests (Form 700).

Form 801 – Payment to Agency Report: This form covers gifts or donations made to an agency and used by one or more officials in the agency for agency business. This may include travel payments, reimbursements, or other uses by an official, but does not cover tickets or passes providing admission to an entertainment or sporting event, which are reported on the Form 802 (discussed below). If the payment meets the requirements of Regulations 18944 or 18950.1, the agency must report it on a Form 801 and the item is not reported on the individual's statement of economic interests (Form 700). (Regulations 18944 and 18950.1.)

Form 802 – Agency Report of Ceremonial Role Events and Ticket/Pass Distributions: This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual's statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency.

Behested Payments Reports

Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
Yes - Form 803 Behested Payment	No	No	No	No

Behested Payments. Generally, payments made at the behest of an official that do not confer a personal benefit on an official such as those made by a third party to co-sponsor an event, or that are principally legislative, governmental or charitable in nature, are not gifts. However, when an elected officer or member of the Public Utilities Commission is making the behest, in some cases these payments may be considered "behested payments" under Section 82004.5 and require disclosure by that elected officer or member.

Form 803 – Behested Payment Report:

- Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, an elected official may ask a third party to contribute funds to a school in his district, or to a job fair or health fair.
- Generally, a donation will be "made at the behest" if it is requested, solicited, or suggested by the elected officer or member of the Public Utilities Commission, or otherwise made to a person in

cooperation, consultation, coordination with, or at the consent of, the elected officer or PUC member. This includes payments behested on behalf of the official by their agent or employee.

- A behested payment does not include payments to an official from a local, state, or federal government agency for use by the official to conduct agency business. For example, free parking provided by a governmental entity to an official for agency business is not a behested payment and is not subject to reporting.
- Behested payments totaling \$5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official's agency within 30 days of the date of the payment(s). (Section 82015; Regulation 18215.3.)

Honoraria

What is an “Honorarium”?

An “honorarium” is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. An honorarium includes gift cards or any gift of more than nominal benefit provided in connection with an activity described above. An honorarium does not include items of nominal value such as a pen, pencil, note pad, or similar item. (Section 89501; Regulation 18932.4(e).)

A “speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An “article published” means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501(b); Regulations 18932 –18933.).

The Prohibition

State officials specified in Section 87200 (see page 2) are prohibited from receiving any honoraria payments. Officials and employees of state agencies who file statements of economic interests (Form 700) under the agency’s conflict of interest code (“designated employees”) may not receive honoraria payments from any source if the employee would be required to report income or gifts from that source on the Form 700, as outlined in the “disclosure category” portion of the conflict of interest code. (Section 89502.)

Honoraria Exceptions that also apply to gifts and income

1. **Returned.** An honorarium that the public official returns (unused) to the donor or the donor’s agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)

2. **Donated to General Fund.** An honorarium that is delivered to the State Controller within 30 days for donation to the General Fund for which the public official does not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)

3. **Made to Nonprofit Organization.** A payment that is not delivered to the public official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:

- The official may not make the donation a condition for their speech, article, or attendance;
- The official may not claim the donation as a deduction for income tax purposes;
- The official may not be identified to the non-profit organization in connection with the donation; and
- The donation may have no reasonably foreseeable financial effect on the official or on any member of their immediate family. (Regulation 18932.5.)

4. Payment from Family Member. A payment received from the public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment that would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. Payment for Performance or Book. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 and 18931.2.)

6. Reimbursement for Travel Where Official Provides Consideration. Reimbursements for reasonable travel expenses provided to the public official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the public official provides equal or greater consideration. The payment would also be exempt from the definition of income under Section 82030(b)(2). (See discussion under "Travel Payments" below.)

Honoraria Exceptions where the payment may still be considered income (or a gift, if consideration of equal or greater value is not provided by the official)

1. Admission to Event where Official Gives Speech. Free admission, and refreshments and similar non-cash nominal benefits, provided to an official during the entire event at which they give a speech, participates in a panel or provides a similar service, and in-California transportation and necessary lodging and subsistence provided directly in connection with the speech, panel or service, including meals and beverages on the day of the activity. (Regulation 18932.4(e).)

2. Earned Income from a Business. Income earned and payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, the public official must meet certain criteria to establish that they are conducting or in a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932 – 18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. Travel from a Government Agency. Travel payments provided to the public official by the State of California or by any state, local, or federal government agency which would be considered income and not a gift. (Section 89506(d)(2).) See discussion under "Travel Payments" below.

Travel Payments Exceptions

Generally, when an official receives a payment (including reimbursement) for their travel, that payment is a reportable gift or income under the Act. The term “travel payment” includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

If the payment is a gift, it is also normally subject to the Act’s \$520 gift limit and \$10 lobbyist gift limit. If the payment is income, it may, in some cases, be an honorarium. Whether a payment is a gift or income, the official may be required to disqualify themselves from any decision that will have a foreseeable materially financial effect on the source.

Certain Travel Payments are not a Gift, Income or Honorarium

Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
No	No	No	No	No

The following travel payments are not a gift, income or honorarium under the Act and Commission regulations and are thus not reportable, potentially disqualifying, or subject to any of the Act’s gift limits or the honorarium ban.

1. Travel from Non-Reportable Source. A payment for travel from a source that is not reportable on the official’s statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official’s state agency.

2. Travel from Government Agency for Training. A payment for travel from another state, local or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes. (Regulation 18950(a) and (c)(2).)

3. Sharing a Ride with Another Official. A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices. (Regulation 18950(a) and (c)(3).)

4. Certain Travel from a Government Agency or 501(c)(3). Travel payments provided to the official by any state, local, or federal government agency as part of the official’s employment with that agency or provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration. (Section 82030(b)(2).) Any person who claims to have provided consideration has the burden of proving that the consideration received is of equal or greater value.

5. Travel for Official Agency Business. Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a “personal benefit” to the official. For this exception to apply, the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by the provisions set forth in Regulation 18950.1.

6. Campaign Contribution. A payment for travel that constitutes a campaign contribution to an official (Sections 82015, 82028(b)(4); Regulations 18215, 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related travel (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. Travel Payments Fulfilling Terms of Contract. Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided. (Section 82028; *Ratto* Advice Letter, No. I-14-057.)

Certain Travel Payments are Reportable and may Subject the Official to Possible Conflicts of Interest, but are not Subject to the \$520 Gift Limit or Honoraria Ban of the Act.

Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
Yes	Yes	No	No	Yes

Travel for a Public Purpose Under Section 89506(a). Any payments for actual transportation expenses and related lodging and subsistence that are made for a purpose reasonably related to: (1) A legislative or governmental purpose, or (2) An issue of state, national, or international policy so long as the travel is either:

(a) *Travel for Speech.* In connection with a speech given by the official and the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States; or

(b) *Travel paid for by government agency or 501(c)(3) organization.* Provided by a government agency or authority, (including a foreign government), a bona fide public or private educational institution as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code or a foreign organization that substantially satisfies the criteria of that section.

In addition to being reportable and creating a conflict of interest issue for the official, these payments are still subject to the \$10 monthly limits on gifts from or arranged by lobbyists or lobbying firms.

Payments for Travel in Connection with a Business

Reporting	C/I § 87100	Honoraria Ban	\$520 Gift Limit	Lobbyist \$10 Limit
Yes - as Income	Yes	No	No	No

Payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

Loans

Personal loans received by certain state officials are subject to limits and other restrictions, and in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

Officials Must Not Receive Loans from Agency Staff. If the public official is specified in Section 87200 (see page 2) or if they are exempt from the state civil service system under the California Constitution Article VII, Section 4(c)-(g), they may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of their government agency or an agency over which their agency exercises direction and control. (Section 87460(a) and (b).)

Officials Must Not Receive Loans from Agency Contractors. In addition, the public official may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with their government agency or an agency over which their agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to their official status. (Section 87460(c) and (d).)

Loans to Elected Officials Must be in Writing

In addition to the limitations above, if the public official is elected, they may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. **Campaign Loans.** Loans received by an elected officer's or candidate's campaign committee.
2. **Loans from Family Members.** Loans received from the public official's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless they are acting as an agent or intermediary for another person not covered by this exemption.

Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other state official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:

- The date the loan was made;
- The date the last payment of \$100 or more was made on the loan; or
- The date upon which the public official has made payments aggregating to less than \$250 during the previous 12 months. (Section 87462.)

The following loans will not become gifts:

- A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution and must be reported accordingly.
- A loan described above on which the creditor has taken reasonable action to collect the balance due.
- A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
- A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

POLITICAL REFORM ACT 2022

Fair Political Practices Commission



POLITICAL REFORM ACT — 2022

Introduction

This 2022 version of the Political Reform Act (the “Act”) is not an official publication of the Government Code. It has been produced for use by the public and staff of the Fair Political Practices Commission. The boldface title before each Government Code Section and the histories following some sections have been added for clarity and are not part of the Act.

Commission regulations implementing the Act are contained in the California Code of Regulations, Title 2, Division 6 (Sections 18110-18998). References to applicable regulations and opinions follow each statute. These references were accurate as of January 1, 2022, but changes may have occurred since then. Thus, the references are provided for convenience only and should not be relied upon.

Opinion summaries appear in Appendix I. In addition, Commission opinions and advice letters are available on Westlaw, LexisNexis, and the FPPC’s website. Appendix II contains citations to enforcement decisions, and Appendix III contains a summary of enforcement decisions. Appendix IV contains Government Code Sections 1090 through 1097.5. AB 1090 (Fong), Chapter 650, Statutes of 2013, authorized the Commission to provide advice to public officials and enforce violations relating to Section 1090, which prohibits specified officials from being financially interested in a contract. Appendix V contains repealed sections of the Political Reform Act. Appendix VI contains the text of sections of the Political Reform Act with future operative dates.

For more information, contact the Commission or visit fppc.ca.gov.

Contact the Commission

General Information: (916) 322-5660

Advice: 1-866-ASK-FPPC
1-866-275-3772 *1
Advice@fppc.ca.gov

Commission Mailing Address:
Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811



CONTENTS

Chapter 1. General.	2	Chapter 10. Auditing.	115
Chapter 2. Definitions.	5	Chapter 11. Enforcement.	117
Chapter 3. Fair Political Practices Commission	20		
Chapter 4. Campaign Disclosure.	25	Appendix I: Summary of Opinions	
Article 1. Organization of Committees.	25	Appendix II: Enforcement Decision Citations	
Article 2. Filing of Campaign Statements.	29	Appendix III: Summary of Enforcement Decisions	
Article 2.5. LAFCO Proposal Requirements.	44	Appendix IV: Government Code Sections 1090 – 1097.5	
Article 3. Prohibitions.	44	Appendix V: Repealed Sections of the Political Reform Act	
Article 4. Exemptions.	49	Appendix VI: Sections of the Political Reform Act with a Future Operative Date	
Article 5. Disclosure in Advertisements.	49	Index	
Chapter 4.6. Online Disclosure Act of 1997.	58		
Chapter 5. Limitations on Contributions.	63		
Article 1. Title of Chapter.	63		
Article 2. Candidacy.	63		
Article 2.5. Applicability of the Political Reform Act of 1974.	64		
Article 3. Contribution Limitations.	65		
Article 4. Voluntary Expenditure Ceilings.	71		
Article 5. Independent Expenditures.	72		
Article 6. Ballot Pamphlet.	73		
Article 7. Additional Contribution Requirements.	73		
Article 8. Appropriation.	75		
Chapter 6. Lobbyists.	76		
Article 1. Registration and Reporting.	76		
Article 2. Prohibitions.	82		
Article 3. Exemptions.	83		
Chapter 7. Conflicts of Interests.	83		
Article 1. General Prohibitions.	83		
Article 2. Disclosure.	87		
Article 3. Conflict of Interest Codes.	90		
Article 3.5. Multiagency Filers.	94		
Article 4. Disqualification of Former Officers and Employees.	94		
Article 4.5. Disqualification of State Officers and Employees.	97		
Article 4.6. Loans to Public Officials.	98		
Article 5. Filing.	99		
Chapter 8. Ballot Pamphlet.	102		
Chapter 9. Incumbency.	104		
Chapter 9.5. Ethics.	106		
Article 1. Honoraria.	107		
Article 2. Gifts.	107		
Article 3. Travel.	108		
Article 4. Campaign Funds.	109		

Chapter 1. General.

§ 81000 – 81015

§ 81000.	Title.....	2
§ 81001.	Findings and Declarations.....	2
§ 81002.	Purposes of Title.....	2
§ 81003.	Construction of Title.....	2
§ 81004.	Reports and Statements; Perjury; Verification.*	2
§ 81004.5.	Reports and Statements; Amendments.....	3
§ 81005.	Reports and Statements; Filing Deadline on Weekend or Holiday.....	3
§ 81006.	Filing Fees Prohibition.....	3
§ 81007.	Mailing of Report or Statement.*.....	3
§ 81007.5.	Faxing of Report or Statement.*.....	3
§ 81008.	Public Records; Inspection; Reproduction; Time; Charges.*.....	3
§ 81009.	Preservation of Reports and Statements.*.....	4
§ 81009.5.	Local Ordinances.....	4
§ 81010.	Duties of the Filing Officer.*.....	4
§ 81010.5.	Duties of Filing Officers; Effect of Non- Compliance.....	4
§ 81011.5.	Information on Statewide Petitions.....	5
§ 81012.	Amendment or Repeal of Title.....	5
§ 81013.	Imposition of Additional Requirements.....	5
§ 81014.	Regulations.....	5
§ 81015.	Severability.....	5

§ 81000. Title.

This title shall be known and may be cited as the “Political Reform Act of 1974.”

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18200

§ 81001. Findings and Declarations.

The people find and declare as follows:

(a) State and local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth;

(b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them;

(c) Costs of conducting election campaigns have increased greatly in recent years, and candidates have been forced to finance their campaigns by seeking large contributions from lobbyists and organizations who thereby gain disproportionate influence over governmental decisions;

(d) The influence of large campaign contributors is increased because existing laws for disclosure of campaign receipts and expenditures have proved to be inadequate;

(e) Lobbyists often make their contributions to incumbents who cannot be effectively challenged because of election laws and abusive practices which give the incumbent an unfair advantage;

(f) The wealthy individuals and organizations which make large campaign contributions frequently extend their influence by employing lobbyists and spending large amounts to influence legislative and administrative actions;

(g) The influence of large campaign contributors in ballot measure elections is increased because the ballot pamphlet mailed to the voters by the state is difficult to read and almost impossible for a layperson to understand; and

(h) Previous laws regulating political practices have suffered from inadequate enforcement by state and local authorities.

History: Amended by Stats. 2021, Ch. 50.

§ 81002. Purposes of Title.

The people enact this title to accomplish the following purposes:

(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

(b) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.

(c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.

(d) The state ballot pamphlet should be converted into a useful document so that voters will not be entirely dependent on paid advertising for information regarding state measures.

(e) Laws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly.

(f) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced.

History: Amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18313.5, 18313.6, 18705, 18708

§ 81003. Construction of Title.

This title should be liberally construed to accomplish its purposes.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18705, 18708

§ 81004. Reports and Statements; Perjury; Verification.*

(a) All reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of the filer's knowledge it is true and complete.

(b) A report or statement filed by a committee which qualifies under subdivision (a) of Section 82013 shall be signed and verified by the treasurer, and a report or statement filed by any other person shall be signed and verified by the filer. If the filer is an entity other than an individual,

the report or statement shall be signed and verified by a responsible officer of the entity or by an attorney or a certified public accountant acting as agent for the entity. Every person who signs and verifies any report or statement required to be filed under this title which contains material matter which **that person** knows to be false is guilty of perjury.

History: Amended by Stats. 1985, Ch. 775; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections **18104, 18115.1, 18316.6, 18402.2, 18421.10, 18426.1, 18427, 18539.2, 18757**

Opinions: *In re Layton* (1975) 1 FPPC Ops. 113
In re Augustine (1975) 1 FPPC Ops. 69

*Section 81004 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81004.5. Reports and Statements; Amendments.

Any report or statement filed pursuant to this title may be amended by the filer at any time. Amending an incorrect or incomplete report or statement may be considered as evidence of good faith.

History: Added by Stats. 1976, Ch. 1161.

§ 81005. Reports and Statements; Filing Deadline on Weekend or Holiday.

(a) If this title requires that a statement or report be filed before or on a specified date or during or within a specified period, and the filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for the statement or report shall be extended to the next regular business day.

(b) This extension does not apply to the following statements or reports:

(1) Contribution reports required by Section 84203, subdivision (b) of Section 84203.3, or Section 85309, or the contributor's notice of a late in-kind contribution required by subdivision (a) of Section 84203.3, when the due date for these types of reports falls on a Saturday, Sunday, or official state holiday immediately before an election.

(2) Independent expenditure reports required by Section 84204 or 85500.

History: Added by Stats. 2019, Ch. 312.

§ 81006. Filing Fees Prohibition.

Except as provided in this title, no fee or charge shall be collected by any officer for the filing of any report or statement or for the forms upon which reports or statements are to be prepared.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

§ 81007. Mailing of Report or Statement.*

When a report or statement or copies thereof required to be filed with any officer under this title have been sent by first-class mail or by any other guaranteed overnight delivery service addressed to the officer, it shall for purposes of any deadline be deemed to have been received by **the officer** on the date of the deposit in the mail or of receipt by that

delivery service. It shall be presumed until the contrary is established that any date stamped by the post office on the envelope or contained on the delivery service receipt containing the report or statement is the date it was deposited in the mail or received by the delivery service. Mail which is not received by the filing officer shall be presumed not to have been sent unless the filer possesses a post office or delivery service receipt establishing the date of deposit and the name and address of the addressee.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1994, Ch. 638; amended by Stats. 2021, Ch. 50.

*Section 81007 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81007.5. Faxing of Report or Statement.*

(a) Any report or statement or copies thereof required to be filed with any official under Chapter 4 (commencing with Section 84100) or Chapter 7 (commencing with Section 87100) may be faxed by the applicable deadline, provided that the required originals or paper copies are sent by first-class mail or by any other personal delivery or guaranteed overnight delivery service within 24 hours of the applicable deadline and provided that the total number of pages of each report or statement faxed is no more than 30 pages.

(b) A faxed report or statement shall not be deemed filed if the faxed report or statement is not a true and correct copy of the original or copy of the report or statement personally delivered or sent by first-class mail or guaranteed overnight delivery service pursuant to subdivision (a).

(c) A filing officer who receives a faxed report or statement shall make the report or statement available to the public in the same manner as provided in Section 81008. If the faxed report or statement is requested prior to the receipt of the original or copy of the report or statement by the filing officer, the filing officer shall inform the requester that the faxed report or statement will not be considered a filed report or statement if the requirements of subdivision (b) have not been met by the filer.

History: Added by Stats. 1994, Ch. 638; amended by Stats. 1997, Ch. 394.

*Section 81007.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81008. Public Records; Inspection; Reproduction; Time; Charges.*

Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from these persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars

(\$5) per request for copies of reports and statements which are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1988, Ch. 1208; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2013, Ch. 654.

*Section 81008 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81009. Preservation of Reports and Statements.*

(a) Statements of organization, registration statements, and original campaign statements of persons holding elective state office, candidates for any such office, committees supporting any such officeholder or candidate, and committees supporting or opposing statewide measures, shall be retained by filing officers indefinitely.

(b) Original campaign statements of mayors, city council members, county supervisors, candidates for any of these offices, and committees supporting any officeholder or candidate shall be retained indefinitely, except that original campaign statements of candidates not elected to these offices and of committees supporting candidates not elected to these offices shall be retained by filing officers for a period of not less than five years.

(c) Original campaign statements of all other persons shall be retained by filing officers for a period of not less than seven years.

(d) Original statements of economic interests of persons holding statewide elective office shall be retained by filing officers indefinitely.

(e) Original reports and statements not specified above in this section shall be retained by filing officers for a period of not less than seven years.

(f) Copies of reports or statements shall be retained by the officer with whom they are filed for a period of not less than four years, provided, however, that a filing officer is not required to retain more than one copy of a report or statement.

(g) After an original report or statement or a copy has been on file for at least two years, the officer with whom it is filed may comply with this section by retaining a copy on microfilm or other space-saving materials available for public inspection instead of the original report or statement or copy. Upon request, the officer shall provide copies of such statements pursuant to Section 81008.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1979, Ch. 531; amended by Stats. 1984, Ch. 390, effective July 11, 1984; amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

*Section 81009 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81009.5. Local Ordinances.

(a) Any local government agency which has enacted, enacts, amends, or repeals an ordinance or other provision

of law affecting campaign contributions and expenditures shall file a copy of the action with the commission.

(b) Notwithstanding Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 (commencing with Section 84100) for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.

History: Added by Stats. 1979, Ch. 531; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1991, Ch. 674.

References at the time of publication (see page 2):

Opinions: *In re Olson* (2001) 15 FPPC Ops. 13

§ 81010. Duties of the Filing Officer.*

With respect to reports and statements filed with a filing officer pursuant to this title, the filing officer shall:

(a) Supply the necessary forms and manuals prescribed by the Commission;

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;

(c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;

(d) Report apparent violations of this title to the appropriate agencies; and

(e) Compile and maintain a current list of all reports and statements filed with this office.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18110, 18115, 18115.1, 18115.2, 18732.5

Opinions: *In re Rundstrom* (1975) 1 FPPC Ops. 188
In re Layton (1975) 1 FPPC Ops. 113

*Section 81010 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81010.5. Duties of Filing Officers; Effect of Non-Compliance.

A filing officer or filing official's failure to comply with a duty or to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements and reports disclosing information as required by this title or any enforceable conflict of interest code.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18115

§ 81011.5. Information on Statewide Petitions.

Any provision of law to the contrary notwithstanding, the election precinct of a person signing a statewide petition shall not be required to appear on the petition when it is filed with the county elections official, nor any additional information regarding a signer other than the information required to be written by the signer.

History: Added by Stats. 1977, Ch. 1095; (Identical to former Section 85203, repealed by Stats. 1977, Ch. 1095); amended Stats. 2002, Ch. 221.

§ 81012. Amendment or Repeal of Title.

This title may be amended or repealed by the procedures set forth in this section. If any portion of subdivision (a) is declared invalid, then subdivision (b) shall be the exclusive means of amending or repealing this title.

(a) This title may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the commission for distribution to the news media and to every person who has requested the commission to send copies of such bills to **that person**.

(b) This title may be amended or repealed by a statute that becomes effective only when approved by the electors.

History: Amended by Stats. 1976, Ch. 883, effective September 13, 1976; amended by Stats. 1985, Ch. 1200; **amended by Stats. 2021, Ch. 50.**

§ 81013. Imposition of Additional Requirements.

Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18312,
Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77
In re Miller (1976) 2 FPPC Ops. 91

§ 81014. Regulations.

Whenever any reference is made in this title to a federal or state statute and that statute has been or is subsequently repealed or amended, the Commission may promulgate regulations to carry out the intent of this title as nearly as possible.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18312

§ 81015. Severability.

If any provision of this title, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this title to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this title are severable.

Chapter 2. Definitions.

§ 82000 – 82054

§ 82000.	Interpretation of this Title.	6
§ 82001.	Adjusting an Amount for Cost of Living Changes.	6
§ 82002.	Administrative Action.	6
§ 82003.	Agency.	6
§ 82004.	Agency Official.	6
§ 82004.5.	Behested Payment.	6
§ 82005.	Business Entity.	7
§ 82006.	Campaign Statement.*	7
§ 82007.	Candidate.	7
§ 82008.	City.	7
§ 82009.5.	Clerk.	7
§ 82010.	Closing Date.	7
§ 82011.	Code Reviewing Body.	7
§ 82012.	Commission.	7
§ 82013.	Committee.	8
§ 82014.	Conflict of Interest Code.	8
§ 82015.	Contribution.	8
§ 82015.5.	Contribution; Aggregation.	9
§ 82016.	Controlled Committee.	9
§ 82017.	County.	9
§ 82018.	Cumulative Amount.	9
§ 82019.	Designated Employee.	9
§ 82020.	Elected Officer.	10
§ 82021.	Elected State Officer.	10
§ 82022.	Election.	10
§ 82022.5.	Election-Related Activities.	10
§ 82023.	Elective Office.	10
§ 82024.	Elective State Office.	10
§ 82025.	Expenditure.	10
§ 82025.3.	External Manager.	12
§ 82025.5.	Fair Market Value.	12
§ 82026.	Filer.	12
§ 82027.	Filing Officer.	12
§ 82027.5.	General Purpose Committee.	12
§ 82028.	Gift.	13
§ 82029.	Immediate Family.	13
§ 82030.	Income.	13
§ 82030.5.	Income; Earned.	14
§ 82031.	Independent Expenditure.	14
§ 82032.	Influencing Legislative or Administrative Action.	14
§ 82033.	Interest in Real Property.	14
§ 82034.	Investment.	14
§ 82035.	Jurisdiction.	15
§ 82035.5.	LAFCO Proposal.	15
§ 82036.	Late Contribution.	15
§ 82036.5.	Late Independent Expenditure.	15
§ 82037.	Legislative Action.	15
§ 82038.	Legislative Official.	15
§ 82038.3.	Lobbying Coalition.	15
§ 82038.5.	Lobbying Firm.	16
§ 82039.	Lobbyist.	16
§ 82039.5.	Lobbyist Employer.	16
§ 82041.	Local Government Agency.	16
§ 82041.3.	Made at the Behest of.	16
§ 82041.5.	Mass Mailing.	17
§ 82042.	Mayor.	17
§ 82043.	Measure.	17
§ 82044.	Payment.	17

§ 82045.	Payment to Influence Legislative or Administrative Action.....	17
§ 82046.	Period Covered.....	17
§ 82047.	Person.....	17
§ 82047.3.	Placement Agent.....	18
§ 82047.5.	Primarily Formed Committee.....	18
§ 82047.6.	Principal Officer.....	18
§ 82047.7.	Proponent of a State Ballot Measure.....	18
§ 82048.	Public Official.....	18
§ 82048.3.	Slate Mailer.....	19
§ 82048.4.	Slate Mailer Organization.....	19
§ 82048.5.	Special District.....	19
§ 82048.7.	Sponsored Committee.....	19
§ 82048.8.	Spouse.....	19
§ 82049.	State Agency.....	19
§ 82050.	State Candidate.....	19
§ 82051.	State Measure.....	19
§ 82052.	Statewide Candidate.....	19
§ 82052.5.	Statewide Election.....	20
§ 82053.	Statewide Elective Office.....	20
§ 82054.	Statewide Petition.....	20

§ 82000. Interpretation of this Title.

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this chapter shall govern the interpretation of this title.

§ 82001. Adjusting an Amount for Cost of Living Changes.

“Adjusting an amount for cost-of-living changes” means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

History: Amended by Stats. 1978, Ch. 199, effective June 6, 1978.

§ 82002. Administrative Action.

(a) “Administrative action” means either of the following:

(1) The proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, including any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(2) With regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets on behalf of a state public retirement system.

(b) “Ratemaking proceeding” means, for the purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

(c) “Quasi-legislative proceeding” means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group

or class of persons, including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.

History: Amended by Stats. 1991, Ch. 491; amended by Stats. 2001, Ch. 921; amended by Stats. 2010, Ch. 668; amended by Stats. 2017, Ch. 561.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18202

Opinions: *In re Evans* (1978) 4 FPPC Ops. 84
In re Leonard (1976) 2 FPPC Ops. 54
In re Nida (1976) 2 FPPC Ops. 1
In re Carson (1975) 1 FPPC Ops. 46

§ 82003. Agency.

“Agency” means any state agency or local government agency.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18754

§ 82004. Agency Official.

“Agency official” means any member, officer, employee, or consultant of any state agency who as part of that person’s official responsibilities participates in any administrative action in other than a purely clerical, secretarial, or ministerial capacity.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18249

Opinions: *In re Morrissey* (1976) 2 FPPC Ops. 120
In re Morrissey (1976) 2 FPPC Ops. 84
In re Wallace (1975) 1 FPPC Ops. 118

§ 82004.5. Behested Payment.

“Behested payment” means a payment that is made at the behest of a committee, an elected officer, a member of the Public Utilities Commission, or an agent thereof, under any of the following circumstances:

(a) Full and adequate consideration is received from the committee or elected officer.

(b) The payment is made to a different candidate or to a committee not controlled by the behesting candidate.

(c) As to an elected officer, it is clear from the surrounding circumstances that the payment was made for purposes unrelated to the officer’s seeking or holding of elective office. For purposes of this subdivision, a payment is made for purposes related to an elected officer’s seeking or holding of elective office if all or a portion of the payment is used for election-related activities, as defined in Section 82022.5. The following types of payments are presumed to be for purposes unrelated to an elected officer’s seeking or holding of elective office:

(1) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(2) A payment made by a state, local, or federal governmental agency.

(3) A payment made by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) A payment made principally for charitable purposes.

(5) A payment made principally for legislative or governmental purposes by a person other than a state, local, or federal governmental agency.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18424, 18424.1, 18424.2

§ 82005. Business Entity.

“Business entity” means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

§ 82006. Campaign Statement.*

“Campaign statement” means an itemized report which is prepared on a form prescribed by the Commission and which provides the information required by Chapter 4 of this title.

References at the time of publication (see page 2):

Opinions: *In re Layton* (1975) 1 FPPC Ops. 113

*Section 82006 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 82007. Candidate.

(a) “Candidate” means any of the following:

(1) Anyone who is listed on a ballot or is qualified to have write-in votes cast on their behalf counted by elections officials for nomination or election to any elective office.

(2) Anyone who receives a contribution, makes an expenditure, or gives their consent for another person to receive a contribution or make an expenditure, to bring about the person’s nomination or election to an elective office, even if any of the following apply:

(A) The specific elective office for which the person will seek nomination or election is unknown at the time the contribution is received or the expenditure is made.

(B) The person has not announced the candidacy or filed a declaration of candidacy.

(3) An elected officer, including any elected officer who is the subject of a recall.

(b) Anyone who becomes a candidate retains candidate status until that status is terminated under Section 84214.

(c) “Candidate” does not include any candidate, as defined in Section 30101(2) of Title 52 of the United States Code, for federal office, as to the person’s activities related to seeking nomination or election to that federal office.

History: Amended by Stats. 1980, Ch. 289; repealed and reenacted as amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18404, 18531.5

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Lui (1987) 10 FPPC Ops. 10

In re Juvinal, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110

§ 82008. City.

“City” means a general law or a chartered city.

§ 82009.5. Clerk.

“Clerk” refers to the city or county clerk unless the city council or board of supervisors has designated any other agency to perform the specified function.

§ 82010. Closing Date.

“Closing date” means the date through which any report or statement filed under this title is required to be complete.

§ 82011. Code Reviewing Body.

“Code reviewing body” means all of the following:

(a) The commission, with respect to the conflict of interest code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.

(b) The board of supervisors, with respect to the conflict of interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

(c) The city council, with respect to the conflict of interest code of any city agency other than the city council.

(d) The Attorney General, with respect to the conflict of interest code of the commission.

(e) The Chief Justice of California or the Chief Justice’s designee, with respect to the conflict of interest code of the members of the Judicial Council, Commission on Judicial Performance, and Board of Governors of the State Bar of California.

(f) The Board of Governors of the State Bar of California with respect to the conflict of interest code of the State Bar of California.

(g) The Chief Justice of California, the administrative presiding judges of the courts of appeal, and the presiding judges of superior courts, or their designees, with respect to the conflict of interest code of any agency of the judicial branch of government subject to the immediate administrative supervision of that court.

(h) The Judicial Council of California, with respect to the conflict of interest code of any state agency within the judicial branch of government not included under subdivisions (e), (f), and (g).

History: Amended by Stats. 1980, Ch. 779; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 775; amended by Stats. 1995, Ch. 587; amended by Stats. 2003, Ch. 62; amended by Stats. 2021, Ch. 50.

§ 82012. Commission.

“Commission” means the Fair Political Practices Commission.

§ 82013. Committee.

“Committee” means any person or combination of persons who directly or indirectly does any of the following:

- (a) Receives contributions totaling two thousand dollars (\$2,000) or more in a calendar year;
- (b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or
- (c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1980, Ch. 289; amended by Stats. 1984, Ch. 670; amended by Stats. 1987, Ch. 632; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.2, 18404.2, 18420.1, 18421.10, 18428, 18450.3, 18521.5

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Welsh (1978) 4 FPPC Ops. 78
In re Kahn (1976) 2 FPPC Ops. 151
In re Lumsdon (1976) 2 FPPC Ops. 140
In re Cannon (1976) 2 FPPC Ops. 133
In re Masini (1976) 2 FPPC Ops. 38
In re Fontana (1976) 2 FPPC Ops. 25
In re Christiansen (1975) 1 FPPC Ops. 170
In re Augustine (1975) 1 FPPC Ops. 69

§ 82014. Conflict of Interest Code.

“Conflict of Interest Code” means a set of rules and regulations adopted by an agency pursuant to Chapter 7 of this title.

§ 82015. Contribution.

(a) “Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for political purposes.

(b) “Contribution” includes all of the following:

(1) The purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of the candidate’s candidacy, other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(2) The transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(3) The payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(A) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(B) The communication is made at the behest of the affected candidate or committee.

(4) A payment made by a person to a multipurpose organization as defined and described in Section 84222.

(5)(A) A payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, including the value of the use of the home as a fundraising event venue. A payment described in this paragraph is attributable to the lobbyist for purposes of Section 85702.

(B) A payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue.

(c) “Contribution” does not include any of the following:

(1) Amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(2) Except as provided in paragraph (5) of subdivision (b), a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(3) Volunteer personal services or payments made by any individual for the individual’s own travel expenses if the payments are made voluntarily without any understanding or agreement that they will be, directly or indirectly, repaid to the individual.

(4) A behested payment, as defined in Section 82004.5, but only as to the behesting committee, elected officer, or member of the Public Utilities Commission.

History: Amended by Stats. 1980, Ch. 289; amended by Stats. 1997, Ch. 450, effective September 24, 1997; amended by Stats. 2008, Ch. 418; amended by Stats. 2009, Ch. 363; amended by Stats. 2013, Ch. 16, effective July 1, 2014; amended by Stats. 2014, Ch. 882 and 930; amended by Stats. 2015, Ch. 756, effective October 10, 2015; amended by Stats. 2017, Ch. 749; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215, 18215.2, 18216, 18225.7, 18402.2, 18420.1, 18421.1, 18421.31, 18422, 18422.1, 18423, 18428, 18521.5, 18530.3, 18531.7, 18540, 18572, 18950, 18950.3

Opinions: *In re Montoya* (1989) 12 FPPC Ops. 7
In re Johnson (1989) 12 FPPC Ops. 1
In re Bell (1988) 11 FPPC Ops. 1
In re Nielsen (1979) 5 FPPC Ops. 18
In re Buchanan (1979) 5 FPPC Ops. 14
In re Reinhardt (1977) 3 FPPC Ops. 83
In re Cannon (1976) 2 FPPC Ops. 133
In re Willmarth (1976) 2 FPPC Ops. 130
In re Adams (1976) 2 FPPC Ops. 127

In re Dixon (1976) 2 FPPC Ops. 70
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Hayes (1975) 1 FPPC Ops. 210
In re Christiansen (1975) 1 FPPC Ops. 170
In re Cory (1975) 1 FPPC Ops. 137

§ 82015.5. Contribution; Aggregation.

(a) To determine when contributions are aggregated under this title, “entity” means any person other than an individual, and “majority owned” means ownership of more than 50 percent.

(b) If an individual directs or controls an entity’s contributions, the entity’s contributions shall be aggregated with contributions made by both of the following:

(1) That individual.

(2) Any other entity whose contributions that individual directs or controls.

(c) If two or more entities make contributions that are directed or controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by a person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their contribution-making decisions.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18428, 18450.1, 18450.3

§ 82016. Controlled Committee.

(a) “Controlled committee” means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if **the candidate or state measure proponent, the candidate or state measure proponent’s agent, or any other committee the candidate or state measure proponent** controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205, is not a controlled committee.

History: Amended by Stats. 1983, Ch. 898; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18217, 18405, 18521.5

§ 82017. County.

“County” includes a city and county.

§ 82018. Cumulative Amount.

(a) Except as provided in subdivisions (b), (c), and (d), “cumulative amount” means the amount of contributions received or expenditures made in the calendar year.

(b) For a filer required to file a campaign statement or independent expenditure report in one year in connection with an election to be held in another year, the period over

which the cumulative amount is calculated shall end on the closing date of the first semiannual statement filed after the election.

(c) For a filer required to file a campaign statement in connection with the qualification of a measure which extends into two calendar years, the period over which the cumulative amount is calculated shall end on December 31 of the second calendar year.

(d) For a person filing a campaign statement with a period modified by the provisions of this section, the next period over which the cumulative amount is calculated shall begin on the day after the closing date of the statement.

History: Amended by Stats. 1976, Ch. 1106; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats. 1985, Ch. 1456; amended by Stats. 1992, Ch. 405; amended by Stats. 1993, Ch. 769.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4

§ 82019. Designated Employee.

(a) “Designated employee” means any officer, employee, member, or consultant of any agency whose position with the agency:

(1) Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical, or manual.

(2) Is elective, other than an elective state office.

(3) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

(4) Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

(b)(1) “Designated employee” does not include an elected state officer, any unsalaried member of any board or commission which serves a solely advisory function, any public official specified in Section 87200, and also does not include any unsalaried member of a nonregulatory committee, section, commission, or other such entity of the State Bar of California.

(2) “Designated employee” does not include a federal officer or employee serving in an official federal capacity on a state or local government agency. The state or local government agency shall annually obtain, and maintain in its files for public inspection, a copy of any public financial disclosure report filed by the federal officer or employee pursuant to federal law.

History: Amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 1108; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18219, 18700.3, **18723.1, 18730**

§ 82020. Elected Officer.

“Elected officer” means any person who holds an elective office or has been elected to an elective office but has not yet taken office. A person who is appointed to fill a vacant elective office is an elected officer.

§ 82021. Elected State Officer.

“Elected state officer” means any person who holds an elective state office or has been elected to an elective state office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elected state officer.

§ 82022. Election.

“Election” means any primary, general, special or recall election held in this state. The primary and general or special elections are separate elections for purposes of this title.

§ 82022.5. Election-Related Activities.

“Election-related activities” include, but are not limited to, the following with respect to candidate-based elections:

(a) Communications that contain express advocacy of the nomination or election of a candidate or the defeat of a candidate’s opponent.

(b) Communications that contain reference to a candidate’s candidacy for elective office, the candidate’s election campaign, or the candidate’s or the candidate’s opponent’s qualifications for elective office.

(c) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to the candidate’s opponent.

(d) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in subdivisions (a) to (c), inclusive.

(e) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(f) Preparing campaign budgets.

(g) Preparing campaign finance disclosure statements.

(h) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of the candidate’s opponent.

History: Added by Stats. 2017, Ch. 749; amended by Stats. 2021, Ch. 50.

§ 82023. Elective Office.

“Elective office” means any state, regional, county, municipal, district or judicial office that is filled at an election. “Elective office” also includes membership on a county central committee of a qualified political party, and membership through election on the Board of Administration of the Public Employees’ Retirement System or the Teachers’ Retirement Board.

History: Amended by Stats. 1998, Ch. 923; amended by Stats. 2010, Ch. 633.

§ 82024. Elective State Office.

“Elective state office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, member elected to the Board of Administration of the Public Employees’ Retirement System, member elected to the Teachers’ Retirement Board, and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 1998, Ch. 923; amended by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723

§ 82025. Expenditure.

(a) “Expenditure” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. “Expenditure” does not include a candidate’s use of the candidate’s own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

(b) A payment is made for political purposes if it is any of the following:

(1) For purposes of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure.

(2) Made by any of the following:

(A) A candidate, unless it is clear from surrounding circumstances that the payment was made for personal purposes unrelated to the candidate’s candidacy or status as an officeholder.

(B) A controlled committee.

(C) An official committee of a political party, including a state central committee, county central committee, assembly district committee, or any subcommittee of such committee.

(D) An organization formed or existing primarily for political purposes, as described in paragraph (1), including, but not limited to, a political action committee established by any membership organization, labor union, or corporation.

(c) “Expenditure” includes any monetary or nonmonetary payment made by any person, other than the persons or organizations described in subdivision (b), that is used for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage, or defeat of a clearly identified ballot measure.

(1) “Clearly identified” is defined as follows:

(A) A candidate is clearly identified if the communication states the candidate’s name, makes unambiguous reference to the candidate’s office or status as a candidate, or unambiguously describes the candidate in any manner.

(B) A group of candidates is clearly identified if the communication makes unambiguous reference to some well-defined characteristic of the group, even if the communication does not name each candidate. A communication that clearly identifies a group of candidates and expressly advocates their election or defeat is reportable as an expenditure, but the expenditure need not be allocated among all members of the class or group on the campaign statement reporting the expenditure.

(C) A measure that has qualified to be placed on the ballot is clearly identified if the communication states a proposition number, official title, or popular name associated with the measure. In addition, the measure is clearly identified if the communication refers to the subject matter of the measure and either states that the measure is before the people for a vote or, taken as a whole and in context, unambiguously refers to the measure.

(D) A measure that has not qualified to be placed on the ballot is clearly identified if the communication refers to the subject matter of the measure and the qualification drive.

(2) A communication “expressly advocates” the nomination, election, or defeat of a candidate or the qualification, passage, or defeat of a measure if it contains express words of advocacy such as “vote for,” “elect,” “support,” “cast your ballot,” “vote against,” “defeat,” “reject,” “sign petitions for,” or, within 60 days before an election in which the candidate or measure appears on the ballot, the communication otherwise refers to a clearly identified candidate or measure so that the communication, taken as a whole, unambiguously urges a particular result in an election.

(A) Except for those communications paid for with public moneys by a state or local government agency, a communication, taken as a whole, unambiguously urges a particular result in an election if it is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure. A communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure when, taken as a whole, it could only be interpreted by a reasonable person as containing an appeal to vote for or against a specific candidate or measure because of both of the following:

(i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning.

(ii) Reasonable minds could not differ as to whether it encourages a vote for or against a clearly identified candidate or measure, or encourages some other kind of action on a legislative, executive, or judicial matter or issue.

(B) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that in most contexts would not be susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure: “Smith’s the One”; “No Measure A”; “Rally ‘round O’Malley”; “Create jobs with Measure X”; “Only Nancy Brown can clean out City Hall”; “Proposition 123 - your last chance to save California”; “Joe Green will earn your trust”; “Bob

Boone is unqualified for office and a special-interest puppet”; “Shirley Hall - bad for California, bad for you.”

(C) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that would be susceptible of a reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure: “Assembly Member Nancy Brown needs to be tough on criminals. Call her and tell her to stand firm on AB 100”; “Poor children need a home too. Support the Mayor’s stance against more budget cuts”; “Thank you, Supervisor Smith, for continuing to support our farmers.”

(D) Safe Harbor. A communication does not expressly advocate the nomination, election, or defeat of a candidate, or the qualification, passage, or defeat of a measure, within the meaning of this section, if both of the following apply:

(i) The communication does not mention an election, candidacy, political party unless required by law, opposing candidate, or voting by the general public, and it does not take a position on the character, qualifications, or fitness for office of a candidate or officeholder, or the merits of a ballot measure.

(ii) The communication focuses on a legislative, executive, or judicial matter or issue, either urging a candidate to take a particular position or action with respect to the matter or issue, or urging the public to adopt a particular position and to contact the candidate with respect to the matter or issue.

(E) Rules of Interpretation. If a communication does not qualify for the safe harbor described in subparagraph (D), the commission shall consider if the communication has an interpretation other than as an appeal to vote for or against a clearly identified candidate or measure, in order to determine if, on balance, the communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or measure.

(3) Reporting Expenditures.

(A) The amount of an expenditure reportable pursuant to this subdivision shall include all costs directly attributable to the communication, including, but not limited to, salaries, production, postage, space or time purchased, agency fees, printing, and any additional administrative or overhead costs attributable to the communication. The expenditure does not include any of the regular ongoing business overhead that will be incurred in similar amounts regardless of the communication.

(B) When a printed or broadcast communication circulates outside the state, the expenditure may be calculated on the basis of the fraction of the total cost attributable to circulation within the state.

(C) Costs directly traceable to the communication are reportable when the communication is made, or when payments are made in connection with the development, production, or dissemination of the communication, whichever occurs first.

(D) The costs of printing and distributing petitions, recruiting, training, and paying expenses of petition circulators, and other costs incurred in connection with the qualification of a measure are reportable expenditures.

(4) Except for those communications paid for with public moneys by a state or local government agency, notwithstanding this subdivision, “expenditure” does not include costs incurred for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage, or defeat of a clearly identified measure or measures by either of the following:

(A) A broadcasting station, including a cable or satellite television operation, programmer, or producer, internet website, or a regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication, that routinely carries news and commentary of general interest, for the cost of covering or carrying a news story, commentary, or editorial.

(B) A regularly published newsletter or regularly published periodical, other than those specified in subparagraph (A), whose circulation is limited to an organization’s members, employees, shareholders, other affiliated individuals, and those who request or purchase the publication. This subparagraph applies only to the costs regularly incurred in publishing the newsletter or periodical. If additional costs are incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size, or format, the additional costs are expenditures.

(5) The term “expenditure” also does not include uncompensated internet activity by an individual supporting or opposing a candidate or measure as stated in Section 18215.2 of Title 2 of the California Code of Regulations.

(d) A payment used to make contributions, as defined in Section 82015, is an expenditure.

History: Amended by Stats. 1997, Ch. 394; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.2, 18225.4, 18225.7, 18421.1, 18421.6, 18423, 18450.11, 18526, 18530.3, 18531.7

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10
In re Buchanan (1979) 5 FPPC Ops. 14
In re Welsh (1978) 4 FPPC Ops. 78
In re Cannon (1976) 2 FPPC Ops. 133
In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Hayes (1975) 1 FPPC Ops. 210
In re Christiansen (1975) 1 FPPC Ops. 170
In re Kelly, Masini (1975) 1 FPPC Ops. 162

§ 82025.3. External Manager.

(a) “External manager” means either of the following:

(1) A person who is seeking to be, or is, retained by a state public retirement system in California or an investment vehicle to manage a portfolio of securities or other assets for compensation.

(2) A person who manages an investment fund and who offers or sells, or has offered or sold, an ownership interest in the investment fund to a state public retirement system in California or an investment vehicle.

(b) For purposes of this section, “investment fund” has the same meaning as set forth in Section 7513.8.

(c) For purposes of this section, “investment vehicle” has the same meaning as set forth in Section 82047.3.

History: Added by Stats. 2010, Ch. 668; amended by Stats. 2011, Ch. 704, effective October 9, 2011.

§ 82025.5. Fair Market Value.

“Fair market value” means the estimated fair market value of goods, services, facilities or anything of value other than money. Whenever the amount of goods, services, facilities, or anything of value other than money is required to be reported under this title, the amount reported shall be the fair market value, and a description of the goods, services, facilities, or other thing of value shall be appended to the report or statement. “Full and adequate consideration” as used in this title means fair market value.

History: Added by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Opinions: *In re Hopkins* (1977) 3 FPPC Ops. 107
In re Stone (1977) 3 FPPC Ops. 52
In re Thomas (1977) 3 FPPC Ops. 30
In re Cory (1975) 1 FPPC Ops. 153

§ 82026. Filer.

“Filer” means the person filing or required to file any statement or report under this title.

§ 82027. Filing Officer.

“Filing officer” means the office or officer with whom any statement or report is required to be filed under this title. If copies of a statement or report are required to be filed with more than one office or officer, the one first named is the filing officer, and the copy filed with **that officer** shall be signed in the original and shall be deemed the original copy.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18227, 18227.5

§ 82027.5. General Purpose Committee.

(a) “General purpose committee” means all committees pursuant to subdivision (b) or (c) of Section 82013, and any committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5.

(b) A “state general purpose committee” is a political party committee, as defined in Section 85205, or a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

(c) A “county general purpose committee” is a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.

(d) A “city general purpose committee” is a committee to support or oppose candidates or measures voted on in only one city.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 2004, Ch. 623, effective September 21, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18227.518421.8, 18521.5

§ 82028. Gift.

(a) “Gift” means, except as provided in subdivision (b), any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(b) The term “gift” does not include:

(1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed “informational material.”

(2) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(3) Gifts from an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 of this title.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

History: Amended by Stats. 1978, Ch. 641; amended by Stats. 1986, Ch. 654; amended by Stats. 1997, Ch. 450, effective September 24, 1997.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18730.1, 18932.4, 18940, 18940.1, 18941, 18942, 18942.1, 18942.2, 18942.3, 18943, 18944, 18944.1, 18944.2, 18944.3, 18944.4, 18945, 18945.2, 18945.4, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5, 18950, 18950.1, 18950.2, 18950.3

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Hopkins (1977) 3 FPPC Ops. 107
In re Stone (1977) 3 FPPC Ops. 52
In re Gutierrez (1977) 3 FPPC Ops. 44
In re Thomas (1977) 3 FPPC Ops. 30
In re Nida (1977) 3 FPPC Ops. 1
In re Torres (1976) 2 FPPC Ops. 31
In re Brown (1975) 1 FPPC Ops. 677
In re Hayes (1975) 1 FPPC Ops. 210
In re Russel (1975) 1 FPPC Ops. 191
In re Cory (1975) 1 FPPC Ops. 153
In re Cory (1975) 1 FPPC Ops. 137
In re Cory (1976) 2 FPPC Ops. 48
In re Spellman (1975) 1 FPPC Ops. 16
In re Lunardi (1975) 1 FPPC Ops. 97

§ 82029. Immediate Family.

“Immediate family” means the spouse and dependent children.

History: Amended by Stats. 1980, Ch. 1000.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18234

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 82030. Income.

(a) “Income” means, except as provided in subdivision (b), a payment received, **including**, but not limited **to**, any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, **indirectly**, or beneficially, a 10-percent interest or greater. “Income,” other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) “Income” also does not include:

(1) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100).

(2) Salary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) Any devise or inheritance.

(4) Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.

(6) Redemption of a mutual fund.

(7) Alimony or child support payments.

(8) Any loan or loans from a commercial lending institution which are made in the lender’s regular course of business on terms available to members of the public without regard to official status.

(9) Any loan from or payments received on a loan made to an individual’s spouse, child, parent, grandparent,

grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan or loan payment received from any such person shall be considered income if **that person** is acting as an agent or intermediary for any person not covered by this paragraph.

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status.

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

(12) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the filer sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1977, Ch. 344, effective August 20, 1977; amended by Stats. 1978, Ch. 641; amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch. 931; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2002, Ch. 172; amended by Stats. 2004, Ch. 484; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18230, 18232, 18234, 18235, 18728.5, 18940, 18944, 18950.1, 18950.2, 18950.3

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Elmore (1978) 4 FPPC Ops. 8
In re Carey (1977) 3 FPPC Ops. 99
In re Moore (1977) 3 FPPC Ops. 33
In re Hayes (1975) 1 FPPC Ops. 210
In re Brown (1975) 1 FPPC Ops. 67

§ 82030.5. Income; Earned.

(a) For purposes of this title, "earned income" means, except as provided in subdivision (b), income from wages, salaries, professional fees, and other amounts received or promised to be received as compensation for personal services rendered.

(b) Income which is not "earned income" includes, but is not limited to, the following:

(1) Any income derived from stocks, bonds, property, or other investments, or from retail or wholesale sales.

(2) Any amount paid by, or on behalf of, an elected state officer to a tax-qualified pension, profit sharing, or stock bonus plan and received by the elected state officer from the plan.

(3) The community property interest in the income of a spouse.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 82031. Independent Expenditure.

"Independent expenditure" means an expenditure made by any person, including a payment of public moneys by a state or local governmental agency, in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

History: Formerly titled "Independent Committee." Repealed by Stats. 1979, Ch. 779. Added by Stats. 1980, Ch. 289. (Formerly Section 82031.5.) Amended by Stats. 2009, Ch. 363.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18225.7, 18420.1, 18521.5, 18530.3

§ 82032. Influencing Legislative or Administrative Action.

"Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

References at the time of publication (see page 2):

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Leonard (1976) 2 FPPC Ops. 54
In re Nida (1976) 2 FPPC Ops. 1

§ 82033. Interest in Real Property.

"Interest in real property" includes any leasehold, beneficial or ownership **interest**, or an option to acquire such an interest in real property located in the jurisdiction owned directly, **indirectly**, or beneficially by the public official, or other filer, or **that person's** immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, **indirectly**, or beneficially, a 10-percent interest or greater.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18233, 18234, 18235, 18729

Opinions: *In re Overstreet* (1981) 6 FPPC Ops. 12

§ 82034. Investment.

"Investment" means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially by the public official, or other filer, or **that person's** immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at

any time during the two years prior to the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000). The term “investment” does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or in a common trust fund created pursuant to Section 1564 of the Financial Code, interest in a government defined-benefit pension plan, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a 10-percent interest or greater. The term “parent, subsidiary or otherwise related business entity” shall be specifically defined by regulations of the commission.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130; amended by Stats. 2007, Ch. 348; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1. 18230. 18234. 18235. 18237

Opinions: *In re Nord* (1983) 8 FPPC Ops. 6
In re Baty (1979) 5 FPPC Ops. 10
In re Elmore (1978) 4 FPPC Ops. 8

§ 82035. Jurisdiction.

“Jurisdiction” means the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction. Real property shall be deemed to be “within the jurisdiction” with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

History: Amended by Stats. 1975, Ch. 499, effective September 5, 1975; amended by Stats. 1993, Ch. 769.

§ 82035.5. LAFCO Proposal.

“LAFCO proposal” means a proposal, as defined in Section 56069, including a proceeding, as defined by Section 56067.

History: Added by Stats. 2008, Ch. 192; amended by Stats. 2009, Ch. 113.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

§ 82036. Late Contribution.

“Late contribution” means any of the following:

(a) A contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure during the 90-day period preceding the date of the election, or on the date of the election, at

which the candidate or measure is to be voted on. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

(b) A contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a political party committee, as defined in Section 85205, within 90 days before the date of a state election or on the date of the election.

History: Amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats. 2004, Ch. 623, effective September 21, 2004; amended by Stats. 2005, Ch. 22; amended by Stats. 2010, Ch. 633; amended by Stats. 2012, Ch. 496; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18425

§ 82036.5. Late Independent Expenditure.

“Late independent expenditure” means an independent expenditure that totals in the aggregate one thousand dollars (\$1,000) or more and is made for or against a specific candidate or measure involved in an election during the 90-day period preceding the date of the election or on the date of the election. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

History: Added by Stats. 1980, Ch. 289; amended by Stats. 2010, Ch. 633; amended by Stats. 2012, Ch. 496; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18550

§ 82037. Legislative Action.

“Legislative action” means the drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, amendment, report, nomination, or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a Member or employee of the Legislature acting in that person’s official capacity. “Legislative action” also means the action of the Governor in approving or vetoing any bill.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Opinions: *In re Cohen* (1975) 1 FPPC Ops. 10

§ 82038. Legislative Official.

“Legislative official” means any employee or consultant of the Legislature whose duties are not solely secretarial, clerical or manual.

References at the time of publication (see page 2):

Opinions: *In re Morrissey* (1976) 2 FPPC Ops. 120

§ 82038.3. Lobbying Coalition.

(a) “Lobbying coalition” means a group of 10 or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for sharing the expenses of employing a lobbyist or

contracting for the services of a lobbying firm.

(b) For purposes of Sections 86115 and 86116, a lobbying coalition shall file the same statements and reports as a lobbyist employer.

(c) A bona fide federation, confederation, or trade, labor, or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action.

(d) A person making payments to a lobbying coalition does not qualify as a lobbying firm or lobbyist employer as a result of those payments.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18616.4

§ 82038.5. Lobbying Firm.

(a) “Lobbying firm” means any business entity, including an individual contract lobbyist, which meets either of the following criteria:

(1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

(2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action.

(b) No business entity is a lobbying firm by reason of activities described in Section 86300.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18238.5

§ 82039. Lobbyist.

(a) “Lobbyist” means either of the following:

(1) Any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through **that individual's** agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.

(2) A placement agent, as defined in Section 82047.3.

(b) An individual is not a lobbyist by reason of activities described in Section 86300.

(c) For the purposes of subdivision (a), a proceeding before the Public Utilities Commission constitutes “administrative action” if it meets any of the definitions set forth in subdivision (b) or (c) of Section 82002. However, a communication made for the purpose of influencing this type of

Public Utilities Commission proceeding is not within subdivision (a) if the communication is made at a public hearing, public workshop, or other public forum that is part of the proceeding, or if the communication is included in the official record of the proceeding.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1984, Ch. 161; amended by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2001, Ch. 921; amended by Stats. 2010, Ch. 668; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18239, 18601

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Morrissey (1976) 2 FPPC Ops. 84
In re Leonard (1976) 2 FPPC Ops. 54
In re Zenz (1975) 1 FPPC Ops. 195
In re Hardie (1975) 1 FPPC Ops. 140
In re Stern (1975) 1 FPPC Ops. 59
In re McCarthy (1975) 1 FPPC Ops. 50
In re Carson (1975) 1 FPPC Ops. 46
In re California Labor Federation (1975) 1 FPPC Ops. 28
In re Cohen (1975) 1 FPPC Ops. 10

§ 82039.5. Lobbyist Employer.

“Lobbyist employer” means any person, other than a lobbying firm, who:

(a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or

(b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.

History: Added by Stats. 1985, Ch. 1183, Effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18239.5

§ 82041. Local Government Agency.

“Local government agency” means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

History: Amended by Stats. 1984, Ch. 727, effective July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18754

Opinions: *In re Rotman* (1987) 10 FPPC Ops. 1
In re Leach (1978) 4 FPPC Ops. 48
In re Siegel (1977) 3 FPPC Ops. 62
In re Witt (1975) 1 FPPC Ops. 1

§ 82041.3. Made at the Behest of.

“Made at the behest of” means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18225.7, **18424, 18424.1,**

18424.2

§ 82041.5. Mass Mailing.

“Mass mailing” means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.

History: Amended by Proposition 73 on the June 1988 statewide primary ballot, effective June 8, 1988; amended by Stats. 1988, Ch. 1027.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18435, 18901.1

Opinions: *In re Welsh* (1978) 4 FPPC Ops. 78
In re Juvinal, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 82042. Mayor.

“Mayor” of a city includes mayor of a city and county.

§ 82043. Measure.

“Measure” means any constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a legislative body, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum or recall procedure whether or not it qualifies for the ballot.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.5

Opinions: *In re Fontana* (1976) 2 FPPC Ops. 25

§ 82044. Payment.

“Payment” means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18944, 18950.1

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Gutierrez (1977) 3 FPPC Ops. 44
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Cory (1975) 1 FPPC Ops. 137

§ 82045. Payment to Influence Legislative or Administrative Action.

“Payment to influence legislative or administrative action” means any of the following types of payment:

(a) Direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing or contracting for the services of the lobbyist separately or jointly with other persons;

(b) Payment in support or assistance of a lobbyist or the lobbyist’s activities, including, but not limited to, the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(c) Payment which directly or indirectly benefits any elective state official, legislative official, or agency official or a member of the immediate family of any such official;

(d) Payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee, for or in connection with direct communication with any elective state official, legislative official, or agency official;

(e) Payment for or in connection with soliciting or urging other persons to enter into direct communication with any elective state official, legislative official, or agency official.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229.1

Opinions: *In re Kovall* (1978) 4 FPPC Ops. 95
In re Nida (1977) 3 FPPC Ops. 1
In re Morrissey (1976) 2 FPPC Ops. 84
In re Naylor (1976) 2 FPPC Ops. 65
In re Leonard (1976) 2 FPPC Ops. 54
In re Gillies (1975) 1 FPPC Ops. 165
In re Morrissey (1975) 1 FPPC Ops. 130

§ 82046. Period Covered.

(a) “Period covered” by a statement or report required to be filed by this title, other than a campaign statement, means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which was required to be filed, and ending with the closing date of the statement or report in question. If the person filing the statement or report has not previously filed a statement or report of the same type, the period covered begins on the day on which the first reportable transaction occurred. Nothing in this chapter shall be interpreted to exempt any person from disclosing transactions which occurred prior to the effective date of this title according to the laws then in effect.

(b) “Period covered” by a campaign statement required to be filed by this title means, unless a different period is specified, the period beginning the day after the closing date of the most recent campaign statement which was required to be filed and ending with the closing date of the statement in question. If a person has not previously filed a campaign statement, the period covered begins on January 1.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Opinions: *In re Welsh* (1978) 4 FPPC Ops. 78
In re Juvinal, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 82047. Person.

“Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

History: Amended by Stats. 1994, Ch. 1010.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs., Sections 18432.5

Opinions: *In re Lumsdon* (1976) 2 FPPC Ops. 140
In re Witt (1975) 1 FPPC Ops. 1

§ 82047.3. Placement Agent.

(a) “Placement agent” means an individual directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager or an investment fund managed by an external manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to a state public retirement system in California or an investment vehicle either of the following:

(1) In the case of an external manager within the meaning of paragraph (1) of subdivision (a) of Section 82025.3, the investment management services of the external manager.

(2) In the case of an external manager within the meaning of paragraph (2) of subdivision (a) of Section 82025.3, an ownership interest in an investment fund managed by the external manager.

(b) Notwithstanding subdivision (a), an individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager and who spends one-third or more of **the individual’s** time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager is not a placement agent.

(c) Notwithstanding subdivision (a), an employee, officer, or director of an external manager, or of an affiliate of an external manager, is not a placement agent with respect to an offer or sale of investment management services described in subdivision (a) if all of the following apply:

(1) The external manager is registered as an investment adviser or a broker-dealer with the Securities and Exchange Commission or, if exempt from or not subject to registration with the Securities and Exchange Commission, any appropriate state securities regulator.

(2) The external manager is participating in a competitive bidding process, such as a request for proposals, subject to subdivision (a) of Section 22364 of the Education Code or subdivision (a) of Section 20153 of this code, as applicable, or has been selected through that process, and is providing services pursuant to a contract executed as a result of that competitive bidding process.

(3) The external manager, if selected through a competitive bidding process described in paragraph (2), has agreed to a fiduciary standard of care, as defined by the standards of conduct applicable to the retirement board of a public pension or retirement system and set forth in Section 17 of Article XVI of the California Constitution, when managing a portfolio of assets of a state public retirement system in California.

(d) For purposes of this section, “investment fund” has the same meaning as set forth in Section 7513.8.

(e) For purposes of this section, “investment vehicle” means a corporation, partnership, limited partnership, limited liability company, association, or other entity, either domestic or foreign, managed by an external manager in which a state public retirement system in California is the majority

investor and that is organized in order to invest with, or retain the investment management services of, other external managers.

History: Added by Stats. 2010, Ch. 668; amended by Stats. 2011, Ch. 704, effective October 9, 2011; **amended by Stats. 2021, Ch. 50.**

§ 82047.5. Primarily Formed Committee.

“Primarily formed committee” means a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose any of the following:

(a) A single candidate.

(b) A single measure.

(c) A group of specific candidates being voted upon in the same city, county, or multicounty election.

(d) Two or more measures being voted upon in the same city, county, multicounty, or state election.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1990, Ch. 626; amended by Stats. 1991, Ch. 191; amended by Stats. 1995, Ch. 295.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18247.5, 18421.8, 18521.5

§ 82047.6. Principal Officer.

(a) “Principal officer” means the individual primarily responsible for approving the political activities of a committee, including, but not limited to, the following activities:

(1) Authorizing the content of communications made by the committee.

(2) Authorizing expenditures, including contributions, on behalf of the committee.

(3) Determining the committee’s campaign strategy.

(b) If two or more individuals share the primary responsibility for approving the political activities of a committee, each individual is a principal officer.

History: Added by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.10

§ 82047.7. Proponent of a State Ballot Measure.

“Proponent of a state ballot measure” means “proponent” as defined in Section 9001 of the Elections Code.

History: Added by Stats. 1988, Ch. 704; amended by Stats. 1994, Ch. 923; renumbered by Stats. 2012, Ch. 496; **amended by Stats. 2021, Ch. 317.** (Formerly Section 82047.6.)

§ 82048. Public Official.

(a) “Public official” means every member, officer, **employee**, or consultant of a state or local government agency.

(b) Notwithstanding subdivision (a), “public official” does not include the following:

(1) A judge or court commissioner in the judicial branch of government.

(2) A member of the Board of Governors and designated employees of the State Bar of California.

(3) A member of the Judicial Council.

(4) A member of the Commission on Judicial Performance, provided that **the member** is subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter

4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

(5) A federal officer or employee serving in an official federal capacity on a state or local government agency.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 2004, Ch. 484; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18700.3, 18940.1

Opinions: *In re Rotman* (1987) 10 FPPC Ops. 1
In re Maloney (1977) 3 FPPC Ops. 69
In re Siegel (1977) 3 FPPC Ops. 62

§ 82048.3. Slate Mailer.

“Slate mailer” means a mass mailing which supports or opposes a total of four or more candidates or ballot measures.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18401.1

§ 82048.4. Slate Mailer Organization.

(a) “Slate mailer organization” means, except as provided in subdivision (b), any person who, directly or indirectly, does all of the following:

(1) Is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers.

(2) Receives or is promised payments totaling five hundred dollars (\$500) or more in a calendar year for the production of one or more slate mailers.

(b) Notwithstanding subdivision (a), a slate mailer organization shall not include any of the following:

(1) A candidate or officeholder or a candidate’s or officeholder’s controlled committee.

(2) An official committee of any political party.

(3) A legislative caucus committee.

(4) A committee primarily formed to support or oppose a candidate, officeholder, or ballot measure.

(c) The production and distribution of slate mailers by a slate mailer organization shall not be considered making contributions or expenditures for purposes of subdivision (b) or (c) of Section 82013. If a slate mailer organization makes contributions or expenditures other than by producing or distributing slate mailers, and it reports those contributions and expenditures pursuant to Sections 84218 and 84219, no additional campaign reports shall be required of the slate mailer organization pursuant to Section 84200 or 84200.5.

History: Added by Stats. 1987, Ch. 905; renumbered by Stats. 1988, Ch. 160.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18401.1

§ 82048.5. Special District.

“Special district” means any agency of the state established for the local performance of governmental or proprietary functions within limited boundaries. “Special district” includes a county service area, a maintenance district or area, an improvement district or zone, an air pollution control district, or a redevelopment agency. “Special district”

shall not include a city, county, city and county, or school district.

History: Added by Stats. 1994, Ch. 36.

§ 82048.7. Sponsored Committee.

(a) “Sponsored committee” means a committee, other than a candidate controlled committee, that has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives 80 percent or more of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

(c) A sponsor that is a multipurpose organization, as defined in subdivision (a) of Section 84222, and that makes contributions or expenditures from its general treasury funds shall comply with Section 84222.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1988, Ch. 1155; amended by Stats. 1991, Ch. 130; amended by Stats. 2005, Ch. 200; amended by Stats. 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18419, 18421.1

§ 82048.8. Spouse.

“Spouse” includes registered domestic partners recognized by state law.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18943

§ 82049. State Agency.

“State agency” means every state office, department, division, bureau, board and commission, and the Legislature.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18249, 18754

§ 82050. State Candidate.

“State candidate” means a candidate who seeks nomination or election to any elective state office.

§ 82051. State Measure.

“State measure” means any measure which is submitted or is intended to be submitted to the voters of the state.

§ 82052. Statewide Candidate.

“Statewide candidate” means a candidate who seeks election to any statewide elective office.

§ 82052.5. Statewide Election.

“Statewide election” means an election for statewide elective office.

§ 82053. Statewide Elective Office.

“Statewide elective office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 82054. Statewide Petition.

“Statewide petition” means a petition to qualify a proposed state measure.

Chapter 3. Fair Political Practices**Commission.****§ 83100 – 83124**

§ 83100.	Establishment; Membership.....	20
§ 83101.	Appointment by Governor.....	20
§ 83102.	Appointment by Attorney General, Secretary of State and Controller.....	20
§ 83103.	Terms of Office.....	20
§ 83104.	Vacancies; Quorum.....	20
§ 83105.	Qualifications; Removal.....	20
§ 83106.	Compensation; Expenses.....	21
§ 83107.	Executive Officer; Staff; Staff Compensation.....	21
§ 83108.	Delegation of Authority.....	21
§ 83109.	Civil Service Classification.....	21
§ 83110.	Offices; Public Meetings.....	21
§ 83111.	Administration and Implementation of Title.....	21
§ 83111.5.	Actions to Implement Title.....	21
§ 83112.	Rules and Regulations.....	21
§ 83113.	Additional Duties.....	21
§ 83114.	Requests For and Issuances of Opinions; Advice.....	22
§ 83115.	Investigations; Notice.....	22
§ 83115.5.	Findings of Probable Cause; Requirements.....	22
§ 83116.	Violation of Title.....	22
§ 83116.3.	Administrative Law Judge; Rejection.....	22
§ 83116.5.	Liability for Violations; Administrative.....	23
§ 83117.	Authority of Commission.....	23
§ 83117.5.	Receipt of Gift.....	23
§ 83118.	Subpoena Powers.....	23
§ 83119.	Self-Incrimination.....	23
§ 83120.	Judicial Review.....	23
§ 83121.	Judicial Advancement of Action.....	23
§ 83122.	Fair Political Practices Commission; Appropriation.....	23
§ 83123.5.	Enforcement of San Bernardino County Campaign Ordinance.....	24
§ 83123.6.	Enforcement of Local Government Campaign and Ethics Ordinance.....	24
§ 83124.	Cost of Living Adjustment.....	25

§ 83100. Establishment; Membership.

There is hereby established in state government the Fair Political Practices Commission. The Commission shall have

five members, including the **chair**. No more than three members of the Commission shall be members of the same political party.

History: Amended by Stats. 2021, Ch. 50.

§ 83101. Appointment by Governor.

The **chair** and one additional member of the Commission shall be appointed by the Governor. The Governor’s appointees shall not be members of the same political party.

History: Amended by Stats. 2021, Ch. 50.

§ 83102. Appointment by Attorney General, Secretary of State and Controller.

(a) The Attorney General, the Secretary of **State**, and the Controller shall each appoint one member of the Commission.

(b) If the Attorney General, the Secretary of **State**, and the Controller are all members of the same political party, the **chair** of the state central committee of any other political party with a registration of more than five hundred thousand may submit to the Controller a list of not less than five persons who are qualified and willing to be members of the Commission. The list shall be submitted not less than ten days after the effective date of this chapter for the Controller’s initial appointment, and not later than January 2 immediately prior to any subsequent appointment by the Controller. If the Controller receives one or more lists pursuant to this section, **the Controller’s** appointment shall be made from one of such lists.

History: Amended by Stats. 2021, Ch. 50.

§ 83103. Terms of Office.

Members and the **chair** of the Commission shall serve four-year terms beginning on February 1 and ending on January 31 or as soon thereafter as their successors are qualified, except that the initial appointees under Section 83102 shall serve six-year terms. A member or **chair** who has been appointed at the beginning of a term is **not** eligible for reappointment.

History: Amended by Stats. of 1987, Ch. 624; amended by Stats. 2021, Ch. 50.

§ 83104. Vacancies; Quorum.

Vacancies on the Commission shall be filled, within thirty days, by appointment of the same official who appointed the prior holder of the position. The provisions of Section 83102 (b) are not applicable to the filling of vacancies. Appointments to fill vacancies shall be for the unexpired term of the member or **chair** whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise all of the powers of the board. Three members shall constitute a quorum.

History: Amended by Stats. 2021, Ch. 50.

§ 83105. Qualifications; Removal.

Each member of the commission shall be an elector. A member of the commission, during **the member’s** tenure, shall **not** hold, any other public office, serve as an officer of

any political party or partisan organization, participate in or contribute to an election campaign, or employ or be employed as a lobbyist nor, during **the member's** term of appointment, seek election to any other public office. Members of the commission may be removed by the Governor, with concurrence of the Senate, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this section, after written notice and opportunity for a reply.

History: Amended by Stats. 1986, Ch. 620; **amended by Stats. 2021, Ch. 50.**

§ 83106. Compensation; Expenses.

The **chair** of the Commission shall be compensated at the same rate as the president of the Public Utilities Commission. Each remaining member shall be compensated at the rate of one hundred dollars (\$100) for each day on which **the member** engages in official duties. The members and **chair** of the Commission shall be reimbursed for expenses incurred in performance of their official duties.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18307

§ 83107. Executive Officer; Staff; Staff Compensation.

The Commission shall appoint an executive director who shall act in accordance with Commission policies and regulations and with applicable law. The Commission shall appoint and discharge officers, counsel and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18327

§ 83108. Delegation of Authority.

The Commission may delegate authority to the **chair** or the executive director to act in the name of the Commission between meetings of the Commission.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18319, 18361.9, 18363, 18751

§ 83109. Civil Service Classification.

For purposes of Section 19818.6, a nonclerical position under the Commission shall not be included in the same class in the civil service classification plan with any position of any other department or agency.

History: Amended by Stats. 2013, Ch. 654.

§ 83110. Offices; Public Meetings.

The principal office of the Commission shall be in Sacramento but it may establish offices, meet, and exercise its powers at any other place in the state. Meetings of the Commission shall be public except that the Commission may provide otherwise for discussions of personnel and litigation.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18310, 18310.1

§ 83111. Administration and Implementation of Title.

The Commission has primary responsibility for the impartial, effective administration and implementation of this title.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18200, 18310.1, 18361.10

§ 83111.5. Actions to Implement Title.

The commission shall take no action to implement this title that would abridge constitutional guarantees of freedom of speech, that would deny any person of life, liberty, or property without due process of law, or that would deny any person the equal protection of the laws.

History: Added by Stats. 1999, Ch. 225.

§ 83112. Rules and Regulations.

The Commission may adopt, amend and rescind rules and regulations to carry out the purposes and provisions of this title, and to govern procedures of the Commission. These rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.) and shall be consistent with this title and other applicable law.

History: Fair Political Practices Commission v. Office of Administrative Law and Linda Stockdale Brewer, Sacramento County Superior Court, Case No. 512795 (affirmed by Court of Appeal, Third District (April 27, 1992), Case No. C010924).

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18200, 18312, 18327, 18351, 18402, 18420, 18420.1, 18423, 18435, 18440, 18450.1, 18450.5, 18521.5, 18531.5, 18535, 18539.2

§ 83113. Additional Duties.

The commission shall, in addition to its other duties, do all of the following:

(a) Prescribe forms for reports, statements, notices and other documents required by this title.

(b) Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this title, and explaining the duties of persons and committees under this title.

(c) Provide assistance to agencies and public officials in administering the provisions of this title.

(d) Maintain a central file of local campaign contribution and expenditure ordinances forwarded to it by local government agencies.

(e) Annually publish a booklet not later than March 1 that sets forth the provisions of this title and includes other information the commission deems pertinent to the interpretation and enforcement of this title. The commission shall provide a reasonable number of copies of the booklet at no charge for the use of governmental agencies and subdivisions thereof that request copies of the booklet.

The commission may charge a fee, not to exceed the prorated cost of producing the booklet, for providing copies of the booklet to other persons and organizations.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1999, Ch. 855.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18313, 18313.5, 18313.6

§ 83114. Requests For and Issuances of Opinions; Advice.

(a) Any person may request the commission to issue an opinion with respect to **that person's** duties under this title. The commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. **Any person** who acts in good faith on an opinion issued to **that person** by the commission shall **not** be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published.

(b) Any person may request the commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the commission to provide advice within 21 days of the request or such later extended time.

History: Amended by Stats. 1976, Ch. 1080; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18320, 18321, 18322, 18324, 18326, 18329, 18329.5

§ 83115. Investigations; Notice.

Upon the sworn complaint of any person or on its own initiative, the commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action. Within 14 days after receipt of a complaint under this section, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or nonaction. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

History: Amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18360, 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18362

§ 83115.5. Findings of Probable Cause; Requirements.

A finding of probable cause to believe this title has been violated shall **not** be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of **that person's** right to be present in person and represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, **or**, if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the commission a written request that the proceeding be public.

History: Added by Stats. 1976, Ch. 1080; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18362

§ 83116. Violation of Title.

When the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The commission shall have all the powers granted by that chapter. When the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.
- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.5, 18316.6, 18360.2, 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18361.9, 18361.10, 18361.11, 18362

§ 83116.3. Administrative Law Judge; Rejection.

Whenever the commission rejects the decision of an administrative law judge made pursuant to Section 11517, the commission shall state the reasons in writing for rejecting the decision.

History: Added by Stats. 1999, Ch. 297.

§ 83116.5. Liability for Violations; Administrative.

Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and a violation of this section shall not constitute an additional violation under Chapter 11 (commencing with Section 91000).

History: Added by Stats. 1984, Ch. 670; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.5, 18316.6, 18402.2

§ 83117. Authority of Commission.

The Commission may:

- (a) Accept grants, contributions and appropriations;
- (b) Contract for any services which cannot satisfactorily be performed by its employees;
- (c) Employ legal counsel. Upon request of the Commission, the Attorney General shall provide legal advice and representation without charge to the Commission.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18327

§ 83117.5. Receipt of Gift.

It shall be unlawful for a member of the commission to receive a gift of ten dollars (\$10) or more per month.

“Gift” as used in this section means a gift made directly or indirectly by a state candidate, an elected state officer, a legislative official, an agency official, or a lobbyist or by any person listed in Section 87200.

History: Added by Stats. 1975, Ch. 797, effective September 16, 1975.

§ 83118. Subpoena Powers.

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission’s duties or exercise of its powers.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18363

§ 83119. Self-Incrimination.

The Commission may refuse to excuse any person from testifying, or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the Commission notwithstanding an objection that the testimony or evidence required of that person may tend to incriminate that person. An individual shall not be prosecuted in any manner or subjected to any penalty or forfeiture

whatever for or on account of any transaction, act, matter, or thing concerning which that person is compelled, after having claimed that person’s privilege against self-incrimination, to testify or produce evidence, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Immunity shall not be granted to any witness under this section unless the Commission has notified the Attorney General of its intention to grant immunity to the witness at least thirty days in advance, or unless the Attorney General waives this requirement.

History: Amended by Stats. 2021, Ch. 50.

§ 83120. Judicial Review.

An interested person may seek judicial review of any action of the Commission.

§ 83121. Judicial Advancement of Action.

If judicial review is sought of any action of the Commission relating to a pending election, the matter shall be advanced on the docket of the court and put ahead of other actions. The court may, consistent with due process of law, shorten deadlines and take other steps necessary to permit a timely decision.

§ 83122. Fair Political Practices Commission; Appropriation.

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) during the fiscal year of 1974-1975, and the sum of one million dollars (\$1,000,000), adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the commission pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the commission and other agencies as may be necessary to carry out the provisions of this title.

The Department of Finance, in preparing the state budget and the Budget Bill submitted to the Legislature, shall include an item for the support of the Political Reform Act of 1974, which item shall indicate all of the following: (1) the amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of such agencies; (2) the additional amounts required to be appropriated by the Legislature to the commission to carry out the purposes of this title, as provided for in this section; and (3) in parentheses, for informational purposes, the continuing appropriation during each fiscal year of one million dollars (\$1,000,000) adjusted for cost-of-living changes made to the commission by this section.

The definition of “expenditure” in Section 82025 is not applicable to this section.

History: Amended by Stats. 1976, Ch. 1075, effective September 21, 1976.

§ 83123.5. Enforcement of San Bernardino County Campaign Ordinance.

(a) Upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, the Commission is authorized to assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance passed by the Board of Supervisors of the County of San Bernardino. The Commission is authorized to be the civil prosecutor responsible for the civil enforcement of that local campaign finance reform ordinance in accordance with this title. As the civil prosecutor of the County of San Bernardino's local campaign finance reform ordinance, the Commission may do both of the following:

(1) Investigate possible violations of the local campaign finance reform ordinance.

(2) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(b) Any local campaign finance reform ordinance of the County of San Bernardino enforced by the Commission pursuant to this section shall comply with this title.

(c) The Board of Supervisors of the County of San Bernardino shall consult with the Commission prior to adopting and amending any local campaign finance reform ordinance that is subsequently enforced by the Commission pursuant to this section.

(d)(1) The Board of Supervisors of the County of San Bernardino and the Commission may enter into any agreements necessary and appropriate to carry out the provisions of this section, including agreements pertaining to any necessary reimbursement of state costs with county funds for costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance reform ordinance pursuant to this section.

(2) An agreement entered into pursuant to this subdivision shall not contain any form of a cancellation fee, a liquidated damages provision, or other financial disincentive to the exercise of the right to terminate the agreement pursuant to subdivision (e), except that the Commission may require the Board of Supervisors of the County of San Bernardino to pay the Commission for services rendered and any other expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement in the event that the Board of Supervisors of the County of San Bernardino terminates the agreement.

(e) The Board of Supervisors of the County of San Bernardino or the Commission may, at any time, by ordinance or resolution, terminate any agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance reform ordinance or any provision thereof.

History: Added by Stats. 2012, Ch. 169; amended by Stats. 2016, Ch. 202; amended by Stats. 2019, Ch. 315.

§ 83123.6. Enforcement of Local Government Campaign and Ethics Ordinance.

(a)(1) Upon mutual agreement between the Commission and the governing body of a local government agency, the Commission may assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance or government ethics law passed by the local government agency.

(2)(A) Upon approval of an agreement pursuant to paragraph (1), the Commission shall be the civil prosecutor responsible for the civil enforcement of the local campaign finance or government ethics law of the local government agency in accordance with this title.

(B) As the civil prosecutor, the Commission may do all of the following with respect to the local campaign finance or government ethics law:

(i) Provide advice.

(ii) Investigate possible violations.

(iii) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(iv) Bring civil actions.

(C) The Commission shall not be required to obtain authorization from the local government agency to bring an administrative or civil action pursuant to subparagraph (B).

(b) A local campaign finance or government ethics law of the local government agency enforced by the Commission pursuant to this section shall comply with this title.

(c) The governing body of the local government agency shall consult with the Commission before adopting and amending any local campaign finance or government ethics law that is subsequently enforced by the Commission pursuant to this section.

(d)(1) The governing body of the local government agency and the Commission shall enter into any agreements necessary and appropriate to carry out the provisions of paragraph (1) of subdivision (a), including agreements pertaining to any necessary local reimbursement of direct and indirect costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance or government ethics law pursuant to this section. Before approving an agreement for local reimbursement, the Commission shall submit the proposed agreement to the Department of General Services for review. The Commission may approve the agreement 90 days after submitting it to the Department of General Services or after receiving the department's written review of the agreement, whichever occurs first. The Commission shall submit an approved agreement, along with any review received, to the Department of Finance.

(2) An agreement entered into pursuant to this subdivision shall not contain a cancellation fee, a liquidated damages provision, or other financial disincentive to terminate the agreement pursuant to subdivision (e), except that, if the local government agency terminates the agreement, the Commission may require the governing body of the local government agency to pay the Commission for services rendered and any other expenditures reasonably made by the

Commission in anticipation of services to be rendered pursuant to the agreement.

(e) The governing body of the local government agency or the Commission may, at any time, by ordinance or resolution, terminate an agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance ordinance or any provision thereof. The termination shall be effective 90 days after the enactment of the ordinance or resolution unless an agreement between the local government and the Commission requires a longer period.

(f) The Commission shall conspicuously post on its Internet Web site a list of every local government agency that it has entered into agreement with pursuant to this section.

(g) An agreement for the enforcement of a local campaign finance or government ethics law between the Commission and the City of Stockton, or the City of Sacramento that was in effect on December 31, 2018, shall be deemed to comply with this section.

(h) If an agreement is entered into pursuant to this section, the Commission shall report to the Legislature regarding the performance of that agreement on or before January 1, 2025, and shall submit that report in compliance with Section 9795. The Commission shall develop the report in consultation with the governing body of the local government agency. The report shall include, but not be limited to, all of the following:

(1) The status of the agreement.

(2) The estimated annual cost savings, if any, for the local government agency.

(3) A summary of relevant annual performance metrics, including measures of use, enforcement, and customer satisfaction.

(4) Public comments submitted to the Commission or the local government agency relative to the operation of the agreement.

(5) Legislative recommendations.

(i) This section does not apply to a jurisdiction with a population of 3,000,000 or more or to the County of San Bernardino.

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

History: Added by Stats. 2015, Ch. 186, effective January 1, 2016; repealed and added by Stats. 2018, Ch. 394.

§ 83124. Cost of Living Adjustment.

The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18544, 18545, 18531.10

Chapter 4. Campaign Disclosure.

§ 84100 – 84511

Article 1.	Organization of Committees. § 84100 – 84109..	25
Article 2.	Filing of Campaign Statements. § 84200 – 84225	29
Article 2.5.	Campaign Reporting Requirements LAFCO	
	Proposals. § 84250 – 84252	44
Article 3.	Prohibitions. § 84300 – 84310.....	44
Article 4.	Exemptions. § 84400.....	49
Article 5.	Advertisements. § 84501 – 84511	49

Article 1. Organization of Committees.

§ 84100 – 84109

§ 84100.	Treasurer.....	25
§ 84101.	Statement of Organization; Filing.*	25
§ 84101.5.	Annual Fees.*	26
§ 84102.	Statement of Organization; Contents.*	26
§ 84103.	Statement of Organization; Amendment.*	27
§ 84104.	Recordkeeping.	27
§ 84105.	Notification to Contributors.	28
§ 84106.	Sponsored Committee; Identification.	28
§ 84107.	Ballot Measure Committee; Identification.....	28
§ 84108.	Slate Mailer Organization; Statement of Organization.*	28
§ 84109.	Limited Liability Company; Member Disclosure.	28

§ 84100. Treasurer.

Every recipient committee, as defined by subdivision (a) of Section 82013, shall have a treasurer. An expenditure shall not be made by or on behalf of a committee without the authorization of the treasurer or the treasurer's designated agents. A contribution or expenditure shall not be accepted or made by or on behalf of a committee when the office of treasurer is vacant.

(b) A recipient committee, as defined by subdivision (a) of Section 82013, may designate one assistant treasurer on the committee's statement of organization. The assistant treasurer may sign and verify a campaign statement on behalf of the committee if the assistant uses reasonable diligence to prepare and review the statement and signs to that effect under penalty of perjury as required by Section 81004.

History: Repealed and reenacted as amended by Stats. 1979, Ch. 779, amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.6, 18401, 18426.1, 18427

Opinions: *In re Augustine* (1975) 1 FPPC Ops. 69

§ 84101. Statement of Organization; Filing.*

(a) A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file a statement of organization. The committee shall file the original of the statement

of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign a number to each committee that files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the county elections official of each county that **the Secretary of State** deems appropriate. A county elections official who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of the statement to the clerk of each city in the county that **the county elections official** deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.8 or 84200.9, the committee shall file, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) If an independent expenditure committee qualifies as a committee pursuant to subdivision (a) of Section 82013 during the time period described in Section 82036.5 and makes independent expenditures of one thousand dollars (\$1,000) or more to support or oppose a candidate or candidates for office, the committee shall file, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this section shall be filed with the filing officer with whom the committee is required to file the original of its campaign reports pursuant to Section 84215, and shall be filed at all locations required for the candidate or candidates supported or opposed by the independent expenditures. The filings required by this section are in addition to filings that may be required by Section 84204.

(d) For purposes of this section, in calculating whether two thousand dollars (\$2,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate's personal funds.

History: Amended by Stats. 1978, Ch. 551; amended by Stats. 1979, Ch. 531; amended by Stats. 1986, Ch. 544; amended by Stats. 1992, Ch. 405; amended by Stats. 2001, Ch. 901; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2010, Ch. 633; amended by

Stats. 2015, Ch. 364, effective January 1, 2016; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.1, 18404, 18410, 18421.8, 18503, 18520, 18521

*Section 84101 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84101.5. Annual Fees.*

(a) Notwithstanding Section 81006, the Secretary of State shall charge each committee that is required to file a statement of organization pursuant to subdivision (a) of Section **84101 an annual** fee of fifty dollars (\$50) until the committee is terminated pursuant to Section 84214.

(b)(1) A committee **subject to the annual fee pursuant to subdivision (a)** shall pay the fee no later than 15 days after filing its statement of organization and no later than **January 15 of each year thereafter, except as provided in paragraph (2).**

(2) A committee that is **created**, and pays the initial fee pursuant to **paragraph (1), in October, November, or December** of a calendar year is not subject to the annual fee for the following calendar year.

(c)(1) A committee that fails to timely pay **the annual fee required by this section is subject to an administrative penalty of one hundred fifty dollars (\$150).**

(2) The **Secretary of State** shall enforce the requirements of this section.

History: Added by Stats. 2012, Ch. 506; **amended by Stats. 2021, Ch. 317.**

*Section 84101.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84102. Statement of Organization; Contents.*

The statement of organization required by Section 84101 shall include all of the following:

(a) The name, street address, email address, and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. If a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address, and telephone number of each sponsor.

(c) The full name, street address, email address, and telephone number of the treasurer and any other principal officers.

(1) A committee with more than one principal officer shall identify its principal officers as follows:

(A) A committee with three or fewer principal officers shall identify all principal officers.

(B) A committee with more than three principal officers shall identify no fewer than three principal officers.

(2) If no individual other than the treasurer is a principal officer, the treasurer shall be identified as both the treasurer and the principal officer.

(d) (1) An acknowledgment by any person identified as a treasurer or assistant treasurer on the statement of organization of the following:

(A) By serving as treasurer or assistant treasurer, the person must comply with all applicable duties stated in this title and the regulations of the Commission.

(B) A violation of these duties could result in criminal, civil, or administrative penalties.

(2) A failure to complete the acknowledgment pursuant to paragraph (1) is not a violation of this title. However, the Secretary of State shall not accept a statement of organization unless the acknowledgment has been completed.

(3) This subdivision shall not become operative until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602.

(e) The full name and office sought by a candidate, and the title and ballot number, if any, of any measure, that the committee supports or opposes as its primary activity. A committee that does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics, such as a political party preference.

(f) A statement whether the committee is independent or controlled and, if it is controlled, the name of each candidate or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly. If a committee is controlled by a candidate for partisan or voter-nominated office, the controlled committee shall indicate the political party, if any, for which the candidate has disclosed a preference.

(g) For a committee that is a committee by virtue of subdivision (a) or (b) of Section 82013, the name and address of the financial institution in which the committee has established an account and the account number.

(h) Other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1977, Ch. 1095; amended by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats. 1990, Ch. 655; amended by Stats. 1992, Ch. 223; amended by Stats. 2000, Ch. 853; amended by Stats. 2012, Ch. 496; amended by Stats. 2013, Ch. 654; amended by Stats. 2019, Ch. 313.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402, 18402.1, 18404.1, 18410, 18419, 18421.8, 18430, 18503, 18521.5

Opinions: *In re Petris* (1975) 1 FPPC Ops. 20

*Section 84102 was amended by AB 909 (Stats. 2019, Ch. 313); subdivision (d) is not operative until the Secretary of State certifies an online filing and disclosure system under Section 84602 (b)(7). For more information, please refer to Appendix V.

§ 84103. Statement of Organization; Amendment.*

(a) If there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change. The committee shall file the original of the amendment online or electronically with the Secretary of State and shall also file a copy of the amendment with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(b) In addition to filing an amendment to a statement of organization as required by subdivision (a), a committee as defined in subdivision (a) of Section 82013 shall file an amendment to its statement of organization within 24 hours if the change requiring the amendment occurs within 16 days before the date of the election in connection with which the committee is required to file a preelection statement, and if any of the following information is changed:

(1) The name of the committee.

(2) The name of the treasurer or other principal officers.

(3) The name of any candidate or committee by which the committee is controlled or with which it acts jointly.

The amendment shall include the changed information, the date of the change, and the committee's name and identification number.

The committee shall file the original of the amendment online or electronically with the Secretary of State and a copy with the local filing officer, if any, with whom the committee is required to file the original of its campaign reports, by email, fax, online transmission, guaranteed overnight delivery, or personal delivery.

(c)(1) If an amendment to a statement of organization identifies a new treasurer or assistant treasurer that person shall complete the acknowledgment required by subdivision (d) of Section 84102.

(2) A failure to complete the acknowledgment pursuant to paragraph (1) is not a violation of this title. However, the Secretary of State shall not accept an amendment to a statement of organization that identifies a new treasurer or assistant treasurer unless the acknowledgment has been completed.

(3) This subdivision shall not become operative until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602.

History: Amended by Stats. 1986, Ch. 544; amended by Stats. 1987, Ch. 479; amended by Stats. 2000, Ch. 853; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2015, Ch. 364, effective January 1, 2016; amended by Stats. 2019, Ch. 313.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.1, 18404.1, 18410, 18503, 18521.5

*Section 84103 was amended by SB 1239 (Stats. 2018, Ch. 662) and AB 909 (Stats. 2019, Ch. 313); subdivision (c) is not operative until the Secretary of State certifies an online filing and disclosure system under Section 84602 (b)(7). For more information, please refer to Appendix V.

§ 84104. Recordkeeping.

It shall be the duty of each candidate, treasurer, principal officer, and elected officer to maintain detailed accounts,

records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of this chapter. The detailed accounts, records, bills, and receipts shall be retained by the filer for a period specified by the Commission. However, the Commission shall not require retention of records for a period longer than the statute of limitations specified in Section 91000.5 or two years after the adoption of an audit report pursuant to Chapter 10 (commencing with Section 90000), whichever is less.

History: Added by Stats. 1979, Ch. 779; amended by Stats. 2004, Ch. 483; amended by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18360.1, 18360.3, 18401, 18421.31, 18422.1, 18426.1, 18531.62

§ 84105. Notification to Contributors.

(a) A candidate or committee that receives contributions totaling five thousand dollars (\$5,000) or more from a person in a calendar year shall inform that contributor within two weeks of receipt that the contributor may be required to file campaign reports. The notice shall include a reference to the filing requirements for multipurpose organizations under Section 84222.

(b) A candidate or committee that receives a contribution of ten thousand dollars (\$10,000) or more from a person during a period in which late-contribution reports are required to be filed under Section 84203 shall provide the information in subdivision (a) of that section to the contributor within one week.

(c) The notifications required by this section need not be sent to a contributor who has an identification number assigned by the Secretary of State issued under Section 84101.

History: Added by Stats. 1984, Ch. 670; amended by Stats. 2014, Ch. 16, effective July 1, 2014; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18427.1

§ 84106. Sponsored Committee; Identification.

(a) Whenever identification of a sponsored committee is required by this title, the identification shall include the full name of the committee as required in its statement of organization.

(b) A sponsored committee shall use only one name in its statement of organization.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats. 2004, Ch. 484.

§ 84107. Ballot Measure Committee; Identification.

Within 30 days of the designation of the numerical order of propositions appearing on the ballot, any committee which is primarily formed to support or oppose a ballot measure, shall, if supporting the measure, include the statement, "a committee for Proposition __," or, if opposing the measure, include the statement, "a committee against Proposition __," in any reference to the committee required by law.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18531.5

§ 84108. Slate Mailer Organization; Statement of Organization.*

(a) Every slate mailer organization shall comply with the requirements of Sections 84100, 84101, 84103, and 84104.

(b) The statement of organization of a slate mailer organization shall include:

(1) The name, street address, and telephone number of the organization. In the case of an individual or business entity that qualifies as a slate mailer organization, the name of the slate mailer organization shall include the name by which the individual or entity is identified for legal purposes. Whenever identification of a slate mailer organization is required by this title, the identification shall include the full name of the slate mailer organization as contained in its statement of organization.

(2) The full name, street address, and telephone number of the treasurer and other principal officers.

(3) The full name, street address, and telephone number of each person with final decisionmaking authority as to which candidates or measures will be supported or opposed in the organization's slate mailers.

(c) The statement of organization shall be filed with the Secretary of State within 10 days after the slate mailer organization receives or is promised five hundred dollars (\$500) or more for producing one or more slate mailers. However, if an entity qualifies as a slate mailer organization before the date of an election in which it is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84218, the slate mailer organization shall file with the Secretary of State, by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a slate mailer organization, the information required to be reported in the statement of organization.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1996, Ch. 892; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.1

*Section 84108 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84109. Limited Liability Company; Member Disclosure.

(a) A limited liability company that qualifies as a committee pursuant to Section 82013, or qualifies as a sponsor of a committee pursuant to Section 82048.7, shall file a statement of members with the Secretary of State.

(b) The statement of members shall include a list of all persons who either:

(1) Have a membership interest in the limited liability company equal to or greater than 10 percent of the total outstanding membership interests.

(2) Made a cumulative capital contribution of ten thousand dollars (\$10,000) or more to the limited liability company after it qualified as a committee or sponsor of a committee, or within the preceding 12 months before it qualified.

(c) The statement of members shall include all of the following:

(1) The name of the limited liability company and the contact information for its responsible officer or principal officer.

(2) The name of each member required to be identified by subdivision (b).

(3) The dollar amount of the cumulative capital contributions made by each member identified in the statement of members.

(4) The date of each capital contribution made by a member identified pursuant to paragraph (2) of subdivision (b).

(5) The percentage ownership interest in the limited liability company of each member identified in the statement of members.

(d)(1)(A) Except as provided in subparagraph (B), a statement of members is due within 10 days of the limited liability company qualifying as a committee or sponsor of a committee.

(B) A statement of members is due within 24 hours of the limited liability company qualifying as a committee or sponsor of a committee if the limited liability company qualifies within 30 days of an election and the limited liability company has made a contribution to, or an independent expenditure supporting or opposing, a candidate or ballot measure on the ballot in that election, or made a contribution to a committee that made a contribution to, or an independent expenditure supporting or opposing, a candidate or ballot measure on the ballot in that election.

(2)(A) A limited liability company required to file a statement of members under subdivision (a) shall file an amended statement if it receives a capital contribution of ten thousand dollars (\$10,000) or more after qualifying as a committee or sponsor of a committee.

(B)(i) Except as provided in clause (ii), a limited liability company required to file an amended statement of members shall file the amended statement within 10 days of receiving the additional capital contribution.

(ii) A limited liability company required to file an amended statement of members shall file the amended statement within 24 hours of receiving the additional capital contribution if the limited liability company receives the contribution within 90 days of an election and the limited liability company has made a contribution to, or independent expenditure supporting or opposing, a candidate or ballot measure on the ballot in that election.

(C) A capital contribution or other payment made to a limited liability company that qualified as a committee or sponsor of a committee that is earmarked, in whole or in part, for political purposes shall be deemed a contribution to the committee.

(e) If a member listed on a statement of members is a limited liability company, the statement shall list all members of that limited liability company who would be listed

on a statement of members pursuant to subdivision (b) if the member limited liability company qualified as a committee or sponsor of a committee.

(f) Contributions from a member of a limited liability company identified in a statement of members shall be aggregated with contributions from the limited liability company pursuant to Section 82015.5.

(g)(1) A statement of members shall be filed by email with the Secretary of State and shall be signed by using a secure electronic signature. The Secretary of State shall post all statements received pursuant to this subdivision on its internet website within five business days, or if the Secretary of State receives the statement during the 16 days before the election, within 48 hours.

(2) This subdivision shall become inoperative on the date the Secretary of State makes the statement of members available for filing using the Secretary of State's online filing and disclosure system described in Section 84602.

(h)(1) No later than one year after the Secretary of State certifies the online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602, the Secretary of State shall make the statement of members available for filing using that online filing and disclosure system.

(2)(A) A statement of members shall be filed online or electronically with the Secretary of State. The Secretary of State shall make a statement of members filed pursuant to this subdivision available to the public in the online filing and disclosure system described in Section 84602.

(B) This paragraph shall become operative on the date the Secretary of State makes the statement of members available for filing using the Secretary of State's online filing and disclosure system described in Section 84602.

(i) For purposes of this section, the following terms have the following meanings:

(1) "Capital contribution" means money, or the fair market value of any other property, contributed to a limited liability company in exchange for a membership interest in the limited liability company.

(2) "Limited liability company" means an entity defined in subdivision (j) or (k) of Section 17701.02 of the Corporations Code.

(3) "Member" has the same meaning as defined in subdivision (p) of Section 17701.02 of the Corporations Code.

History: Added by Stats. 2021, Ch. 321, effective January 1, 2022.

Article 2. Filing of Campaign Statements.

§ 84200 – 84225

§ 84200.	Semi-Annual Statements.....	30
§ 84200.5.	Preelection Statements.	30
§ 84200.8.	Timing for Filing Preelection Statements.*	31
§ 84200.9.	Time for Filing Preelection Statements for Candidates for the Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.	31
§ 84202.3.	Campaign Statements; Ballot Measure Committees.	31
§ 84202.7.	Time for Filing by Committees of Odd-Numbered Year Reports.	32
§ 84203.	Late Contribution; Reports.*.....	32

§ 84203.3.	Late In-Kind Contributions.....	32
§ 84204.	Late Independent Expenditures; Reports.*	32
§ 84204.5.	Ballot Measure Contributions and Expenditures; Reports.*	33
§ 84205.	Combination of Statements.....	34
§ 84206.	Candidates Who Receive or Spend Less Than \$2,000.	34
§ 84207.	County Central Committee Candidates Who Receive or Spend Less Than \$2,000.	34
§ 84209.	Consolidated Statements.....	34
§ 84211.	Contents of Campaign Statement.*	35
§ 84212.	Forms; Loans.	36
§ 84213.	Verification.*	36
§ 84214.	Termination.....	37
§ 84215.	Campaign Statements; Where to File.*	37
§ 84216.	Loans.	38
§ 84216.5.	Loans Made by a Candidate or Committee.	38
§ 84217.	Federal Office Candidates; Places Filed.*	38
§ 84218.	Slate Mailer Organization; Campaign Statements.....	38
§ 84219.	Slate Mailer Organization; Semi-Annual Statements; Contents.*	39
§ 84220.	Slate Mailer Organization; Late Payments.....	39
§ 84221.	Slate Mailer Organization; Termination.	40
§ 84222.	Multipurpose Organizations.....	40
§ 84222.5.	Publicly Funded Nonprofit Organizations.	42
§ 84223.	Top Ten Contributor Lists.*	42
§ 84224.	Behested Payment Disclosure.*	43
§ 84225.	Public Employees' Retirement Board and Teachers' Retirement Board Candidates.....	43

§ 84200. Semi-Annual Statements.

(a) Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than two hundred dollars (\$200) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(A) The judge has not received any contributions.

(B) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other candidates or committees totaling less than one thousand dollars (\$1,000).

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they

have made contributions or independent expenditures, including payments to a slate mailer organization, during the six-month period before the closing date of the statements.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing Campaign Statements in Connection with Elections Held at Times Other Than the State Direct Primary or the State General Election.") Amended by Stats. 1981, Ch. 78; amended by Stats. 1982, Ch. 1069; amended by Stats. 1983, Ch. 898; amended by Stats. 1984, Ch. 1368; repealed and reenacted as amended by Stats. 1985, Ch. 1456; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 581; amended by Stats. 1994, Ch. 1129; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18405, 18420, 18426

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10

In re Sampson (1975) 1 FPPC Ops. 183

In re Kelly, Masini (1975) 1 FPPC Ops. 162

In re Goodwin (1975) 1 FPPC Ops. 24

§ 84200.5. Preelection Statements.

(a) In addition to the semiannual campaign statements required by Section 84200, the following elected officers, candidates, and committees shall file preelection statements under Section 84200.8:

(1) All candidates appearing on the ballot at the next election, their controlled committees, and committees primarily formed to support or oppose an elected officer, candidate, or measure appearing on the ballot for the next election.

(2) All elected state officers and candidates for elective state office who are not appearing on the ballot at the next state primary or general election, and who, during the preelection reporting periods covered by Section 84200.8, make contributions or independent expenditures totaling five hundred dollars (\$500) or more to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at the next state primary or general election.

(3) A state or county general purpose committee formed pursuant to subdivision (a) of Section 82013, other than a political party committee as defined in Section 85205, that, during the preelection reporting periods covered by Section 84200.8, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at the next state primary or general election. However, a state or county general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the preelection statements specified in Section 84200.8.

(4) A political party committee as defined in Section 85205 that, during the preelection reporting periods covered by Section 84200.8, receives contributions totaling one thousand dollars (\$1,000) or more, or makes contributions or independent expenditures totaling five hundred dollars (\$500) or more, to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at a state election.

(5) A city general purpose committee formed pursuant to subdivision (a) of Section 82013 that, during the preelection reporting periods covered by Section 84200.8, makes

contributions or independent expenditures totaling five hundred dollars (\$500) or more to a city general purpose committee formed within the same jurisdiction, or to support or oppose a candidate or measure appearing on the ballot at the next city election. However, a city general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the preelection statements specified in Section 84200.8.

(b) During an election period for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board, the following candidates and committees shall file the preelection statements specified in Section 84200.9:

(1) All candidates for these boards, their controlled committees, and committees primarily formed to support or oppose the candidates.

(2) A state or county general purpose committee formed pursuant to subdivision (a) of Section 82013 that, during the preelection reporting periods covered by Section 84200.9, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to support or oppose a candidate for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board. However, a general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the statements specified in Section 84200.9.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1988, Ch. 1281 effective September 26, 1988; amended by Stats. 1991, Ch. 505; amended by Stats. 1991, Ch. 1077; amended by Stats. 1993, Ch. 769; amended by Stats. 1999, Ch. 158, effective July 23, 1999; amended by Stats. 1999, Ch. 855; amended by Stats. 2004, Ch. 623, effective September 21, 2004; amended by Stats. 2010, Ch. 633; repealed and adopted by Stats. 2015, Ch. 364, effective January 1, 2016; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18405

§ 84200.8. Timing for Filing Preelection Statements.*

Preelection statements shall be filed under this section as follows:

(a) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election.

(b) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(c) For runoff elections held within 60 days of the qualifying election, an additional preelection statement for the period ending 17 days before the runoff election shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or

measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or personal delivery.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 984.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18405

*Section 84200.8 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84200.9. Time for Filing Preelection Statements for Candidates for the Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.

Preelection statements for an election period for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board shall be filed as follows:

(a) For the period ending five days before the beginning of the ballot period, as determined by the relevant board, a statement shall be filed no later than two days before the beginning of the ballot period.

(b) For the period ending five days before the deadline to return ballots, as determined by the relevant board, a statement shall be filed no later than two days before the deadline to return ballots.

(c) In the case of a runoff election, for the period ending five days before the deadline to return runoff ballots, as determined by the relevant board, a statement shall be filed no later than two days before the deadline to return runoff ballots.

(d) All candidates being voted upon, their controlled committees, and committees primarily formed to support or oppose a candidate being voted upon in that election shall file the statements specified in subdivisions (b) and (c) by guaranteed overnight delivery service or by personal delivery.

History: Added by Stats. 2010, Ch. 633.

§ 84202.3. Campaign Statements; Ballot Measure Committees.

(a) In addition to the campaign statements required by Section 84200, committees pursuant to subdivision (a) of Section 82013 that are primarily formed to support or oppose the qualification, passage, or defeat of a measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification, passage, or defeat of a state ballot measure, shall file campaign statements on the following dates:

(1) No later than April 30 for the period January 1 through March 31.

(2) No later than October 31 for the period July 1 through September 30.

(b) This section does not apply to a committee during any semiannual period in which the committee is required to file preelection statements pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 84200.5.

(c) This section does not apply to a committee following the election at which the measure is voted upon unless the committee makes contributions or expenditures to support or oppose the qualification or passage of another ballot measure.

History: Added by Stats. 1991, Ch. 696; amended by Stats. 1993, Ch. 769; amended by Stats. 2019, Ch. 102.

§ 84202.7. Time for Filing by Committees of Odd-Numbered Year Reports.

During an odd-numbered year, any committee by virtue of Section 82013 that makes contributions totaling ten thousand dollars (\$10,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified below shall file campaign statements on the following dates:

(a) No later than April 30 for the period of January 1 through March 31.

(b) No later than October 31 for the period of July 1 through September 30.

History: Added by Stats. 1986, Ch. 984; amended by Stats. 1993, Ch. 218; amended by Stats. 2000, Ch. 130; amended by Stats. 2019, Ch. 315.

§ 84203. Late Contribution; Reports.*

(a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report **the candidate or committee's** full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report **the recipient's** full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, **the contributor's** street address, occupation, and the name of **the contributor's employer, or,** if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. If a late contribution is required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

(e) The report required pursuant to this section is not required to be filed by a candidate or committee that has disclosed the late contribution pursuant to subdivision (a) or (b) of Section 85309.

History: Amended and renumbered by Stats. 1977, Ch. 1193. (Formerly Section 84201.) (Former Section 84203, titled "Measure; Committee; Time for Filing Campaign Statement," repealed by Stats. 1977, Ch. 1193.) Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing When a Special, General or Runoff Election is Held Less than 60 Days Following the Primary Election.") Repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Committee Preelection Statement."); amended by Stats. 1992, Ch. 89; amended by Stats. 2002, Ch. 211; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200; amended by Stats. 2010, Ch. 18; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.1, 18425, 18435

*Section 84203 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84203.3. Late In-Kind Contributions.

(a) Any candidate or committee that makes a late contribution that is an in-kind contribution shall notify the recipient in writing of the value of the in-kind contribution. The notice shall be received by the recipient within 24 hours of the time the contribution is made.

(b) Nothing in this section shall relieve a candidate or committee that makes a late in-kind contribution or the recipient of a late in-kind contribution from the requirement to file late contribution reports pursuant to Section 84203. However, a report filed by the recipient of a late in-kind contribution shall be deemed timely filed if it is received by the filing officer within 48 hours of the time the contribution is received.

History: Added by Stats. 1995, Ch. 77.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.1, 18425

§ 84204. Late Independent Expenditures; Reports.*

(a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made. If a late independent expenditure is required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in

which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported with a late independent expenditure report by this subdivision is required to be reported on more than one late independent expenditure report.

(c) A committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

(e) Expenditures that have been disclosed by candidates and committees pursuant to Section 85500 are not required to be disclosed pursuant to this section.

History: Former Section 84204, titled "Support of Both Candidates and Measures; Filing Requirements," repealed by Stats. 1977, Ch. 1193; former Section 84202 amended by Stats. 1976, Ch. 1106; renumbered to 84204 by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing; Committees Supporting or Opposing the Qualification of a Measure and Proponents of State Measures"); repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Candidate Preelection Statement"); amended by Stats. 1992, Ch. 89; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections [18421.11](#), 18550.24

*Section 84204 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84204.5. Ballot Measure Contributions and Expenditures; Reports.*

(a) In addition to any other report required by this title, a committee pursuant to subdivision (a) of Section 82013 that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State each time it makes contributions totaling five thousand dollars (\$5,000) or more or each time it makes independent expenditures totaling five thousand dollars (\$5,000) or more to support or oppose the qualification or passage of a single state

ballot measure. The report shall be filed within 10 business days of making the contributions or independent expenditures and shall contain all of the following:

(1) The full name, street address, and identification number of the committee.

(2) The number or letter of the measure if the measure has qualified for the ballot and has been assigned a number or letter; the title of the measure if the measure has not been assigned a number or letter but has been issued a title by the Attorney General; or the subject of the measure if the measure has not been assigned a number or letter and has not been issued a title by the Attorney General.

(3) In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to whom the contribution was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the contribution requiring a report under this section, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the contribution requiring a report under this section. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(4) In the case of an independent expenditure, the date, amount, and a description of the goods or services for which the expenditure was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the expenditure. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(b) In addition to any other report required by this title, a committee pursuant to subdivision (a) of Section 82013 shall file a report each time it makes contributions totaling five thousand dollars (\$5,000) or more or independent expenditures aggregating five thousand dollars (\$5,000) or more to support or oppose the qualification of a single local initiative or referendum ballot measure. A committee that is required to file a report under this subdivision shall file the report in the places where it would be required to file campaign statements under this article as if it were formed or

existing primarily to support or oppose the local initiative or referendum ballot measure. The report shall be filed within 10 business days of reaching the aggregate dollar threshold and shall contain all of the following:

(1) The full name, street address, and identification number of the committee.

(2) The name or subject of the measure.

(3) In the case of an independent expenditure, the date, amount, and a description of the goods or services for which the expenditure was made. In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to which the contribution was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the contribution or expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the contribution or expenditure. The information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is not required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(c) Reports required by this section are not required to be filed by a committee primarily formed to support or oppose the qualification or passage of a state ballot measure or the qualification of a local initiative or referendum ballot measure for expenditures made on behalf of the ballot measure or measures for which it is formed.

(d) Independent expenditures that have been disclosed by a committee pursuant to Section 84204 or 85500 are not required to be disclosed pursuant to this section.

History: Added by Stats. 2006, Ch. 438; amended by Stats. 2017 Ch. 183.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18466

*Section 84204.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84205. Combination of Statements.

The commission may by regulation or written advice permit candidates and committees to file campaign statements combining statements and reports required to be filed by this title.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Closing Dates"); amended by Stats. 1981, Ch. 78; repealed and reenacted by Stats. 1985, Ch. 1456. (Formerly titled "Candidates Who Receive or Spend Less than \$500.")

§ 84206. Candidates Who Receive or Spend Less Than \$2,000.

(a) The commission shall provide by regulation for a short form for filing reports required by this article for candidates or officeholders who receive contributions of less than two thousand dollars (\$2,000), and who make expenditures of less than two thousand dollars (\$2,000), in a calendar year.

(b) For the purposes of this section, in calculating whether two thousand dollars (\$2,000) in expenditures have been made, payments for a filing fee or for a statement of qualification shall not be included if these payments have been made from the candidate's personal funds.

(c) Every candidate or officeholder who has filed a short form pursuant to subdivision (a), and who thereafter receives contributions or makes expenditures totaling two thousand dollars (\$2,000) or more in a calendar year, shall send written notification to the Secretary of State, the local filing officer, and each candidate contending for the same office within 48 hours of receiving or expending a total of two thousand dollars (\$2,000). The written notification shall revoke the previously filed short form statement.

History: Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Semi-Annual Campaign Statements"); repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Late Contributions; Reports"); amended by Stats. 1987, Ch. 632; amended by Stats. 1993, Ch. 391; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18406

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10

§ 84207. County Central Committee Candidates Who Receive or Spend Less Than \$2,000.

(a) An elected member of, or a candidate for election to, a county central committee of a qualified political party who receives contributions of less than two thousand dollars (\$2,000) and who makes expenditures of less than two thousand dollars (\$2,000) in a calendar year shall not be required to file any campaign statements required by this title.

(b) Notwithstanding Sections 81009.5 and 81013, a local government agency shall not impose any filing requirements on an elected member of, or a candidate for election to, a county central committee of a qualified political party who receives contributions of less than two thousand dollars (\$2,000) and who makes expenditures of less than two thousand dollars (\$2,000) in a calendar year.

History: Amended by Stats. 1977, Ch. 1193, effective January 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidate for Reelection to Judicial Office"); repealed by Stats. 1985, Ch. 1456; reenacted as amended by Stats. 2012, Ch. 502. (Formerly titled "Late Independent Expenditures; Reports."); amended by Stats. 2015, Ch. 364, effective January 1, 2016.

§ 84209. Consolidated Statements.

A candidate or state measure proponent and any committee or committees which the candidate or a state measure proponent controls may file consolidated campaign statements under this chapter. Such consolidated statements shall

be filed in each place each of the committees and the candidate or state measure proponent would be required to file campaign statements if separate statements were filed.

History: Added by Stats. 1980, Ch. 289.

§ 84211. Contents of Campaign Statement.*

Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars (\$100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

(1) That person's full name.

(2) That person's street address.

(3) That person's occupation.

(4) The name of that person's employer, or, if self-employed, the name of the business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and, if the contribution is a loan, the interest rate for the loan.

(6) The cumulative amount of contributions.

(g) If the cumulative amount of loans received from or made to a person is one hundred dollars (\$100) or more, and a loan has been received from or made to a person during the period covered by the campaign statement, or is outstanding during the period covered by the campaign statement, all of the following:

(1) That person's full name.

(2) That person's street address.

(3) That person's occupation.

(4) The name of that person's employer, or, if self-employed, the name of the business.

(5) The original date and amount of each loan.

(6) The due date and interest rate of the loan.

(7) The cumulative payment made or received to date at the end of the reporting period.

(8) The balance outstanding at the end of the reporting period.

(9) The cumulative amount of contributions.

(h) For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received or outstanding during the period covered by the campaign statement, all of the following:

(1) That person's full name.

(2) That person's street address.

(3) That person's occupation.

(4) The name of that person's employer, or, if self-employed, the name of the business.

(5) The amount of that person's maximum liability outstanding.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(k) For each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, all of the following:

(1) That person's full name.

(2) That person's street address.

(3) The amount of each expenditure.

(4) A brief description of the consideration for which each expenditure was made.

(5) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which the candidate seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon.

(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of five hundred dollars (\$500) or more during the period covered by the campaign statement.

For purposes of subdivisions (i), (j), and (k) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(l) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(m) If a committee is listed pursuant to subdivision (f), (g), (h), (k), (l), or (q), the number assigned to the committee by the Secretary of State shall be listed, or, if no number has been assigned, the full name and street address of the treasurer of the committee.

(n) In a campaign statement filed by a candidate who is a candidate in both a state primary and general election, **such a candidate's** controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name by which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which **that candidate** has knowledge which has received contributions or made expenditures on behalf of **the candidate's** candidacy and whether the committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (k) and 50 percent or more of the business entity is owned by a candidate or person controlling the committee, by an officer or employee of the committee, or by a spouse of any of these individuals, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(s) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (k), and a candidate or person controlling the committee, an officer or employee of the committee, or a spouse of any of these individuals is an officer, partner, consultant, or employee of the business entity, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(t) If the campaign statement is filed by a committee, as defined in subdivision (b) or (c) of Section 82013, information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or **the filer's** principal place of

business if the filer is self-employed, and a description of the business activity in which the filer or **the filer's** employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents, including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents.

(4) If the filer is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

History: Amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1980, Ch. 289; (Formerly titled "Consideration of Cumulative Amount"); amended by Stats. 1982, Ch. 377; amended by Stats. 1985, Ch. 899; amended by Stats. 1988, Ch. 704; amended by Stats. 1989, Ch. 1452; amended by Stats. 1990, Ch. 581; amended by Stats. 1991, Ch. 674; amended by Stats. 1993, Ch. 1140; amended by Stats. 2000, Ch. 161; amended by Stats. 2000, Ch. 853; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18421, 18421.1, 18421.3, 18421.4, 18421.5, 18421.6, 18421.7, 18421.8, 18421.9, 18421.10, **18421.11**, 18423, 18428, 18430, 18431, 18526 18531.5, 18537

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Nielsen (1979) 5 FPPC Ops. 18
In re Buchanan (1979) 5 FPPC Ops. 14
In re Kahn (1976) 2 FPPC Ops. 151
In re Lumsdon (1976) 2 FPPC Ops. 140
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Hayes (1975) 1 FPPC Ops. 210
In re Cory (1975) 1 FPPC Ops. 137

*Section 84211 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84212. Forms; Loans.

The forms promulgated by the commission for disclosure of the information required by this chapter shall provide for the reporting of loans and similar transactions in a manner that does not result in substantial overstatement or understatement of total contributions and expenditures.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidates Who Receive and Spend \$200 or Less."); amended by Stats. 1985, Ch. 1456.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18404.2

§ 84213. Verification.*

(a) A candidate or state measure proponent shall verify **the candidate's** or **proponent's** campaign statement and the campaign statement of each committee subject to **the candidate or state measure proponent's** control. The verification shall be in accordance with the provisions of Section 81004

except that it shall state that to the best of **the candidate or state measure proponent's** knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004.

(b) If a committee is required to file a campaign statement or report disclosing an independent expenditure pursuant to this title, a principal officer of the committee or, in the case of a controlled committee, the candidate or state measure proponent or opponent who controls the committee shall sign a verification on a report prescribed by the Commission. Notwithstanding any other provision of this title, the report containing the verification required by this subdivision shall be filed only with the Commission. The verification shall read as follows:

I have not received any unreported contributions or reimbursements to make these independent expenditures. I have not coordinated any expenditure made during this reporting period with the candidate or the opponent of the candidate who is the subject of the expenditure, with the proponent or the opponent of the state measure that is the subject of the expenditure, or with the agents of the candidate or the opponent of the candidate or the state measure proponent or opponent.

History: Former Section 84213, titled "Consolidated Statements; Candidates and Committees," amended by Stats. 1976, Ch. 1106; repealed by Stats. 1980, Ch. 289. Former Section 84209 amended and renumbered Section 84216.5 by Stats. 1979; Section 84216.5 renumbered Section 84213 by Stats. 1980, Ch. 289; amended by Stats. 1983, Ch. 898; amended by Stats. 2012, Ch. 496; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18427, 18465.1, 18570

*Section 84213 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84214. Termination.

Committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the commission which insure that a committee or candidate will have no activity which must be disclosed pursuant to this chapter subsequent to the termination. Such regulations shall not require the filing of any campaign statements other than those required by this chapter. In no case shall a committee which qualifies solely under subdivision (b) or (c) of Section 82013 be required to file any notice of its termination.

History: Repealed and reenacted as amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Late Contributions; Reports.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18404, 18404.1, 18537.1

§ 84215. Campaign Statements; Where to File.*

All candidates and elected officers and their controlled committees, except as provided in subdivisions (d) and (e), shall file one copy of the campaign statements required by

Section 84200 with the elections official of the county in which the candidate or elected official is domiciled, as defined in subdivision (b) of Section 349 of the Elections Code. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, including members of the State Board of Equalization; Members of the Legislature; Supreme Court justices, court of appeal justices, and superior court judges; candidates for those offices and their controlled committees; committees formed or existing primarily to support or oppose these candidates, elected officers, justices and judges, or statewide measures, or the qualification of state ballot measures; and all state general purpose committees and filers not specified in subdivisions (b) to (e), inclusive, shall file a campaign statement by online or electronic means, as specified in Section 84605, and shall file the original and one copy of the campaign statement in paper format with the Secretary of State.

(b) Elected officers in jurisdictions other than legislative districts, State Board of Equalization districts, or appellate court districts that contain parts of two or more counties, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the elections official of the county with the largest number of registered voters in the jurisdiction.

(c) County elected officers, candidates for these offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (d), and county general purpose committees shall file the original and one copy with the elections official of the county.

(d) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city and are not required to file with the local elections official of the county in which they are domiciled.

(e) Elected members of the Board of Administration of the Public Employees' Retirement System, elected members of the Teachers' Retirement Board, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose these candidates or elected members shall file the original and one copy with the Secretary of State, and a copy shall be filed at the relevant board's office in Sacramento. These elected officers, candidates, and committees need not file with the elections official of the county in which they are domiciled.

(f) Notwithstanding any other provision of this section, a committee, candidate, or elected officer is not required to file more than the original and one copy, or one copy, of a campaign statement with any one county elections official or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (a) to (d), inclusive, it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

History: Added by Stats. 1978, Ch. 1408, effective October 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Combination of Pre-election and Semiannual Statements"); amended by Stats. 1982, Ch. 1060; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 490; amended by Stats. 1990, Ch. 581; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2007, Ch. 54; amended by Stats. 2010, Ch.18, amended by Stats. 2010, Ch. 633; Amended by Stats. 2017, Ch. 111.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18227, 18404.1, 18405, 18451

*Section 84215 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84216. Loans.

(a) Notwithstanding Section 82015, a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes.

(b) A loan, whether or not there is a written contract for the loan, shall be reported as provided in Section 84211 when any of the following apply:

- (1) The loan is a contribution.
- (2) The loan is received by a committee.
- (3) The loan is received by a candidate and is used for political purposes.

History: Added by Stats. 1977, Ch. 1119; amended by Stats. 1980, Ch. 289; amended by Stats. 1982, Ch. 29; repealed and reenacted as amended by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

§ 84216.5. Loans Made by a Candidate or Committee.

A loan of campaign funds, whether or not there is a written contract for the loan, made by a candidate or committee shall be reported as provided in Section 84211.

History: Former Section 84216.5 renumbered 84213 by Stats. 1980, Ch. 289; new section added by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

§ 84217. Federal Office Candidates; Places Filed.*

When the Secretary of State receives any campaign statement filed pursuant to the federal Election Campaign Act, (2 U.S.C.A. Section 431 et seq.) the Secretary of State shall send a copy of the statement to the following officers:

(a) Statements of candidates for President, Vice President or United States Senator and committees supporting such candidates - one copy with the Registrar-Recorder of Los Angeles County and one copy with the Registrar of Voters of the City and County of San Francisco;

(b) Statements of candidates for United States Representative in Congress and committees supporting such can-

didates - one copy with the clerk of the county which contains the largest percentage of the registered voters in the election district which the candidate or any of the candidates seek nomination or election and one copy with the clerk of the county within which the candidate resides or in which the committee is domiciled, provided that if the committee is not domiciled in California the statement shall be sent to the Registrar-Recorder of Los Angeles County. No more than one copy of each statement need be filed with the clerk of any county.

History: Amended by Stats. 1977, Ch. 1095; amended and renumbered Section 84226 by Stats. 1979, Ch. 779. (Formerly Section 84208); amended and renumbered by Stats. 1980, Ch. 289. (Formerly Section 84226.)

*Section 84217 was repealed by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84218. Slate Mailer Organization; Campaign Statements.

(a) A slate mailer organization shall file semiannual campaign statements no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(b) In addition to the semiannual statements required by subdivision (a), a slate mailer organization which produces a slate mailer supporting or opposing candidates or measures being voted on in an election shall file the statements specified in Section 84200.8 if, during the period covered by the preelection statement, the slate mailer organization receives payments totaling five hundred dollars (\$500) or more from any person for the support of or opposition to candidates or ballot measures in one or more slate mailers, or expends five hundred dollars (\$500) or more to produce one or more slate mailers.

(c) A slate mailer organization shall file two copies of its campaign reports with the clerk of the county in which it is domiciled. A slate mailer organization is domiciled at the address listed on its statement of organization unless it is domiciled outside California, in which case its domicile shall be deemed to be Los Angeles County for purposes of this section.

In addition, slate mailer organizations shall file campaign reports as follows:

(1) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in a state election, or in more than one county, shall file campaign reports in the same manner as state general purpose committees pursuant to subdivision (a) of Section 84215.

(2) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in only one county, or in more than one jurisdiction within one county, shall file campaign reports in the same manner as county general purpose committees pursuant to subdivision (c) of Section 84215.

(3) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or

measures voted on in only one city shall file campaign reports in the same manner as city general purpose committees pursuant to subdivision (d) of Section 84215.

(4) Notwithstanding the above, no slate mailer organization shall be required to file more than the original and one copy, or two copies, of a campaign report with any one county or city clerk or with the Secretary of State.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 2010, Ch. 18; amended by Stats. 2010, Ch. 77; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401.1

§ 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.*

Whenever a slate mailer organization is required to file campaign reports pursuant to Section 84218, the campaign report shall include the following information:

(a) The total amount of receipts during the period covered by the campaign statement and the total cumulative amount of receipts. For purposes of this section only, “receipts” means payments received by a slate mailer organization for production and distribution of slate mailers.

(b) The total amount of disbursements made during the period covered by the campaign statement and the total cumulative amount of disbursements. For purposes of this section only, “disbursements” means payment made by a slate mailer organization for the production or distribution of slate mailers.

(c) For each candidate or committee that is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) The name of the candidate or committee, identification of the jurisdiction and the office sought or ballot measure number or letter, **and**, if the source is a committee, the committee’s identification number, street address, and the name of the candidate or measure on whose behalf or in opposition to which the payment is made.

(2) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(3) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(d) For each person other than a candidate or committee who is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) Identification of the jurisdiction, office or ballot measure, and name of the candidate or measure on whose behalf or in opposition to which the payment was made.

(2) Full name, street address, name of employer, or, if self-employed, name of business of the source of receipts.

(3) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(4) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(e) For each candidate or ballot measure not reported pursuant to subdivision (c) or (d), but who was supported or

opposed in a slate mailer sent by the slate mailer organization during the period covered by the report, identification of jurisdiction, office or ballot measure, and name of the candidate or measure who was supported or opposed.

(f) The total amount of disbursements made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(g) The total amount of disbursements made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(h) For each person to whom a disbursement of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement:

(1) **That person’s** full name.

(2) **That person’s** street address.

(3) The amount of each disbursement.

(4) A brief description of the consideration for which each disbursement was made.

(5) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for a disbursement of five hundred dollars (\$500) or more during the period covered by the campaign statement.

(i) Cumulative disbursements, totaling one thousand dollars (\$1,000) or more, made directly or indirectly to any person listed in the slate mailer organization’s statement of organization. For purposes of this subdivision, a disbursement is made indirectly to a person if it is intended for the benefit of or use by that person or a member of the person’s immediate family, or if it is made to a business entity in which the person or member of the person’s immediate family is a partner, shareholder, owner, director, trustee, officer, employee, consultant, or holds any position of management or in which the person or member of the person’s immediate family has an investment of one thousand dollars (\$1,000) or more. This subdivision **does** not apply to any disbursement made to a business entity whose securities are publicly traded.

(j) The full name, street address, and telephone number of the slate mailer organization and of the treasurer.

(k) Whenever a slate mailer organization also qualifies as a general purpose committee pursuant to Section 82027.5, the campaign report shall include, in addition to the information required by this section, the information required by Section 84211.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 2000, Ch. 853; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18401.1

*Section 84219 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84220. Slate Mailer Organization; Late Payments.

If a slate mailer organization receives a payment of two thousand five hundred dollars (\$2,500) or more for purposes of supporting or opposing any candidate or ballot measure in a slate mailer, and the payment is received at a time when,

if the payment were a contribution it would be considered a late contribution, then the slate mailer organization shall report the payment in the manner set forth in Section 84203 for candidates and committees when reporting late contributions received. The slate mailer organization shall, in addition to reporting the information required by Section 84203, identify the candidates or measures whose support or opposition is being paid for, in whole or in part, by each late payment.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401.1

§ 84221. Slate Mailer Organization; Termination.

Slate mailer organizations shall terminate their filing obligations in the same manner as applies to committees qualifying under subdivision (a) of Section 82013.

History: Added by Stats. 1987, Ch. 905.

§ 84222. Multipurpose Organizations.

(a) For purposes of this title, “multipurpose organization” means an organization described in Sections 501(c)(3) to 501(c)(10), inclusive, of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code, a federal or out-of-state political organization, a trade association, a professional association, a civic organization, a religious organization, a fraternal society, an educational institution, or any other association or group of persons acting in concert, that is operating for purposes other than making contributions or expenditures. “Multipurpose organization” does not include a business entity, an individual, or a federal candidate’s authorized committee, as defined in Section 431 of Title 2 of the United States Code, that is registered and filing reports pursuant to the Federal Election Campaign Act of 1971 (Public Law 92-225).

(b) A multipurpose organization that makes expenditures or contributions and does not qualify as a committee pursuant to subdivision (c) may qualify as an independent expenditure committee or major donor committee if the multipurpose organization satisfies subdivision (b) or (c) of Section 82013.

(c) Except as provided in subparagraph (A) of paragraph (5), a multipurpose organization is a recipient committee within the meaning of subdivision (a) of Section 82013 only under one or more of the following circumstances:

(1) The multipurpose organization is a political committee registered with the Federal Election Commission, except as provided in subdivision (a) of this section, or a political committee registered with another state, and the multipurpose organization makes contributions or expenditures in this state in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013.

(2) The multipurpose organization solicits and receives payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 for the purpose of making contributions or expenditures.

(3) The multipurpose organization accepts payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 subject to a condition, agreement, or understanding with the donor that all or a portion of the payments may be used for making contributions or expenditures.

(4) The multipurpose organization has existing funds from a donor and a subsequent agreement or understanding is reached with the donor that all or a portion of the funds may be used for making contributions or expenditures in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013. The date of the subsequent agreement or understanding is deemed to be the date of receipt of the payment.

(5) The multipurpose organization makes contributions or expenditures totaling more than fifty thousand dollars (\$50,000) in a period of 12 months or more than one hundred thousand dollars (\$100,000) in a period of four consecutive calendar years.

(A) A multipurpose organization shall not qualify as a committee within the meaning of subdivision (a) of Section 82013 pursuant to this paragraph if the multipurpose organization makes contributions or expenditures using only available nondonor funds. A multipurpose organization that makes contributions or expenditures with nondonor funds shall briefly describe the source of the funds used on its major donor or independent expenditure report.

(B) For purposes of this paragraph, “nondonor funds” means investment income, including capital gains, or income earned from providing goods, services, or facilities, whether related or unrelated to the multipurpose organization’s program, sale of assets, or other receipts that are not donations.

(d) A multipurpose organization that is a committee pursuant to paragraph (1) of subdivision (c) shall comply with the registration and reporting requirements of this chapter, subject to the following:

(1) The multipurpose organization is not required to comply with subdivision (k) of Section 84211 for contributions and expenditures made to influence federal or out-of-state elections, which shall instead be reported as a single expenditure and be described as such on the campaign statement.

(2) A multipurpose organization registered with the Federal Election Commission is not subject to subdivisions (d) and (f) of Section 84211 but shall disclose the total amount of contributions received pursuant to subdivision (a) of Section 84211, and shall disclose the multipurpose organization’s name and identification number registered with the Federal Election Commission on the campaign statement.

(e)(1) A multipurpose organization that is a committee pursuant to paragraph (2), (3), (4), or (5) of subdivision (c) shall comply with the registration and reporting requirements of this chapter, subject to the following, except that if the multipurpose organization is the sponsor of a committee as described in subdivision (f) it may report required information on its sponsored committee statement pursuant to subdivision (f):

(A) The multipurpose organization shall register in the calendar year in which it satisfies any of the criteria in subdivision (c). The statement of organization filed pursuant to Section 84101 shall indicate that the organization is filing pursuant to this section as a multipurpose organization and state the organization's nonprofit tax exempt status, if any. The statement of organization shall also describe the organization's mission or most significant activities, and describe the organization's political activities. A multipurpose organization may comply with the requirement to describe the mission or significant activities and political activities by referencing where the organization's Internal Revenue Service Return of Organization Exempt From Income Tax form may be accessed.

(B) Except as provided in this subparagraph, the registration of a multipurpose organization that meets the criteria of paragraph (5) of subdivision (c) shall terminate automatically on December 31 of the calendar year in which the multipurpose organization is registered. The multipurpose organization shall not be required to file a semiannual statement pursuant to subdivision (b) of Section 84200, unless the multipurpose organization has undisclosed contributions or expenditures to report, in which case termination shall occur automatically upon filing the semiannual statement that is due no later than January 31. After the multipurpose organization's registration has terminated, the multipurpose organization's reporting obligations are complete, unless the organization qualifies as a committee for purposes of subdivision (a) of Section 82013 again in the following calendar year pursuant to subdivision (c) of this section. Notwithstanding this subdivision, a multipurpose organization may elect to remain registered as a committee by submitting written notification to the Secretary of State prior to the end of the calendar year.

(C) A multipurpose organization shall report all contributions received that satisfy the criteria of paragraph (2), (3), or (4) of subdivision (c) of this section in the manner required by subdivision (f) of Section 84211, and for the balance of its contributions or expenditures shall further report contributors based on a last in, first out accounting method.

(2) A multipurpose organization reporting pursuant to this subdivision shall disclose total contributions received in an amount equal to the multipurpose organization's total contributions and expenditures made in the reporting period. When a multipurpose organization reports donors based on the last in, first out accounting method, it shall attribute to and include the information required by subdivision (f) of Section 84211 for any donor who donates one thousand dollars (\$1,000) or more in a calendar year, except for the following:

(A) A donor who designates or restricts the donation for purposes other than contributions or expenditures.

(B) A donor who prohibits the multipurpose organization's use of its donation for contributions or expenditures.

(C) A private foundation, as defined by subdivision (a) of Section 509 of the Internal Revenue Code, that provides a grant that does not constitute a taxable expenditure for purposes of paragraph (1) or (2) of subdivision (d) of Section 4945 of the Internal Revenue Code.

(3) A multipurpose organization that qualifies as a committee pursuant to paragraph (5) of subdivision (c) shall not be required to include contributions or expenditures made in a prior calendar year on the reports filed for the calendar year in which the multipurpose organization qualifies as a committee.

(4) If a multipurpose organization qualifies as a committee solely pursuant to paragraph (5) of subdivision (c) and the committee is required to report donors based on a last in, first out accounting method pursuant to paragraph (1), the multipurpose organization shall not be required to disclose donor information for a donation received by the multipurpose organization prior to July 1, 2014. This paragraph shall not apply with respect to a donation made by a donor who knew that the multipurpose organization would use the donation to support or oppose a candidate or ballot measure in the state by requesting that the donation be used for that purpose or by making the donation in response to a message or solicitation indicating the multipurpose organization's intent to use the donation for that purpose.

(5) A contributor identified and reported in the manner provided in subparagraph (C) of paragraph (1) that is a multipurpose organization and receives contributions that satisfy the criteria in subdivision (c) shall be subject to the requirements of this subdivision.

(6) The commission shall adopt regulations establishing notice requirements and reasonable filing deadlines for donors reported as contributors based on the last in, first out accounting method.

(f) A multipurpose organization that is the sponsor of a committee as defined in Section 82048.7, that is a membership organization, that makes all of its contributions and expenditures from funds derived from dues, assessments, fees, and similar payments that do not exceed ten thousand dollars (\$10,000) per calendar year from a single source, and that elects to report its contributions and expenditures on its sponsored committee's campaign statement pursuant to paragraph (1) of subdivision (e) shall report as follows:

(1) The sponsored committee shall report all contributions and expenditures made from the sponsor's treasury funds on statements and reports filed by the committee. The sponsor shall use a last in, first out accounting method and disclose the information required by subdivision (f) of Section 84211 for any person who pays dues, assessments, fees, or similar payments of one thousand dollars (\$1,000) or more to the sponsor's treasury funds in a calendar year and shall disclose all contributions and expenditures made, as required by subdivision (k) of Section 84211, on the sponsored committee's campaign statements.

(2) The sponsored committee shall report all other contributions and expenditures in support of the committee by the sponsor, its intermediate units, and the members of those entities. A sponsoring organization makes contributions and expenditures in support of its sponsored committee when it provides the committee with money from its treasury funds, with the exception of establishment or administrative costs. With respect to dues, assessments, fees, and similar payments channeled through the sponsor or an intermediate unit

to a sponsored committee, the original source of the dues, assessments, fees, and similar payments is the contributor.

(3) A responsible officer of the sponsor, as well as the treasurer of the sponsored committee, shall verify the committee's campaign statement pursuant to Section 81004.

(g) For purposes of this section, "last in, first out accounting method" means an accounting method by which contributions and expenditures are attributed to the multi-purpose organization's contributors in reverse chronological order beginning with the most recent of its contributors or, if there are any prior contributions or expenditures, beginning with the most recent contributor for which unattributed contributions remain.

History: Added by Stats of 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18422, 18422.1, 18427.1

§ 84222.5. Publicly Funded Nonprofit Organizations.

(a) A publicly funded nonprofit organization that makes contributions or expenditures, either directly or through the control of another entity, shall establish and deposit into a separate bank account all funds that will be used to make contributions and expenditures, and those contributions and expenditures shall come from that separate bank account.

(b) In addition to subdivisions (b) and (c) of Section 84222, a publicly funded nonprofit organization is a recipient committee within the meaning of subdivision (a) of Section 82013 if any of the following occur:

(1) It makes contributions or expenditures totaling fifty thousand dollars (\$50,000) or more related to statewide candidates or ballot measures or makes contributions or expenditures totaling two thousand five hundred dollars (\$2,500) or more related to local candidates or ballot measures, either directly or through the control of another entity, during the prior quarter.

(2) By January 31 of each odd-numbered year, it makes contributions or expenditures totaling one hundred thousand dollars (\$100,000) or more related to statewide candidates or ballot measures or makes contributions or expenditures totaling ten thousand dollars (\$10,000) or more related to local candidates or ballot measures, either directly or through the control of another entity, during the previous two years.

(c) If a publicly funded nonprofit organization qualifies as a recipient committee pursuant to subdivision (b), it shall comply with the registration and reporting requirements of Section 84222.

(d) Each publicly funded nonprofit organization that makes contributions or expenditures, either directly or through the control of another entity, shall provide to the Commission, and display on the organization's Internet Web site, the information it is required to disclose under this section. The information shall be clearly described and identified on a separate Internet Web page that is linked from the homepage of the organization's Internet Web site. The link

to this Internet Web page from the homepage shall be as visible as all similar links.

(e) The Commission may require an audit of a publicly funded nonprofit organization that is required to provide records to the Commission pursuant to this section. The Commission shall require an audit of any publicly funded nonprofit organization that makes contributions or expenditures in excess of five hundred thousand dollars (\$500,000) in a calendar year. The publicly funded nonprofit organization shall provide records to the Commission to substantiate the information required to be disclosed by this section.

(f) If the Commission determines at the conclusion of an audit that a publicly funded nonprofit organization has violated this section, the Commission, the Attorney General, or the district attorney for the county in which the organization is domiciled may impose a civil fine upon the organization in an amount up to ten thousand dollars (\$10,000) for each violation.

(g) The definitions in subdivision (b) of Section 54964.5 apply to this section.

History: Added by Stats. 2016, Ch. 825.

§ 84223. Top Ten Contributor Lists.*

(a) A committee primarily formed to support or oppose a state ballot measure or state candidate that raises one million dollars (\$1,000,000) or more for an election shall maintain an accurate list of the committee's top 10 contributors, as specified by Commission regulations. A current list of the top 10 contributors shall be provided to the Commission for disclosure on the Commission's internet website, as provided in subdivision (c).

(b)(1) Except as provided in paragraph (4), the list of top 10 contributors shall identify the names of the 10 persons who have made the largest cumulative contributions to the committee, the total amount of each person's contributions, the city and state of the person, the person's committee identification number, if any, and any other information deemed necessary by the Commission. If any of the top 10 contributors identified on the list are committees pursuant to subdivision (a) of Section 82013, the Commission may require, by regulation, that the list also identify the top 10 contributors to those contributing committees.

(2)(A) A committee primarily formed to support or oppose a state ballot measure shall count the cumulative amount of contributions received by the committee from a person for the period beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending with the current date.

(B) A committee primarily formed to support or oppose a state candidate shall count the cumulative amount of contributions received by the committee from a person for the primary and general elections combined.

(3) The aggregation rules of Section 82015.5 and any implementing regulations adopted by the Commission shall apply in identifying the persons who have made the top 10 cumulative contributions to a committee.

(4) A person who makes contributions to a committee in a cumulative amount of less than ten thousand dollars

(§10,000) shall not be identified or disclosed as a top 10 contributor to a committee pursuant to this section.

(c)(1) The Commission shall adopt regulations to govern the manner in which the Commission shall display top 10 contributor lists provided by a committee that is subject to this section, and the Commission shall post the top 10 contributor lists on its internet website in the manner prescribed by those regulations. The Commission shall provide the top 10 contributor lists to the Secretary of State, upon the request of the Secretary of State, for the purpose of additionally posting the contributor lists on the Secretary of State's internet website.

(2) A committee shall provide an updated top 10 contributor list to the Commission when any of the following occurs:

(A) A new person qualifies as a top 10 contributor to the committee.

(B) A person who is an existing top 10 contributor makes additional contributions of five thousand dollars (\$5,000) or more in the aggregate to the committee.

(C) A change occurs that alters the relative ranking order of the top 10 contributors.

(3) The 10 persons who have made the largest cumulative contributions to a committee shall be listed in order from largest contribution amount to smallest amount. If two or more contributors of identical amounts meet the threshold for inclusion in the list of top 10 contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.

(4) The Commission shall post or update a top 10 contributor list within five business days or, during the 16 days before the election, within 48 hours of a contributor qualifying for the list or of any change to the list.

(d) In listing the top 10 contributors, a committee shall use reasonable efforts to identify and state the actual individuals or corporations that are the true sources of the contributions made to the committee from other persons or committees.

(e) In addition to any other lists that the Commission is required to post on its internet website, the Commission shall compile, maintain, and display on its internet website a current list of the top 10 contributors supporting and opposing each state ballot measure, as prescribed by Commission regulations.

(f) This section shall remain in effect only until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602 of the Government Code, and as of that date is repealed.

History: Added by Stats. of 2014, Ch. 16, effective July 1, 2014; **repealed and added** by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18422.5

***Section 84223 was repealed and added by AB 902 (Stats. 2019, Ch. 312) with a repeal and replacement date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.**

§ 84224. Behested Payment Disclosure.*

(a) A behested payment described in subdivision (b) shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the behesting officer or member of the Public Utilities Commission with the officer's or member's agency and is a public record subject to inspection and copying pursuant to Section 81008. The report shall contain all of the following information: name of payor; address of payor; amount of the payment or payments; date or dates the payment or payments were made; the name and address of the payee; a brief description of the goods or services provided or purchased, if any; and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies, including the Public Utilities Commission, shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(b) The reporting requirement imposed by this section applies to a behested payment that satisfies each of the following:

(1) The payment is made at the behest of an elected officer or member of the Public Utilities Commission.

(2) The behesting elected officer or member of the Public Utilities Commission does not provide full and adequate consideration in exchange for the payment.

(3) The payment is made principally for a legislative, governmental, or charitable purpose.

(4) If made principally for a legislative or governmental purpose, the payment is made by a person other than a state, local, or federal governmental agency.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18225.7, 18424, 18424.1, 18424.2, 18424.3

***Section 84224 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.**

§ 84225. Public Employees' Retirement Board and Teachers' Retirement Board Candidates.

The provisions of this title apply to candidates for election to the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board, and to committees formed or existing primarily to support or oppose those candidates. The Commission may adopt regulations to tailor the reporting and disclosure requirements for

these candidates and committees consistent with the purposes and provisions of this title.

History: Added by Stats. 1998, Ch. 923; amended by Stats. 2010; Ch.18, repealed and added by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18451

Article 2.5. LAFCO Proposal Requirements. **§ 84250 – 84252**

§ 84250.	Applicability to LAFCO Proposals.	44
§ 84251.	Payment for Political Purposes.	44
§ 84252.	Campaign Reporting.	44

§ 84250. Applicability to LAFCO Proposals.

All requirements of this title applicable to a measure, as defined in Section 82043, also apply to a LAFCO proposal, as defined in Section 82035.5, except as set forth in Section 84252.

History: Added by Stats. 2008, Ch. 192.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

§ 84251. Payment for Political Purposes.

A payment made for “political purposes,” as that term is used in Sections 82015 and 82025, includes a payment made for the purpose of influencing or attempting to influence the actions of voters or a local agency formation commission for or against the qualification, adoption, or passage of a LAFCO proposal.

History: Added by Stats. 2008, Ch. 192.

§ 84252. Campaign Reporting.

A committee primarily formed to support or oppose a LAFCO proposal shall file all statements required under this chapter except that, in lieu of the statements required by Sections 84200 and 84202.3, the committee shall file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot or, if a measure is not placed on the ballot, until the committee is terminated pursuant to Section 84214. The committee shall file an original and one copy of each statement on the 15th day of each calendar month, covering the prior calendar month, with the clerk of the county in which the measure may be voted on. If the petition results in a measure that is placed on the ballot, the committee thereafter shall file campaign statements required by this chapter.

History: Added by Stats. 2008, Ch. 192; amended by Stats. 2019, Ch. 315.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

Article 3. Prohibitions. **§ 84300 – 84310**

§ 84300.	Cash and In-Kind Contributions; Cash Expenditures.	44
§ 84301.	Contributions Made Under Legal Name.	44
§ 84302.	Contributions by Intermediary or Agent.	45
§ 84303.	Expenditure by Agent or Independent Contractor.	45
§ 84304.	Anonymous Contributions; Prohibition.	45
§ 84305.	Requirements for Mass Mailing.	45
§ 84305.5.	Slate Mailer Identification and Disclosure Requirements.	46
§ 84305.7.	Slate Mailer Requirements; Use of Logos or “Public Safety” Names.	47
§ 84306.	Contributions Received by Agents of Candidates or Committees.	47
§ 84307.	Commingleing with Personal Funds.	48
§ 84307.5.	Payments Made to a Spouse or Domestic Partner.	48
§ 84308.	Contributions to Officers; Disqualification.	48
§ 84309.	Transmittal of Campaign Contributions in State Office Buildings; Prohibition.	49
§ 84310.	Identification Requirements for Telephone Calls.	49

§ 84300. Cash and In-Kind Contributions; Cash Expenditures.

(a) No contribution of one hundred dollars (\$100) or more shall be made or received in cash.

A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

(b) No expenditure of one hundred dollars (\$100) or more shall be made in cash.

(c) No contribution of one hundred dollars (\$100) or more other than an in-kind contribution shall be made unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Section 84302.

(d) The value of all in-kind contributions of one hundred dollars (\$100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1979, Ch. 779; amended by Stats. 1980, Ch. 759; amended by Stats. 1996, Ch. 898.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.4

§ 84301. Contributions Made Under Legal Name.

No contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

§ 84302. Contributions by Intermediary or Agent.

A person shall not make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both that person's own full name and street address, occupation, and the name of that person's employer, if any, or that person's principal place of business if that person is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person for whom the contribution is made. The recipient of the contribution shall include in the recipient's campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.2, 18432.5

§ 84303. Expenditure by Agent or Independent Contractor.

(a) An expenditure of five hundred dollars (\$500) or more shall not be made, other than for overhead or normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of or for the benefit of a candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee.

(b) A subagent or subcontractor who provides goods or services to or for the benefit of a candidate or committee shall make known to the agent or independent contractor all of the information required to be reported by this section, and the agent or independent contractor shall then make known to the candidate or committee all of the information required to be reported by this section no later than three working days prior to the time the campaign statement reporting the expenditure is required to be filed, except that an expenditure that is required to be reported by Section 84203 or 84204 shall be reported to the candidate or committee within 24 hours of the time that it is made.

History: Amended by Stats. 1984, Ch. 161; amended by Stats. 2000, Ch. 853; amended by Stats. 2013, Ch. 9, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.5, 18421.7, 18421.8, 18421.9, 18421.11, 18431

§ 84304. Anonymous Contributions; Prohibition.

No person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling one hundred dollars (\$100) or more in a calendar year. An anonymous contribution of one hundred dollars (\$100) or more shall not be kept by the intended recipient but instead shall be promptly paid to the Secretary of State for deposit in the General Fund of the state.

History: Amended by Stats. 1978, Ch. 650.

§ 84305. Requirements for Mass Mailing.

(a)(1) Except as provided in subdivision (b), a candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the candidate's, candidate controlled committee established for an elective office for the controlling candidate's, or political party committee's address is a matter of public record with the Secretary of State.

(2) Except as provided in subdivision (b), a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass mailing that is not required to include a disclosure pursuant to Section 84504.2 unless the name, street address, and city of the committee is shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the committee's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c)(1) A candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass electronic mailing unless the name of the candidate or committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(2) A committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass electronic mailing that is not required to include a disclosure pursuant to Section 84502 or 84504.3 unless the name of the committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(d) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a) or (c).

(e) For purposes of this section, the following terms have the following meanings:

(1) "Mass electronic mailing" means sending more than 200 substantially similar pieces of electronic mail within a calendar month. "Mass electronic mailing" does not include a communication that was solicited by the recipient,

including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization.

(2) “Sender” means the candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable pursuant to Sections 84200 to 84216.5, inclusive.

(3) To “pay for” a share of the cost of a mass mailing means to make, to promise to make, or to incur an obligation to make, any payment: (A) to any person for the design, printing, postage, materials, or other costs of the mailing, including salaries, fees, or commissions, or (B) as a fee or other consideration for an endorsement or, in the case of a ballot measure, support or opposition, in the mailing.

(f) This section does not apply to a mass mailing or mass electronic mailing that is paid for by an independent expenditure.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1976, Ch. 1106; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1978, Ch. 1408, effective October 1, 1978; amended by Stats. 1984, Ch. 1368; amended by Stats. 1989, Ch. 764; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 315; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18435

Opinions: *In re Kaufman* (2018) FPPC Ops. No. O-18-001
In re Juvinall, Stull, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 84305.5. Slate Mailer Identification and Disclosure Requirements.

(a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State’s Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

(3) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an *. Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by an *.

The * required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * designation applies except that in no case shall the * be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to appear, requiring the * designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1991, Ch. 403; amended by Stats. 1992, Ch. 1143; amended by Stats. 1993, Ch. 472; amended by Stats. 1994, Ch. 923; amended by Stats. 1996, Ch. 893; amended by Proposition 208 of the November 1996 Statewide General Election; Proposition 208 version preliminarily enjoined January 6, 1998;

Proposition 208 version permanently enjoined March 1, 2001; pre-Proposition 208 version revived by operation of law; On September 20, 2002, the Federal District Court for the Eastern District of California issued a preliminary injunction prohibiting the FPPC from enforcing this subdivision against the slate mail organizations which had sought the injunction; repealed and new section added by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18401.1, 18435.5

§ 84305.7. Slate Mailer Requirements; Use of Logos or “Public Safety” Names.

(a) If a slate mailer organization sends a slate mailer or other mass mailing that displays a logo, insignia, emblem, or trademark that is identical or substantially similar to the logo, insignia, emblem, or trademark of a governmental agency, and that would reasonably be understood to imply the participation or endorsement of that governmental agency, the slate mailer organization shall obtain express written consent from the governmental agency associated with the logo, insignia, emblem, or trademark prior to using the logo, insignia, emblem, or trademark in the slate mailer or other mass mailing.

(b) If a slate mailer organization sends a slate mailer or other mass mailing that displays a logo, insignia, emblem, or trademark that is identical or substantially similar to the logo, insignia, emblem, or trademark of a nongovernmental organization that represents law enforcement, firefighting, emergency medical, or other public safety personnel, and that would reasonably be understood to imply the participation or endorsement of that nongovernmental organization, the slate mailer organization shall obtain express written consent from the nongovernmental organization associated with the logo, insignia, emblem, or trademark prior to using the logo, insignia, emblem, or trademark in the slate mailer or other mass mailing.

(c) If a slate mailer organization sends a slate mailer or other mass mailing that identifies itself or its source material as representing a nongovernmental organization with a name that includes the term “peace officer,” “reserve officer,” “deputy,” “deputy sheriff,” “sheriff,” “police,” “highway patrol,” “California Highway Patrol,” “law enforcement,” “firefighter,” “fire marshal,” “paramedic,” “emergency medical technician,” “public safety,” or any other term that would reasonably be understood to imply that the nongovernmental organization is composed of, represents, or is affiliated with, law enforcement, firefighting, emergency medical, or other public safety personnel, the slate mailer or mass mailing shall disclose the total number of law enforcement, firefighting, emergency medical, or other public safety members in the nongovernmental organization identified in the slate mailer or mass mailing, as provided in paragraph (1) of subdivision (d). If the slate mailer organization is not composed of or does not represent any members who are law enforcement, firefighting, emergency medical, or other public safety personnel, the slate mailer or mass mailing shall disclose that the slate mailer organization does not represent

public safety personnel, as provided in paragraph (2) of subdivision (d).

(d) A disclosure pursuant to subdivision (c) shall include one of the following statements:

(1) If the slate mailer organization represents public safety personnel members: “This organization represents _____ public safety personnel.” The slate mailer organization shall fill in the blank part of the statement with the number of public safety personnel members it represents.

(2) If the slate mailer organization does not represent public safety personnel members: “This organization does not represent any public safety personnel.”

(e) A disclosure pursuant to subdivision (d) shall be in a format that satisfies all of the following:

(1) Printed in roman type that is no less than 14-point font.

(2) Located on the outside of the slate mailer or mass mailing within one-half of an inch of the recipient’s name and address.

(3) Contained in a box with an outline that has a line weight of at least 3.25 pt. The background color of the box shall be in a contrasting color to the background of the slate mailer or mass mailing. The outline of the box shall be in a contrasting color to both the background color of the mailing and the background color of the box. The color of the text of the disclosure shall be in a contrasting color to the background color of the box.

(f)(1) For purposes of subdivision (c), “member” means any of the following:

(A) A person who, pursuant to a specific provision of an organization’s articles or bylaws, may vote directly or indirectly for the election of a director or officer or for the disposition of all or substantially all of the assets of the organization in a merger or dissolution.

(B) A person designated as a member in the articles or bylaws of an organization that is tax exempt under Section 501(c) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)) and who has the right to vote to change the organization’s articles or bylaws or has paid dues to the organization.

(C) Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

History: Added by Stats. 2012, Ch. 865; Amended by Stats. 2017, Ch. 855.

§ 84306. Contributions Received by Agents of Candidates or Committees.

All contributions received by a person acting as an agent of a candidate shall be reported promptly to the candidate or any of **the candidate’s** designated agents. All contributions received by a person acting as an agent of a committee shall be reported promptly to the committee’s treasurer or any of **the treasurer’s** designated agents. “Promptly” as used in this section means not later than the closing date of any campaign statement the committee or candidate for whom the contribution is intended is required to file.

History: Added by Stats. 1979, Ch. 779; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.1, 18421.3, 18421.31

§ 84307. Commingling with Personal Funds.

No contribution shall be commingled with the personal funds of the recipient or any other person.

History: Added by Stats. 1979, Ch. 779.

§ 84307.5. Payments Made to a Spouse or Domestic Partner.

A spouse or domestic partner of an elected officer or a candidate for elective office shall not receive, in exchange for services rendered, compensation from campaign funds held by a controlled committee of the elected officer or candidate for elective office.

History: Added by Stats. 2009, Ch. 360; amended by Stats. 2014, Ch. 902.

§ 84308. Contributions to Officers; Disqualification.

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if **that person** lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, **trade**, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) **An** officer of an agency shall **not** accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or **a party's** agent, or from any participant, or **a participant's** agent, while a proceeding involving a license, permit, or other entitlement for use is pending

before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution **on the officer's own behalf**, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, **permit**, or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use **the officer's** official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or **a party's** agent, or from any participant, or **a participant's agent**, if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time **the officer** knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, **the officer** shall be permitted to participate in the proceeding.

(d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or **the party's** agent, to any officer of the agency. **A** party, or **agent to a party**, to a proceeding involving a license, permit, or other entitlement for use pending before any agency **or a participant**, or **agent to a participant**, in the proceeding shall **not** make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

(e) **This** section shall **not** be construed to imply that any contribution subject to being reported under this title shall not be so reported.

History: Added by Stats. 1982, Ch. 1049; amended by Stats. 1984, Ch. 1681, effective September 30, 1984; amended by Stats. 1989, Ch. 764; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18438.1, 18438.2,
18438.3, 18438.4, 18438.5, 18438.6, 18438.7, 18438.8

Opinions: *In re Curiel* (1983) 8 FPCC Ops. 1

**§ 84309. Transmittal of Campaign Contributions in
State Office Buildings; Prohibition.**

(a) No person shall receive or personally deliver or attempt to deliver a contribution in the State Capitol, in any state office building, or in any office for which the state pays the majority of the rent other than a legislative district office.

(b) For purposes of this section:

(1) “Personally deliver” means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary.

(2) “Receive” includes the receipt of a campaign contribution delivered in person.

History: Added by Stats. 1982, Ch. 920.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18439

**§ 84310. Identification Requirements for Telephone
Calls.**

(a) A candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization shall not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that authorized or paid for the call is disclosed to the recipient of the call. Unless the organization that authorized the call and in whose name it is placed has filing obligations under this title, and the name announced in the call either is the full name by which the organization or individual is identified in any statement or report required to be filed under this title or is the name by which the organization or individual is commonly known, the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that paid for the call shall be disclosed. This section does not apply to telephone calls made by the candidate, the campaign manager, or individuals who are volunteers.

(b) Campaign and ballot measure committees are prohibited from contracting with any phone bank vendor that does not disclose the information required to be disclosed by subdivision (a).

(c) A candidate, committee, or slate mailer organization that pays for telephone calls as described in subdivision (a) shall maintain a record of the script of the call for the period of time set forth in Section 84104. If any of the calls qualifying under subdivision (a) were recorded messages, a copy of the recording shall be maintained for that period.

(d) This section does not apply to a telephone call that is paid for by an independent expenditure.

History: Added by Stats. 2006, Ch. 439; amended by stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18440

**Article 4. Exemptions.
§ 84400**

§ 84400. Exemptions.

Notwithstanding any other provision of the law, the commission shall have no power to exempt any person, including any candidate or committee, from any of the requirements imposed by the provisions of this chapter.

History: Added by Stats. 1977, Ch. 403.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401

**Article 5. Disclosure in Advertisements.
§ 84501 – 84511**

§ 84501.	Advertisement	49
§ 84501.1.	Prohibition on Commission Interpretation on Thresholds and Amounts.	50
§ 84502.	Disclosure; Committee Name.	50
§ 84503.	Top Contributor Disclosure.	51
§ 84504.	Disclosure; Radio and Telephone Ads.	51
§ 84504.1.	Disclosure; Video and Television Ads.	51
§ 84504.2.	Disclosure; Print Ads.*	52
§ 84504.3.	Disclosure; Electronic Media Ads.	52
§ 84504.4.	Disclosure; Radio and Television Ads; Political Parties and Candidates.	53
§ 84504.5.	Disclosure; Independent Expenditure Ads; Political Parties and Candidates.	53
§ 84504.6.	Disclosure; Online Platform.	54
§ 84504.7.	Disclosure; Text Messages.	55
§ 84505.	Avoidance of Disclosure.	56
§ 84506.5.	Disclosure; Independent Expenditure Ads; Not Authorized by Candidate.	56
§ 84509.	Amended Disclosures.	56
§ 84510.	Remedies for Article Violations; Civil Action; Fines.	57
§ 84511.	Ballot Measure Ads; Paid Spokesperson Disclosure.	57

§ 84501. Advertisement.

For purposes of this article, the following definitions apply:

(a)(1) “Advertisement” means any general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures.

(2) Advertisement” does not include any of the following:

(A) A communication from an organization, other than a political party, to its members.

(B) An electronic media communication addressed to recipients, such as email messages or text messages, from an

organization to persons who have opted in or asked to receive messages from the organization. This subparagraph does not apply to a customer who has opted in to receive communications from a provider of goods or services, unless the customer has provided express approval to receive political messages from that provider of goods or services.

(C) Any communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization, or responses to an electronic message sent by the recipient to the same mobile number or email address.

(D) A campaign button smaller than 10 inches in diameter; a bumper sticker smaller than 60 square inches; or a small tangible promotional item, such as a pen, pin, or key chain, upon which the disclosure required cannot be conveniently printed or displayed.

(E) Wearing apparel.

(F) Sky writing.

(G) Any other type of communication, as determined by regulations of the Commission, for which inclusion of the disclosures required by Sections 84502 to 84509, inclusive, is impracticable or would severely interfere with the committee's ability to convey the intended message due to the nature of the technology used to make the communication.

(b) "Cumulative contributions" means the cumulative amount of contributions received by a committee beginning 12 months before the date of the expenditure and ending seven days before the time the advertisement is sent to the printer or broadcaster.

(c)(1) "Top contributors" means the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of fifty thousand dollars (\$50,000) or more.

(2) A tie between two or more contributors qualifying as top contributors shall be resolved by determining the contributor who made the most recent contribution to the committee, in which case the most recent contributor shall be listed before any other contributor of the same amount.

(3) If a committee primarily formed to support or oppose a state candidate or ballot measure contributes funds to another committee primarily formed to support or oppose the same state candidate or ballot measure and the funds used for the contribution were earmarked to support or oppose that candidate or ballot measure, the committee receiving the earmarked contribution shall disclose the contributors who earmarked their funds as the top contributor or contributors on the advertisement if the definition of top contributor provided for in paragraph (1) is otherwise met. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee primarily formed to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds. The new committee shall disclose the contributor on the new committee's advertisements if the definition of top contributor provided for in paragraph (1) is otherwise met.

(A) The primarily formed committee making the earmarked contribution shall provide the primarily formed committee receiving the earmarked contribution with the name, address, occupation, and employer, if any, or principal place of business, if self-employed, of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time the contribution is made. If the committee making the contribution received earmarked contributions that exceed the amount contributed or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which top contributors to identify pursuant to this subparagraph, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(B) The committee receiving the earmarked contribution may rely on the information provided pursuant to subparagraph (A) for purposes of complying with the disclosure required by Section 84503 and shall be considered in compliance with Section 84503 if the information provided pursuant to subparagraph (A) is disclosed as otherwise required.

(C) For purposes of this paragraph, funds are considered "earmarked" if any of the circumstances described in subdivision (b) of Section 85704 apply.

(4) If an advertisement paid for by a committee supports or opposes a candidate, the determination of top contributors pursuant to paragraphs (1) and (2) shall not include any nonprofit organization exempt from federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code or any person who has prohibited in writing the use of that person's contributions to support or oppose candidates if the committee does not use such contributions to support or oppose candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; Amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.5, 18421.11, 18401, 18450.1, 18450.2, 18450.3, 18450.4, 18450.6, 18450.7, 18450.8, 18450.9, 18450.11

§ 84501.1. Prohibition on Commission Interpretation on Thresholds and Amounts.

The Commission shall not, by regulation, policy, opinion, or advice letter, construe or interpret any of Sections 82025, 84305, 84310, 84501 through 84511, inclusive, or Section 85704 as allowing the Commission to establish or maintain any thresholds in quantity or amount that are not specified in those sections. Unless otherwise specified in this title, those sections apply regardless of quantity or amount.

History: Added by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.6

§ 84502. Disclosure; Committee Name.

(a)(1) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee

pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(2) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (a) of Section 82013 that is a political party committee or a candidate controlled committee established for an elective office of the controlling candidate shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 if the advertisement is any of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(C) A radio or television advertisement.

(D) A text message advertisement that is required to include a disclosure pursuant to Section 84504.7.

(b) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words “Ad paid for by” followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, internet website, or email message, the text described in subdivisions (a) and (b) may include the words “Paid for by” instead of “Ad paid for by.”

(d) Notwithstanding subdivisions (a) and (b), if an advertisement is a text message, the text described in subdivisions (a) and (b) may include the words “Paid for by” or “With,” instead of “Ad paid for by.”

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2004, Ch. 478, effective September 10, 2004, repealed and added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2019, Ch. 555.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.5, 18450.1, 18450.2, 18450.4, 18450.6, 18450.7, 18450.9

§ 84503. Top Contributor Disclosure.

(a) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words “committee major funding from” followed by the names of the top contributors to the committee paying for the advertisement. If fewer than three contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this section. If there are no contributors that qualify as top contributors, this disclosure is not required.

(b) The disclosure of a top contributor pursuant to this section need not include terms such as “incorporated,”

“committee,” “political action committee,” or “corporation,” or abbreviations of these terms, unless the term is part of the contributor’s name in common usage or parlance.

(c) If this article requires the disclosure of the name of a top contributor that is a committee pursuant to subdivision (a) of Section 82013 and is a sponsored committee pursuant to Section 82048.7 with a single sponsor, only the name of the single sponsoring organization shall be disclosed.

(d) This section does not apply to a committee as defined by subdivision (b) or (c) of Section 82013.

History: Added by Proposition 208 of the November 1996 Statewide General Election; preliminarily enjoined January 6, 1998; permanently enjoined March 1, 2001, as applied to slate mailers only; repealed and added by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402, 18421.5, 18450.1, 18450.3, 18450.4, 18450.5, 18450.6, 18450.7, 18450.9

§ 84504. Disclosure; Radio and Telephone Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated over the radio or by telephonic means shall include the disclosures required by Sections 84502, 84503, and 84506.5 at the beginning or end of the advertisement, read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) Notwithstanding the definition of “top contributors” in paragraph (1) of subdivision (c) of Section 84501, radio and prerecorded telephonic advertisements shall disclose only the top two contributors of fifty thousand dollars (\$50,000) or more unless the advertisement lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor of fifty thousand dollars (\$50,000) or more shall be disclosed.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.5, 18450.6, 18450.8, 18521.5

§ 84504.1. Disclosure; Video and Television Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated as a video, including advertisements on television and videos disseminated over the Internet, shall include the disclosures required by Sections 84502 and 84503 at the beginning or end of the advertisement.

(b) The disclosure required by subdivision (a) shall be written and displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(1) The written disclosure required by subdivision (a) shall appear on a solid black background on the entire bottom one-third of the television or video display screen, or bottom one-fourth of the screen if the committee does not

have or is otherwise not required to list top contributors, and shall be in a contrasting color in Arial equivalent type, and the type size for the smallest letters in the written disclosure shall be 4 percent of the height of the television or video display screen. The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. All disclosure text shall be centered horizontally in the disclosure area. If there are any top contributors, the written disclosures shall be underlined in a manner clearly visible to the average viewer, except for the names of the top contributors, if any.

(2) The name of the top contributor shall not have its type condensed or have the spacing between characters reduced to be narrower than a normal non-condensed Arial equivalent type, unless doing so is necessary to keep the name of the top contributor from exceeding the width of the screen.

(c) An advertisement that is an independent expenditure supporting or opposing a candidate shall include the appropriate statement from Section 84506.5 in the solid black background described in paragraph (1) of subdivision (b) below all other text required to appear in that area in a contrasting color and in Arial equivalent type no less than 2.5 percent of the height of the television or video display screen. If including this statement causes the disclosures to exceed one-third of the television or video display screen, then it may instead be printed immediately above the background with sufficient contrast that is easily readable by the average viewer.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.
References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.5, 18450.1, 18450.4, 18450.6

§ 84504.2. Disclosure; Print Ads.*

(a) A print advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color and centered horizontally in the disclosure area.

(2) The text shall be in an Arial equivalent type with a type size of at least 10-point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(3) The top of the disclosure area shall include the disclosure required by Sections 84502 and 84503. The text of the disclosure shall be underlined if there are any top contributors.

(4) The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who

made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area and shall not be underlined. The names of the top contributors shall not be printed in a type that is condensed to be narrower than a normal non-condensed Arial equivalent type.

(5) A committee subject to Section 84506.5 shall include the disclosure required by Section 84506.5, which shall be underlined and on a separate line below any of the top contributors.

(6) A committee subject to Section 84223 shall next include the text "Funding Details At [insert Commission Internet Web site]," which shall be underlined and printed on a line separate from any other text.

(b) Notwithstanding paragraphs (2) and (4) of subdivision (a), the disclosures required by Sections 84502, 84503, and 84506.5 on a printed advertisement that is larger than those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall be in Arial equivalent type with a total height of at least 5 percent of the height of the advertisement, and printed on a solid background with sufficient contrast that is easily readable by the average viewer. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

(c) Notwithstanding the definition of "top contributors" in paragraph (1) of subdivision (c) of Section 84501, newspaper, magazine, or other public print advertisements that are 20 square inches or less shall be required to disclose only the single top contributor of fifty thousand dollars (\$50,000) or more.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92, amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.5, 18450.1, 18450.6

*Section 84504.2 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84504.3. Disclosure; Electronic Media Ads.

(a) This section applies to an electronic media advertisement if either of the following is true:

(1) The advertisement is paid for by a committee other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate.

(2) The advertisement is paid for by a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, and is either of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(b) An electronic media advertisement that is a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link

to an internet website paid for by a committee shall comply with both of the following:

(1) Include the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by” in a contrasting color and a font size that is easily readable by the average viewer for the duration of the advertisement.

(2) The text shall be included or displayed as a hyperlink, icon, button, or tab to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(c) Notwithstanding subdivision (b), the text required by paragraph (1) of subdivision (b) is not required if including the language in an 8-point font would take up more than one-third of the graphic or image. In those circumstances, the advertisement need only include a hyperlink to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5.

(d) Notwithstanding subdivisions (b) and (c), an email message or internet website paid for by a committee shall include the disclosures required by Sections 84502, 84503, and 84506.5 printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email message, or at the top or bottom of every publicly accessible page of the internet website, as applicable.

(e) An internet website that is linked as provided for in paragraph (2) of subdivision (b) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(f) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclosures in subdivision (b) shall comply with the disclosure requirements for radio advertisements in Section 84504.

(g) An electronic media advertisement that is disseminated as a video shall comply with the disclosure requirements of Sections 84504.1 and 84504.5, depending on the type of committee that paid for it. If the video is longer than 30 seconds, the disclosures required by Sections 84504.1 and 84504.5 shall be made at the beginning of the advertisement.

(h)(1) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee’s profile, landing page, or similar location and shall not be required to include the disclosure required by subdivision (b) on each individual post, comment, or other similar communication. The disclosures specified in this subdivision shall be fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media, including, but not limited to, a computer screen, laptop, tablet, or smart phone.

(2) Notwithstanding paragraph (1), if making the disclosures specified in paragraph (1) fully visible on a commonly used electronic device would be impracticable, the cover or header photo of the profile, landing page, or similar location need only include a hyperlink, icon, button, or tab to an internet website containing the disclosures specified in paragraph (1).

(i) The disclosures required by this section do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92; amended by Stats. 2018, Ch. 754; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.5, 18450.1, 18450.4, 18450.6, 18450.8, 18450.9

§ 84504.4. Disclosure; Radio and Television Ads; Political Parties and Candidates.

(a) A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(1) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(2) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

(b) An advertisement that is made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 in accordance with subdivision (h) of Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 754.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.5, 18450.1, 18450.4, 18450.6, 18450.8, 18450.9

§ 84504.5. Disclosure; Independent Expenditure Ads; Political Parties and Candidates.

An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or

opposes a ballot measure and is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds of a broadcast of 30 seconds or less or for less than 10 seconds of a broadcast that lasts longer than 30 seconds.

(c)(1) A print advertisement shall include the required disclosures in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), each line of the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than 5 percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.5, 18450.1, 18450.4, 18450.6, 18450.8, 18450.9

§ 84504.6. Disclosure; Online Platform

(a) For purposes of this article, the following terms have the following meanings:

(1) "Online platform" means a public-facing internet website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements directly to advertisers. A public-facing internet website, web application, or digital application is not an online platform for purposes of this article to the extent that it displays advertisements that are sold directly to advertisers through another online platform.

(2)(A) "Online platform disclosed advertisement" means either of the following:

(i) A paid electronic media advertisement on an online platform made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform, unless all advertisements on the platform are video

advertisements that can comply with Section 84504.1. Individual posts, comments, or other similar communications are not considered online platform disclosed advertisements if they are posted without payment to the online platform.

(ii) A paid electronic media advertisement on an online platform that is not any of the following:

(I) A graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to hyperlink to an internet website containing required disclosures, as described in subdivision (b) of Section 84504.3.

(II) Video, audio, or email.

(B) Electronic media advertisements that are not online platform disclosed advertisements as defined in subparagraph (A) shall follow disclosure requirements for electronic media advertisements under Section 84504.3.

(b) A committee that disseminates an online platform disclosed advertisement shall do all of the following:

(1) Upon requesting the dissemination, expressly notify the online platform through which the advertisement would be disseminated, using the online platform's chosen notification method, that the advertisement is an advertisement as defined in Section 84501.

(2)(A) Provide the online platform with the disclosure name of the committee.

(B) For purposes of this section, "disclosure name" means the text required by Section 84503, followed by a colon, followed by, surrounded in quotation marks, the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211. If no disclosure text is required by Section 84503, "disclosure name" means the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(C) If the disclosure name changes due to a change in the top contributors or the name of the committee, the committee shall provide the online platform with an updated disclosure name within five business days.

(3) Provide the online platform with the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(4) Provide the online platform with the name and identification number of the committee that paid for the advertisement.

(c) An online platform that disseminates a committee's online platform disclosed advertisement shall do one of the following:

(1) Display "Paid for by" or "Ad Paid for by" followed by the disclosure name provided by the committee, easily readable to the average viewer, located adjacent to any text stating that the advertisement is an advertisement or is promoted or sponsored. The online platform may display only one hundred or more characters of the disclosure name if it is followed by a "..." that is clearly clickable and that links

to a page as described in paragraph (3).

(2) The online platform may instead display a hyperlink, icon, button, or tab with the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by” that is clearly clickable in the same or similar font and in at least the same font size as the online platform’s text, and easily readable to the average viewer, stating that the advertisement is an advertisement or is promoted or sponsored, that links to a page as described in paragraph (3).

(3) Hyperlinks, icons, buttons, or tabs used for the purposes described in paragraphs (1) and (2) shall be linked to the profile or landing page of the committee that paid for the advertisement; to another page to which the average viewer would normally navigate to view additional information about a committee containing the disclosure name in a manner that is easily seen and readable by the average viewer; or to an internet website containing the disclosure required by subdivision (d) of Section 84504.3.

(d) An online platform that disseminates committees’ online platform disclosed advertisements shall meet all of the following requirements:

(1) Maintain, and make available for online public inspection in a machine readable format, a record of any advertisement disseminated on the online platform by a committee that purchased five hundred dollars (\$500) or more in advertisements on the online platform during the preceding 12 months. Each record shall contain all of the following:

(A) A digital copy of the advertisement.

(B) The approximate number of views generated from the advertisement and the date and time that the advertisement was first displayed and last displayed.

(C) Information regarding the range charged or the total amount spent on the advertisement.

(D) The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(E) The name and identification number of the committee that paid for the advertisement, if the committee is assigned an identification number.

(2) The information required under this subdivision shall be made available as soon as practicable and shall be retained by the online platform for no less than four years.

(3)(A) Display a prominent button, icon, tab, or hyperlink with the text “View Ads” or similar text in one of the following locations: (i) near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a position that the average viewer will readily see it upon viewing that page; (ii) on a page that displays the committee’s profile information or biographical information; (iii) or on a page on which the average viewer would normally navigate to view additional information about a committee.

(B) The button, icon, tab, or hyperlink shall link to a page clearly showing all of the advertisement records required by paragraph (1).

(e) An online platform that creates a mechanism for a committee requesting dissemination of an online platform

disclosed advertisement to expressly notify the online platform whether the advertisement is an advertisement as defined in Section 84501 and to provide all information necessary for the online platform to comply with the requirements of this section may rely in good faith on the information provided by the committee to the online platform to satisfy the online platform’s obligations under subdivisions (c) and (d).

History: Added by Stats. 2018, Ch. 754; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.5, 18450.6

§ 84504.7. Disclosure; Text Messages.

(a) A candidate or committee shall not authorize or pay for an advertisement that is a text message, unless the disclosures described in subdivision (b) are made, if the text message meets one of the following conditions:

(1) The text message supports or opposes a candidate.

(2) The text message supports or opposes a ballot measure.

(b)(1) A committee, other than a candidate controlled committee established for an elective office of the controlling candidate, subject to subdivision (a) shall include the text “Paid for by” or “With” followed by either the name of the committee, or a hyperlink or Uniform Resource Locator (URL) for an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5. The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than eight-point font. If the word “With” is used, the individual sending the text shall identify themselves in the following manner: “(Name of individual) with (name of committee or hyperlink or URL).” A disclosure using the word “With” may appear anywhere in the text message, including in conversational content, and need not appear as a separate statement apart from the other content of the message.

(2) A candidate controlled committee established for an elective office of the controlling candidate subject to subdivision (a) shall include the text “Paid for by” or “With” followed by the name of the candidate, followed by the word “For,” and followed by the name of the elective office sought. If the word “With” is used, the individual sending the text shall identify themselves in the following manner: “(Name of individual) with (name of candidate) for (name of elective office).” A disclosure using the word “With” may appear anywhere in the text message, including in conversational content, and need not appear as a separate statement apart from the other content of the message.

(3) A committee subject to subdivision (a) that has top contributors, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with the following:

(A) Immediately following the name of the committee or the hyperlink or URL required by paragraph (1), the text message shall also include the text “Top funders:” followed by the names of the top two contributors of fifty thousand dollars (\$50,000) or more to the committee paying for the

advertisement, separated by “&” or “and.”

(B) The names of the top two contributors may be spelled using acronyms, abbreviations, or other shorthand in common usage or parlance. If a top contributor is an individual, their first and last name shall both be used.

(C) Notwithstanding subparagraph (A), if the disclosures required by paragraph (1) and this paragraph would exceed 35 characters, the text message shall disclose only the single top contributor of fifty thousand dollars (\$50,000) or more to the committee paying for the advertisement.

(D) Notwithstanding subparagraph (A), if the text message includes the name of the committee paying for the advertisement in accordance with paragraph (1), and the committee’s name includes the name of one of the top two contributors of fifty thousand dollars (\$50,000) or more to the committee paying for the advertisement, the text message is not required to include the name of that contributor after the text “Top funders:”.

(4) The text required to be included in a text message sent pursuant to this subdivision shall be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.

(c)(1) This section does not apply to a text message that is individually sent without the assistance of mass distribution technology, including a text messaging platform.

(2) If a committee, other than a political party committee or a candidate controlled committee established for an elected office of the controlling candidate, subject to subdivision (a) that has top contributors uses individuals who are unpaid volunteers to send text messages with the assistance of mass distribution technology, including a text message platform, the text messages sent by individuals who are unpaid volunteers are not required to disclose the top two contributors pursuant to paragraph (3) of subdivision (b). Text messages sent by unpaid volunteers shall include a disclosure stating that the text message is being sent by a volunteer. For purposes of this paragraph, receiving payments for food, transportation, or lodging in connection with campaign activity shall not disqualify a person from being classified as an unpaid volunteer.

(d) An internet website that is hyperlinked as provided for in this section shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted on.

(e)(1) If an exchange consists of a sequence of multiple text messages sent on the same day, a candidate or committee shall be deemed in compliance with this section if the candidate or committee sends the disclosures required by subdivision (b) with the first text message in the sequence that meets one of the conditions of subdivision (a).

(2) A committee shall be deemed in compliance with this section if the disclosures required by subdivision (b) are included in the text message in the form the committee intended it to be sent, regardless of the form the carrier relayed it to the recipient.

(3) If a committee includes a hyperlink or URL in the text message sent pursuant to subdivision (b), the committee shall be deemed to be in compliance with subdivision (b)

even if the recipient’s device is incapable of accessing the corresponding internet website.

History: Added by Stats. 2019, Ch. 555.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.5, 18450.6

§ 84505. Avoidance of Disclosure.

(a) In addition to the requirements of Sections 84502, 84503, and 84506.5, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a top contributor.

(b) Written disclosures required by Sections 84503 and 84506.5 shall not appear in all capital letters, except that capital letters shall be permitted for the beginning of a sentence, the beginning of a proper name or location, or as otherwise required by conventions of the English language.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2007, Ch. 495; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.6

§ 84506.5. Disclosure; Independent Expenditure Ads; Not Authorized by Candidate.

An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that “This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office.”

History: Added by Stats. 2007, Ch. 495; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.5, 18450.1, 18450.4, 18450.6, 18450.7

§ 84509. Amended Disclosures.

If the order of top contributors required to be disclosed pursuant to this article changes or a new contributor qualifies as a top contributor, the disclosure in the advertisement shall be updated as follows:

(a) A television, radio, telephone, electronic billboard, or other electronic media advertisement shall be updated to reflect the new top contributors within five business days. A committee shall be deemed to have complied with this subdivision if the amended advertisement is delivered, containing a request that the advertisement immediately be replaced, to all affected broadcast stations or other locations where the advertisement is placed no later than the fifth business day.

(b) A print media advertisement, including nonelectronic billboards, shall be updated to reflect the new top contributors before placing a new or modified order for additional printing of the advertisement.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.5, 18450.1, 18450.5, 18450.6

§ 84510. Remedies for Article Violations; Civil Action; Fines.

(a)(1) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000), a person who violates Section 84503 or 84506.5 is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(2) Notwithstanding paragraph (1), a person who intentionally violates a provision of Sections 84504 to 84504.3, inclusive, or Section 84504.5 or 84504.6, for the purpose of avoiding disclosure is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any of the sections described in paragraph (1) or (2) of subdivision (a) or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 754.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.6

§ 84511. Ballot Measure Ads; Paid Spokesperson Disclosure.

(a) This section applies to a committee that does either of the following:

(1) Makes an expenditure of five thousand dollars (\$5,000) or more to an individual for the individual's appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure.

(2) Makes an expenditure of any amount to an individual for the individual's appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized, documented training as a prerequisite to engage in that occupation.

(b) A committee described in subdivision (a) shall file, within 10 days of the expenditure, a report that includes all of the following:

(1) An identification of the measure that is the subject of the advertisement.

(2) The date of the expenditure.

(3) The amount of the expenditure.

(4) The name of the recipient of the expenditure.

(5) For a committee described in paragraph (2) of subdivision (a), the occupation of the recipient of the expenditure.

(c) An advertisement paid for by a committee described in paragraph (1) of subdivision (a) shall include a disclosure statement stating "(spokesperson's name) is being paid by this campaign or its donors" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message. If the advertisement is a television or video advertisement, the statement shall be shown continuously, except when the disclosure statement required by Section 84504.1 is being shown.

(d)(1) An advertisement paid for by a committee described in paragraph (2) of subdivision (a) shall include a disclosure statement stating "Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message. If the advertisement is a television or video advertisement, the statement shall be shown continuously, except when the disclosure statement required by Section 84504.1 is being shown.

(2) A committee may omit the disclosure statement required by this subdivision if all of the following are satisfied with respect to each individual identified in the report filed pursuant to subdivision (b) for that advertisement:

(A) The occupation identified in the report is substantially similar to the occupation portrayed in the advertisement.

(B) The committee maintains credible documentation of the appropriate license, certification, or other training as evidence that the individual may engage in the occupation identified in the report and portrayed in the advertisement and makes that documentation immediately available to the Commission upon request.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2014, Ch. 868; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.5, 18450.1, 18450.6, 18450.11

Chapter 4.6. Online Disclosure Act of 1997.**§ 84600 – 84616**

§ 84600.	Online Disclosure.	58
§ 84601.	Public Access.	58
§ 84602.	Secretary of State's Duties.*	58
§ 84602.1.	Secretary of State's Duties; Implementation and Reporting.	60
§ 84602.3.	Secretary of State's Duties; Disclosure of Local Campaign Finance Information.....	60
§ 84602.5.	Online Index of Identification Numbers.	60
§ 84603.	Acceptance of Reports.	61
§ 84605.	Who Shall File Online.*	61
§ 84606.	Operation of Online System.*	62
§ 84607.	Prohibition Against Political or Campaign Use.	62
§ 84612.	Rejection of Electronic Filing; Procedures.* ..	62
§ 84613.	Political Disclosure, Accountability, Transparency, and Access Fund.....	62
§ 84615.	Campaign Reports and Statements – Electronic Filing for Local Agencies.*	62
§ 84616.	Electronic Retention for Local Government Agency Filings.....	63

§ 84600. Online Disclosure.

This chapter may be known and may be cited as the Online Disclosure Act.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 2001, Ch. 917, effective October 14, 2001.

§ 84601. Public Access.

The Legislature finds and declares as follows:

(a) The people of California enacted one of the nation's most comprehensive campaign and lobbying financial disclosure laws when they voted for Proposition 9, the Political Reform Act of 1974, an initiative statute.

(b) Public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate.

(c) Advances in technology have made it necessary for the State of California to develop a new, data-driven online filing and disclosure system that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format.

(d) Members of the public, including voters, journalists, and researchers, should be able to access campaign finance and lobbying information in a robust and flexible manner, including through searches and visual displays such as graphs and maps.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 2016, Ch. 845.

§ 84602. Secretary of State's Duties.*

(a) To implement the Legislature's intent, the Secretary of State, in consultation with the Commission, notwithstanding any other provision of this code, shall do all of the following:

(1) Develop online and electronic filing processes for use by persons and entities specified in Section 84605 that are required to file statements and reports with the Secretary

of State's office pursuant to Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100). Those processes shall each enable a user to comply with all of the disclosure requirements of this title and shall include, at a minimum, both of the following:

(A) A means or method whereby filers subject to this chapter may submit required filings free of charge. Any means or method developed pursuant to this subparagraph shall not provide any additional or enhanced functions or services that exceed the minimum requirements necessary to fulfill the disclosure provisions of this title.

(B) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in Section 84605 and that conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings before development of the record format or formats as a means to ensure that affected entities have an opportunity to provide input into the development process.

(2) Accept test files from software vendors and others wishing to file reports electronically, for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to paragraph (1) and is compatible with the Secretary of State's system for receiving the data. A list of the software and service providers who have submitted acceptable test files shall be published by the Secretary of State and made available to the public. Acceptably formatted files shall be submitted by a filer in order to meet the requirements of this chapter.

(3) Develop a system that provides for the online or electronic transfer of the data specified in this section using telecommunications technology that ensures the integrity of the data transmitted and that creates safeguards against efforts to tamper with or subvert the data.

(4) Make all the data filed available on the internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available on the internet within 24 hours of receipt. The data made available on the internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title.

(5) Develop a procedure for filers to comply with the requirement that they sign under penalty of perjury pursuant to Section 81004.

(6) Maintain all filed data online for 10 years after the date it is filed, and then archive the information in a secure format.

(7) Provide assistance to those seeking public access to the information.

(8) Implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(9) Provide the Commission with necessary information to enable it to assist agencies, public officials, and

others with the compliance with, and administration of, this title.

(b)(1) To implement the Legislature's intent, as described in Section 84601, the Secretary of State, in consultation with the Commission, shall develop an online filing and disclosure system for use by persons and entities specified in Section 84605 that are required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100). The system shall enable a user to comply with all of the disclosure requirements of this title and shall include, at minimum, all of the following:

(A) A data-driven means or method that allows filers subject to this chapter to submit required filings free of charge in a manner that facilitates public searches of the data and does all of the following:

(i) Enables a filer to comply with all of the disclosure requirements of this title, including by entering or uploading requisite data or by indicating that the filer had no reportable activity during a particular reporting period.

(ii) Retains previously submitted data so that a filer can access that data to amend disclosures or prepare future disclosures. The system shall permit a filer to enter a contribution or independent expenditure transaction once and have the transaction appear on both a transactional report required by Section 84203, 84204, 84204.5, 84309, or 85500 and a periodic campaign statement required by this title.

(iii) Ensures the security of data entered and stored in the system.

(iv) To the extent feasible, is compatible with potential future capability to accept statements from filers specified in subdivisions (b) to (e), inclusive, of Section 84215.

(B) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in Section 84605 and that conforms with the disclosure requirements of this title.

(2) The Secretary of State shall do all of the following with respect to the online filing and disclosure system developed pursuant to this subdivision:

(A) Accept test files from software vendors and others wishing to file reports electronically for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to this subdivision and is compatible with the Secretary of State's system for receiving the data. The Secretary of State shall publish and make available to the public a list of the software and service providers who have submitted acceptable test files. A filer shall submit acceptably formatted files in order to meet the requirements of this chapter.

(B) Make the data filed available on the internet as follows:

(i) In a user-friendly, easily understandable format that provides the greatest public access, including online searches and machine-readable downloads of all data contained in the system, except as specified in clause (iii).

(ii) Free of charge and as soon as possible after receipt, or, in the case of late contribution, late in-kind contribution,

and late independent expenditure reports, as defined by Sections 84203, 84203.3, and 84204, respectively, within 24 hours of receipt.

(iii) Not containing the street name or building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title, except that a nonresidential address of a committee under Section 82013 may be made available on the internet.

(iv) In a manner that allows the public to track and aggregate contributions from the same contributor across filers using a permanent unique identifier assigned by the Secretary of State for this purpose. The Secretary of State shall assign this identifier to, at minimum, each contributor who makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees that file electronically with the Secretary of State pursuant to subdivision (a) of Section 84215 or who files with the Secretary of State as a major donor committee under subdivision (c) of Section 82013.

(C) Develop a procedure for filers to comply electronically with the requirement to sign under penalty of perjury pursuant to Section 81004.

The electronic signature procedure shall allow the filer to file with the Secretary of State and shall not require an original signature to be filed.

(D) Maintain all filed data online for at least 20 years after the date it is filed, and then archive the information in a secure format.

(E) Provide assistance to those seeking public access to the information.

(F) Implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(G) Provide the Commission with necessary information to enable it to assist agencies, public officials, and others in complying with and administering this title.

(3) The Secretary of State shall do all of the following with respect to developing the online filing and disclosure system and record format pursuant to this subdivision:

(A) Consult with the Assembly Committee on Elections and Redistricting, the Senate Committee on Elections and Constitutional Amendments, the Commission, users, filers, and other stakeholders, as appropriate, about functions of the online filing and disclosure system.

(B) In consultation with the Commission, and no later than July 31, 2017, hold at least one public hearing to receive input about developing the online filing and disclosure system and record format.

(C) No later than December 31, 2017, submit a report to the Assembly Committee on Elections and Redistricting and the Senate Committee on Elections and Constitutional Amendments that includes a plan for the online filing and disclosure system, describes how members of the public will be able to query and retrieve data from the system, and includes a plan for integrating statements as specified in clause (iv) of subparagraph (A) of paragraph (1).

(4) The Secretary of State shall make the online filing and disclosure system developed pursuant to this subdivision available for use no later than February 2021.

(5) The Secretary of State may accept any funds, services, equipment, or grants to further this subdivision, provided that the Secretary of State shall notify the Assembly Committee on Elections and Redistricting and the Senate Committee on Elections and Constitutional Amendments upon accepting any amount valued at one hundred thousand dollars (\$100,000) or more.

(6) Because the provisions of this chapter need to be implemented as expeditiously as possible, the information technology procurement requirements described in Chapter 5.6 (commencing with Section 11545) of Part 1 of Division 3 of Title 2 of this code, and in Section 12100 of the Public Contract Code, do not apply to development of the online filing and disclosure system pursuant to this subdivision. The Secretary of State shall consult with the Department of Technology, as appropriate, in developing the online filing and disclosure system, in order to maximize project success, minimize life-cycle costs, and ensure the security of the system and its data.

(7)(A) Before making the system developed pursuant to this subdivision available for public use, the Secretary of State, in consultation with the Commission, shall test the system to ensure its functionality and then certify that the system meets all the requirements of this subdivision. The Secretary of State may consult with the Department of Technology as needed to fulfill the secretary's duties under this paragraph.

(B) After the system developed pursuant to this subdivision is certified, the system described in subdivision (a) shall no longer accept reports and filings, unless otherwise directed by the Secretary of State and the Commission. The system described in subdivision (a) shall continue to allow public access to past disclosures unless the Secretary of State migrates that data into the system described in this subdivision. To facilitate data conversion during migration, the Secretary of State may make minor technical modifications or corrections to the migrated data.

(c) On or before December 31, 2017, and on or before every April 15, July 15, October 15, and January 15 thereafter, the Secretary of State shall submit to the chairs of the Joint Legislative Budget Committee and the fiscal committees of the Legislature a quarterly report on the progress of the Cal-Access Project. Specifically, the Secretary of State shall certify whether the secretary (1) anticipates making or has made any changes to the project's scope, schedule, or budget and (2) considers any problems to be a risk to the project's completion according to the approved project schedule and budget. This reporting requirement shall end upon the completion or termination of the Cal-Access Project.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2000, Ch. 319; amended by Stats. 2001, Ch. 917, effective October 14, 2001; amended by Stats. 2004, Ch. 816; amended by Stats. 2005, Ch. 22; amended by Stats. 2012, Ch. 503; amended by Stats. 2016, Ch. 845; amended by Stats. 2018, Ch. 662; amended by Stats. 2019, Ch. 30; amended by Stats. 2019, Ch. 315.

*Section 84602 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying

an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84602.1. Secretary of State's Duties; Implementation and Reporting.

(a) The Secretary of State shall, on or before June 30, 2007, fully implement this chapter as specified in Section 84602, including completing online lobbying registration forms so that all forms can be filed online as specified in Section 84602

(b) On or before February 1, 2007, the Secretary of State shall report to the Legislature on all of the following:

(1) The implementation and development of the online and electronic filing and disclosure requirements of this chapter, with specific emphasis on the status of the development of a means or method described in paragraph (1) of subdivision (a) of Section 84602.

(2) Whether and to what extent any means or method has been deployed that allows filers to submit required filings free of charge, with an emphasis on the types of filers who are not yet able to complete all required online or electronic filings free of charge, what aspects of the filings are missing that prevent those filers from being able to complete all required online or electronic filings free of charge, the costs to those filers, and, if applicable, why a means or method has not yet been deployed and when one is likely to be deployed.

(3) What resources are necessary to complete efforts to allow filers to submit required filings free of charge, when completion is expected, and an explanation of why the original full allocation of requested funding did not provide the statutorily required free filing system.

(c) Additional reports to the Legislature pursuant to subdivision (b) shall be due on July 1, and December 1, of each year, until a means or method has been deployed that allows all filers who are required to file reports online or electronically to file those reports free of charge.

History: Added by Stats. 2006, Ch. 69, Sec. 19. Effective July 12, 2006.

§ 84602.3. Secretary of State's Duties; Disclosure of Local Campaign Finance Information.

The Secretary of State shall conspicuously post on the Secretary of State's internet website hyperlinks to the internet website of any local government agency that contains publicly-disclosed campaign finance information. The Secretary of State shall update these hyperlinks no later than December 31 of each year.

History: Added by Stats. 2017, Ch. 624; Stats. 2018, Ch. 92; amended by Stats. 2021, Ch. 50.

§ 84602.5. Online Index of Identification Numbers.

The Secretary of State shall disclose online pursuant to this chapter an index of the identification numbers, as assigned pursuant to subdivision (a) of Section 84101, of every person, entity, or committee that is obligated to make a disclosure pursuant to Chapter 4. This index shall be updated monthly except for the six-week period preceding any

statewide regular or special election, during which period the index shall be updated weekly.

History: Added by Stats. 1999, Ch. 208.

§ 84603. Acceptance of Reports.

The Secretary of State, once all state-mandated development, procurement, and oversight requirements have been met, shall make public their availability to accept reports online or electronically. Any filer may then commence voluntarily filing online or electronically any required report or statement that is otherwise required to be filed with the Secretary of State pursuant to Chapter 4 (commencing with Section 84100) or Chapter 6 (commencing with Section 86100) of this title.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999.

§ 84605. Who Shall File Online.*

(a) The following persons shall file online or electronically with the Secretary of State:

(1) Any candidate, including superior court, appellate court, and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is twenty-five thousand dollars (\$25,000) or more. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, shall be included. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that is first subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title. A committee, as defined in subdivision (c) of Section 82013, shall file online or electronically if it makes contributions of twenty-five thousand dollars (\$25,000) or more in a calendar year.

(2) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling twenty-five thousand dollars (\$25,000) or more to support or oppose candidates for any elective state office or state measure. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title.

(3) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of twenty-five thousand dollars (\$25,000) or more. For a slate mailer organization subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a slate mailer organization that first is subject to this title on or after

January 1, 2000, the beginning date for calculating cumulative totals is the date the organization is first subject to this title.

(4) Any lobbyist, lobbying firm, lobbyist employer, or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is two thousand five hundred dollars (\$2,500) or more in a calendar quarter.

(b) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204, respectively, not covered by paragraph (1), (2), or (3) of subdivision (a) or any other provision of law.

(c) Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

(d) Once a person or entity is required to file online or electronically, subject to subdivision (a) or (c), the person or entity shall be required to file all subsequent reports online or electronically.

(e) It shall be presumed that online or electronic filers file under penalty of perjury.

(f) Persons filing online or electronically shall also continue to file required disclosure statements and reports in paper format. The paper copy shall continue to be the official filing for audit and other legal purposes until the Secretary of State, pursuant to Section 84606, determines the system is operating securely and effectively.

(g) The Secretary of State shall maintain at all times a secured, official version of all original online and electronically filed statements and reports required by this chapter. Upon determination by the Secretary of State, pursuant to Section 84606, that the system is operating securely and effectively, this online or electronic version shall be the official version for audit and other legal purposes.

(h) Except for statements related to a local elective office or a local ballot measure filed by a candidate for local elective office who is also a candidate for elective state office, a copy of a statement, report, or other document filed by online or electronic means with the Secretary of State shall not be filed with a local filing officer.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2007, Ch. 348; amended by Stats. 2010, Ch. 18; Amended by Stats. 2017, Ch. 111

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.11, 18451, 18465, 18465.1

*Section 84605 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84606. Operation of Online System.*

The Secretary of State shall determine and publicly disclose when the online and electronic disclosure systems are operating effectively. In making this determination, the Secretary of State shall consult with the commission, the Department of Information Technology, and any other appropriate public or private entity. The online or electronic disclosure system shall not become operative until the Department of Information Technology approves the system. Upon this determination, filers required by this chapter to file online or electronically will no longer be required to file a paper copy or with local filing officers. Furthermore, the date that a filer transmits an online or electronic report shall be the date the filed report is received by the Secretary of State.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; Amended by Stats. 2017, Ch. 111.

*Section 84606 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84607. Prohibition Against Political or Campaign Use.

Pursuant to Section 8314, no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced by the requirements of this chapter.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997.

§ 84612. Rejection of Electronic Filing; Procedures.*

If the Secretary of State rejects a filing made under this chapter, the Secretary of State shall immediately notify the filer, by electronic mail, of the reason or reasons for rejection using plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The notice shall be written or displayed so that the meaning will be easily understood by those persons directly affected by it.

History: Added by Stats. 2001, Ch. 79.

*Section 84101 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84613. Political Disclosure, Accountability, Transparency, and Access Fund.

(a) The Political Disclosure, Accountability, Transparency, and Access Fund is hereby established in the State Treasury. Moneys collected pursuant to Section 84101.5 and one-half of the moneys collected pursuant to Section 86102 shall be deposited in the Political Disclosure, Accountability, Transparency, and Access Fund.

(b)(1) Moneys deposited in the Political Disclosure, Accountability, Transparency, and Access Fund are subject to appropriation by the Legislature and shall be expended for

the maintenance, repair, and improvement of the online or electronic disclosure program implemented by the Secretary of State pursuant to this chapter.

(2) In addition to paragraph (1), the Secretary of State may also use moneys deposited in the Political Disclosure, Accountability, Transparency, and Access Fund for purposes of implementing the act that added this section.

(c) Any expenditure of moneys from the Political Disclosure, Accountability, Transparency, and Access Fund for the purposes described in paragraph (1) of subdivision (b) is subject to the project approval and oversight process established by the California Technology Agency pursuant to Section 11546.

History: Added by Stats. 2012, Ch. 506.

§ 84615. Campaign Reports and Statements – Electronic Filing for Local Agencies.*

A local government agency may require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than one thousand dollars (\$1,000), and makes expenditures totaling less than one thousand dollars (\$1,000), in a calendar year, to file those statements, reports, or other documents online or electronically with a local filing officer. A local government agency that requires online or electronic filing pursuant to this section shall comply with all of the following:

(a) The legislative body for the local government agency shall adopt an ordinance approving the use of online or electronic filing, which shall include a legislative finding that the online or electronic filing system will operate securely and effectively and would not unduly burden filers. The ordinance adopted by the legislative body for the local government agency may, at the discretion of that legislative body, specify that the electronic or online filing requirements apply only to specifically identified types of filings or are triggered only by identified monetary thresholds. In any instance in which the original statement, report, or other document is required to be filed with the Secretary of State and a copy of that statement, report, or other document is required to be filed with the local government agency, the ordinance may permit, but shall not require, that the copy be filed online or electronically.

(b) The online or electronic filing system shall only accept a filing in the standardized record format that is developed by the Secretary of State pursuant to paragraph (2) of subdivision (a) of Section 84602 and that is compatible with the Secretary of State's system for receiving an online or electronic filing.

(c) The online or electronic filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.

(d)(1) The local filing officer shall issue to a person who files a statement, report, or other document online or electronically an electronic confirmation that notifies the

filer that the statement, report, or other document was received. The confirmation shall include the date and the time that the statement, report, or other document was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(2) A copy retained by the filer of a statement, report, or other document that was filed online or electronically and the confirmation issued pursuant to paragraph (1) that shows the filer timely filed the statement, report, or other document shall create a rebuttable presumption that the filer timely filed the statement, report, or other document.

(e) The date of filing for a statement, report, or other document that is filed online or electronically shall be the day that it is received by the local filing officer.

(f) The local filing officer shall make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The local filing officer shall make a complete, unredacted copy of any statement, report, or other document filed pursuant to this section, including any street names, building numbers, and bank account numbers disclosed by the filer, available to any person upon request.

(g) The online or electronic filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury pursuant to Section 81004.

(h) The local government agency shall enable filers to complete and submit filings free of charge.

(i) The local filing officer shall maintain, for a period of at least 10 years commencing from the date filed, a secured, official version of each online or electronic statement, report, or other document filed pursuant to this section, which shall serve as the official version of that record for purpose of audits and any other legal purpose. Data that has been maintained for at least 10 years may then be archived in a secure format.

(j) Notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this section shall not be required to be filed with the local filing officer in paper format.

History: Added by Stats. 2012, Ch. 126.

*Section 84615 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84616. Electronic Retention for Local Government Agency Filings.

(a) Within 72 hours of each applicable filing deadline, a local government agency shall post on its internet website a copy of any statement, report, or other document required by Chapter 4 (commencing with Section 84100) that is filed with that agency in paper format. If the final day of the 72-hour period is a Saturday, Sunday, or holiday, the period is

extended to the next day that is not a Saturday, Sunday, or holiday. Before posting, the local filing officer shall redact the street name and building number of the persons or entity representatives listed on any statement, report, or document, or any bank account number required to be disclosed by the filer. Providing a link on the agency's internet website to the statement, report, or other document satisfies this subdivision.

(b) A statement, report, or other document posted pursuant to this section shall be made available for four years from the date of the election associated with the filing.

History: Added by Stats. 2020, Ch. 214.

Chapter 5. Limitations on Contributions.

§ 85100 – 85802

Article 1. Title of Chapter. § 85100.....	63
Article 2. Candidacy. § 85200 – 85201	63
Article 2.5. Applicability of the Political Reform Act of 1974.	
§ 85202 – 85206.....	64
Article 3. Contribution Limitations. § 85300 – 85321.....	65
Article 4. Voluntary Expenditure Ceilings. § 85400 – 85403	71
Article 5. Independent Expenditures. § 85500-85505	72
Article 6. Ballot Pamphlet. § 85600-85601.....	73
Article 7. Additional Contribution Requirements. § 85700-85704	73
Article 8. Appropriation. § 85802	75

Article 1. Title of Chapter. § 85100

§ 85100. Chapter Title.

This chapter shall be known as the “Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974.”

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Article 2. Candidacy. § 85200 – 85201

§ 85200. Statement of Intention to be a Candidate.*	63
§ 85201. Campaign Bank Account.	64

§ 85200. Statement of Intention to be a Candidate.*

Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective state office, as that term is defined by Section 82024, shall file with the Secretary of State an original statement, signed under penalty of perjury, of intention to be a candidate for a specific office.

An individual who intends to be a candidate for any other elective office shall file the statement of intention with the same filing officer and in the same location as the individual would file an original campaign statement pursuant to subdivisions (b), (c), and (d) of Section 84215.

For purposes of this section, “contribution” and “loan” do not include any payments from the candidate’s personal funds for a candidate filing fee or a candidate statement of qualifications fee.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394; amended by Stats. 2000, Ch. 853; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18520, 18521, 18531.5, 18536, 18537.1, 18542

*Section 85200 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 85201. Campaign Bank Account.

(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) As required by subdivision (f) of Section 84102, a candidate who raises contributions of two thousand dollars (\$2,000) or more in a calendar year shall set forth the name and address of the financial institution where the candidate has established a campaign contribution account and the account number on the committee statement of organization filed pursuant to Sections 84101 and 84103.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate’s controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

(f) Subdivisions (d) and (e) do not apply to a candidate’s payment for a filing fee and statement of qualifications from **the candidate’s** personal funds.

(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than two thousand dollars (\$2,000) in a calendar year to support **the candidate’s** candidacy. For purposes of this section, a candidate’s payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made.

(h) An individual who raises contributions from others for **that individual’s** campaign, but who raises or spends less than two thousand dollars (\$2,000) in a calendar year, and does not qualify as a committee under Section 82013, shall establish a campaign contribution account pursuant to subdivision (a), but is not required to file a committee statement of organization pursuant to Section 84101 or other statement of bank account information.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1990, Ch. 387; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394; amended by Stats. 2000, Ch. 853; amended by Stats. 2015, Ch. 364, effective January 1, 2016; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.4, 18421.3, 18520, 18521, 18521.5, 18523, 18523.1, 18524, 18525, 18526, 18531.6, 18531.61, **18531.63, 18531.64**, 18537.1

Article 2.5. Applicability of the Political Reform Act of 1974.

§ 85202 – 85206

§ 85202.	Interpretation of Chapter 5.....	64
§ 85203.	Small Contributor Committee.....	64
§ 85204.	Election Cycle for 24-Hour Reports.	64
§ 85204.5.	Special Election Cycle and Special Runoff Election Cycle.....	65
§ 85205.	Political Party Committee.....	65
§ 85206.	Public Moneys.....	65

§ 85202. Interpretation of Chapter 5.

Unless specifically superseded by the act that adds this section, the definitions and provisions of this title shall govern the interpretation of this chapter.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1989, Ch. 303. (Formerly titled “Contributions to Candidates; Trust for Specific Office”); repealed by Stats. 1990, Ch. 84. Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Applicability of the Political Reform Act”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 85203. Small Contributor Committee.

“Small contributor committee” means any committee that meets all of the following criteria:

(a) The committee has been in existence for at least six months.

(b) The committee receives contributions from 100 or more persons.

(c) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year.

(d) The committee makes contributions to five or more candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18503

§ 85204. Election Cycle for 24-Hour Reports.

“Election cycle,” for purposes of Sections 85309 and 85500, means the period of time commencing 90 days prior to an election and ending on the date of the election. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Two-Year Period”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18425, 18550

§ 85204.5. Special Election Cycle and Special Runoff Election Cycle.

With respect to special elections, the following terms have the following meanings:

(a) “Special election cycle” means the day on which the office becomes vacant until the day of the special election.

(b) “Special runoff election cycle” means the day after the special election until the day of the special runoff election.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 85205. Political Party Committee.

“Political party committee” means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 or 5151 of the Elections Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2013, Ch. 511.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18530.3

§ 85206. Public Moneys.

“Public moneys” has the same meaning as defined in Section 426 of the Penal Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Article 3. Contribution Limitations.

§ 85300 – 85321

§ 85300.	Use of Public Funds for Seeking Elective Office.*	65
§ 85301.	Limits on Contributions from Persons.	65
§ 85302.	Limits on Contributions from Small Contributor Committees.	66
§ 85303.	Limits on Contributions to Committees and Political Parties.	66
§ 85304.	Legal Defense Fund.	66
§ 85304.5.	Legal Defense Fund; Local Candidates and Elected Officeholders.....	67
§ 85305.	Restrictions on Contributions by Candidates. .	67
§ 85306.	Transfers Between a Candidate’s Own Committees; Use of Funds Raised Prior to Effective Date.	67
§ 85307.	Loans.	68
§ 85308.	Family Contributions.	68
§ 85309.	Online Disclosure of Contributions.....	68
§ 85310.	Communications Identifying State Candidates.	68
§ 85312.	Communications to Members of an Organization.....	69
§ 85314.	Special Elections and Special Runoff Elections as Separate Elections.....	69
§ 85315.	Elected State Officer Recall Committees.	69
§ 85316.	Post-Election Fundraising Restrictions; State Officeholder Accounts.	69

§ 85317.	Carry Over of Contributions.	70
§ 85318.	Contributions Received for Primary and General Elections.	70
§ 85319.	Returning Contributions.....	70
§ 85320.	Foreign Entities.....	71
§ 85321.	Post-Election Fundraising; Elections Held Prior to January 1, 2001.....	71

§ 85300. Use of Public Funds for Seeking Elective Office.*

(a) Except as provided in subdivision (b), a public officer shall not expend, and a candidate shall not accept, any public moneys for the purpose of seeking elective office.

(b) A public officer or candidate may expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter, and both of the following are true:

(1) Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference.

(2) The state or local governmental entity has established criteria for determining a candidate’s qualification by statute, ordinance, resolution, or charter.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 2016, Ch. 837.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18530

* Please note that the Commission is enjoined from enforcing the provisions of Statutes 2016, Chapter 837. (See *Howard Jarvis Taxpayers Assn. v. Newsom* (2019) 39 Cal.App.5th 158.)

§ 85301. Limits on Contributions from Persons.

(a) A person, other than a small contributor committee or political party committee, shall not make to a candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office shall not accept from a person, a contribution totaling more than three thousand dollars (\$3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, shall not make to a candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office shall not accept from a person other than a small contributor committee or a political party committee, a contribution totaling more than five thousand dollars (\$5,000) per election.

(c) A person, other than a small contributor committee or political party committee, shall not make to a candidate for Governor, and a candidate for Governor shall not accept from any person other than a small contributor committee or political party committee, a contribution totaling more than twenty thousand dollars (\$20,000) per election.

(d)(1) A person shall not make to a candidate for elective county or city office, and a candidate for elective county or city office shall not accept from a person, a contribution totaling more than the amount set forth in subdivision (a) per

election, as that amount is adjusted by the Commission pursuant to Section 83124. This subdivision does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(2) This subdivision shall become operative on January 1, 2021.

(e) The provisions of this section do not apply to a candidate's contributions of the candidate's personal funds to the candidate's own campaign.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18404.1, 18421.4, 18421.8, 18503, 18521, 18521.5, 18523, 18523.1, 18530.2, 18530.4, 18530.8, 18531, 18531.2, 18531.5, 18531.6, 18531.61, 18533, 18535, 18536, 18537, 18537.1, 18544, 18545, 18951

§ 85302. Limits on Contributions from Small Contributor Committees.

(a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office, other than a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than six thousand dollars (\$6,000) per election.

(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate for statewide elective office and except for a candidate for Governor, a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than ten thousand dollars (\$10,000) per election.

(c) A small contributor committee may not make to any candidate for Governor, and a candidate for governor may not accept from a small contributor committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Committees"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18503, 18521, 18521.5, 18523, 18523.1, 18531, 18531.5, 18531.6, 18531.61, 18531.63, 18531.64, 18544, 18545

§ 85303. Limits on Contributions to Committees and Political Parties.

(a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five thousand dollars (\$5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars (\$25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state office. Notwithstanding Section 85312, this limit applies to contributions made to a political party used for the purpose of making expenditures at the behest of a candidate for elective state office for communications to party members related to the candidate's candidacy for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Committees to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18521.5, 18530.3, 18531, 18531.7, 18533, 18534, 18544, 18545

§ 85304. Legal Defense Fund.

(a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(d)(1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other

legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, “sexual assault” and “sexual abuse” have the same meaning as in Section 11165.1 of the Penal Code and “sexual harassment” has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e)(1) For purposes of this section and Section 85304.5, “attorney’s fees and other related legal costs” includes only the following:

(A) Attorney’s fees and other legal costs related to the defense of the candidate or officer.

(B) Administrative costs directly related to compliance with the requirements of this title.

(2) “Attorney’s fees and other related legal costs” does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or, except as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Prohibition on Transfers”); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Limitations on Contributions from Political Parties”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18530.45, 18538.2

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85304.5. Legal Defense Fund; Local Candidates and Elected Officeholders.

(a) A candidate for elective office other than an elective state office or an elected officer other than an elected state officer may establish a separate account pursuant to subdivision (a) of Section 85304 and may use these funds only to defray attorney’s fees and other related legal costs.

(b) A candidate for an elective office other than an elective state office may receive contributions to the separate account subject to any limitations provided by local ordinance. However, all contributions to these separate accounts shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate or elected officer shall dispose of any funds remaining in the separate accounts after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(d)(1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in

any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, “sexual assault” and “sexual abuse” have the same meaning as in Section 11165.1 of the Penal Code and “sexual harassment” has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e) For purposes of this section, “attorney’s fees and other related legal costs” has the same meaning as in Section 85304.

History: Added by Stats. 2007, Ch. 283; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18530.45, 18535

§ 85305. Restrictions on Contributions by Candidates.

(a) A candidate for elective state, county, or city office or committee controlled by that candidate shall not make a contribution to any other candidate for elective state, county, or city office in excess of the limits set forth in subdivision (a) of Section 85301. This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Contribution Limitations During Special or Special Runoff Election Cycles”); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Restrictions on When Contributions Can be Received”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18535, 18536

Opinion: *In re Rios* (2017) FPPC Ops. No. O-17-001

§ 85306. Transfers Between a Candidate's Own Committees; Use of Funds Raised Prior to Effective Date.

(a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state, county, or city office of the same candidate. Contributions transferred shall be attributed to specific contributors using a “last in, first out” or “first in, first out” accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor shall not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on

November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(d) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(e) This section shall become operative on January 1, 2021.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Use of Campaign Funds; Effective Date"); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Transfers"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18530.2, 18530.4, 18531.6, 18531.61, 18531.63, 18531.64, 18536, 18537.1

§ 85307. Loans.

(a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state, county, or city office shall not personally loan to the candidate's campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate shall not charge interest on any loan the candidate made to the candidate's campaign. This subdivision does not apply to a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Loans; Contributions"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 815, effective September 27, 2004; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18530.7, 18530.8

§ 85308. Family Contributions.

(a) Contributions made by a husband and wife may not be aggregated.

(b) A contribution made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85309. Online Disclosure of Contributions.

(a) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other report required by this title, any committee primarily formed to support or oppose one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(c) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

(d) In addition to any other report required by this title, a committee primarily formed to support or oppose a state ballot measure that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions from Non-individuals"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18425

§ 85310. Communications Identifying State Candidates.

(a) Any person who makes a payment or a promise of payment totaling fifty thousand dollars (\$50,000) or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election, shall file online or electronically with the Secretary of State a report disclosing the name of the person, address, oc-

cupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.

(b)(1) Except as provided in paragraph (2), if any person has received a payment or a promise of a payment from other persons totaling five thousand dollars (\$5,000) or more for the purpose of making a communication described in subdivision (a), the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

(2) A person who receives or is promised a payment that is otherwise reportable under paragraph (1) is not required to report the payment if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services.

(c) Any payment received by a person who makes a communication described in subdivision (a) is subject to the limits specified in subdivision (b) of Section 85303 if the communication is made at the behest of the clearly identified candidate.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions to All State Candidates"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18225.7, 18531.10, 18539.2

§ 85312. Communications to Members of an Organization.

For purposes of this title, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. However, payments made by a political party for communications to a member who is registered as expressing a preference for that party on **that member's** affidavit of registration pursuant to Sections 2150, 2151, and 2152 of the Elections Code that would otherwise qualify as contributions or expenditures shall be reported in accordance with Article 2 (commencing with Section 84200) of Chapter 4, and Chapter 4.6 (commencing with Section 84600), of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Communications Within an Organization"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2012, Ch. 3, effective February 10, 2012; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215, 18215.2, 18531.7
Opinions: *In re Olson* (2001) 15 FPPC Ops. 13

§ 85314. Special Elections and Special Runoff Elections as Separate Elections.

The contribution limits of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and voluntary expenditure limits set forth in this chapter.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4

§ 85315. Elected State Officer Recall Committees.

(a) Notwithstanding any other provision of this chapter, an elected state, county, or city officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state, county, or city officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state, county, or city officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contribution limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state, county, or city officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.5, 18535
Opinion: *In re Rios* (2017) FPPC Ops. No. O-17-001

§ 85316. Post-Election Fundraising Restrictions; State Officeholder Accounts.

(a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state, county, or city office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding

the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) A person shall not make, and an elected state officer shall not receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) An elected state officer shall not receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that the candidate may seek during the term of office to which the candidate is currently elected, including, but not limited to, reelection to the office the candidate currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. The expenditures made by elected state officers pursuant to this subdivision shall not be subject to the voluntary expenditure limitations in Section 85400.

(4) The Commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2006, Ch. 624, effective September 29, 2006; amended by Stats. 2007, Ch. 130; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18531.6, 18531.61, 18531.62, 18531.63, 18531.64, 18537.1, 18544, 18545

§ 85317. Carry Over of Contributions.

(a) Notwithstanding subdivision (a) of Section 85306, a candidate for elective state, county, or city office may carry over contributions raised in connection with one election for elective state, county, or city office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state, county, or city office. This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.6, 18531.61, 18531.63, 18531.64, 18537.1

§ 85318. Contributions Received for Primary and General Elections.

(a) A candidate for elective state, county, or city office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective state, county, or city office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state, county, or city office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state, county, or city office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(b) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521, 18531.2, 18531.6, 18531.61, 18531.63, 18531.64, 18536, 18537.1

§ 85319. Returning Contributions.

A candidate for state elective office may return all or part of any contribution to the donor who made the contribution at any time, whether or not other contributions are returned, except a contribution that the candidate for state elective office made to that candidate's own controlled committee.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2002, Ch. 212; amended by Stats. 2021, Ch. 50.

§ 85320. Foreign Entities.

(a) A foreign government or foreign principal shall not make, directly or through any other person, a contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state or local ballot measure or in connection with the election of a candidate to state or local office.

(b) A person or a committee shall not solicit or accept a contribution from a foreign government or foreign principal in connection with the qualification or support of, or opposition to, any state or local ballot measure or in connection with the election of a candidate to state or local office.

(c) For the purposes of this section, a “foreign principal” includes the following:

(1) A foreign political party.

(2) A person outside the United States, unless either of the following is established:

(A) The person is an individual and a citizen of the United States.

(B) The person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States.

(3) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(4) A domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the foreign corporation who is neither a citizen of the United States nor a lawfully admitted permanent resident of the United States.

(d) This section shall not prohibit a contribution, expenditure, or independent expenditure made by a lawfully admitted permanent resident.

(e) Any person who violates this section shall be guilty of a misdemeanor and shall be fined an amount equal to the amount contributed or expended.

History: Added by Stats. 1997, Ch. 67; amended by Stats. 2000, Ch. 349; amended by Stats. 2021, Ch. 313.

§ 85321. Post-Election Fundraising; Elections Held Prior to January 1, 2001.

Notwithstanding any other provision of this chapter, if a candidate for elective state office or the candidate’s controlled committee had net debts resulting from an election held prior to January 1, 2001, contributions to that candidate or committee for that election are not subject to the limits of Sections 85301 and 85302.

History: Added by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.6, 18531.61, 18537

Article 4. Voluntary Expenditure Ceilings. § 85400 – 85403

§ 85400.	Voluntary Expenditure Ceilings.....	71
§ 85401.	Candidate Acceptance or Rejection of Expenditure Ceilings.....	71
§ 85402.	Lifting Expenditure Limits; Opponent’s Use of Personal Funds.....	72
§ 85403.	Violations of Voluntary Expenditure Limits...	72

§ 85400. Voluntary Expenditure Ceilings.

(a) A candidate for elective state office, other than the Board of Administration of the Public Employees’ Retirement System, who voluntarily accepts expenditure limits shall not make campaign expenditures in excess of the following:

(1) For an Assembly candidate, four hundred thousand dollars (\$400,000) in the primary or special primary election and seven hundred thousand dollars (\$700,000) in the general or special general election.

(2) For a Senate candidate, six hundred thousand dollars (\$600,000) in the primary or special primary election and nine hundred thousand dollars (\$900,000) in the general or special general election.

(3) For a candidate for the State Board of Equalization, one million dollars (\$1,000,000) in the primary election and one million five hundred thousand dollars (\$1,500,000) in the general election.

(4) For a statewide candidate other than a candidate for Governor or the State Board of Equalization, four million dollars (\$4,000,000) in the primary election and six million dollars (\$6,000,000) in the general election.

(5) For a candidate for Governor, six million dollars (\$6,000,000) in the primary election and ten million dollars (\$10,000,000) in the general election.

(b) For purposes of this section, “campaign expenditures” has the same meaning as “election-related activities” as defined in Section 82022.5.

(c) A campaign expenditure made by a political party on behalf of a candidate shall not be attributed to the limitations on campaign expenditures set forth in this section.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Limitations on Gifts and Honoraria”); repealed by Stats. 1990, Ch. 84; added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18540, 18542, 18543, 18544, 18545

§ 85401. Candidate Acceptance or Rejection of Expenditure Ceilings.

(a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time the candidate files the statement of intention specified in Section 85200.

(b) A candidate may, until the deadline for filing nomination papers set forth in Section 8020 of the Elections Code, change the candidate's statement of acceptance or rejection of voluntary; expenditure limits provided the candidate has not exceeded the voluntary expenditure limits. A candidate shall not change the candidate's statement of acceptance or rejection of voluntary expenditure limits more than twice after the candidate's initial filing of the statement of intention for that election and office.

(c) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

(d) Notwithstanding Section 81004.5 or any other provision of this title, a candidate shall not change the candidate's statement of acceptance or rejection of voluntary expenditure limits other than as provided for by this section and Section 85402.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 9, effective January 22, 2004; amended by Stats. 2004, Ch. 207; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18542

§ 85402. Lifting Expenditure Limits; Opponent's Use of Personal Funds.

(a) Any candidate for elective state office who has filed a statement accepting the voluntary expenditure limits is not bound by those limits if an opposing candidate contributes personal funds to the opposing candidate's own campaign in excess of the limits set forth in Section 85400.

(b) The commission shall require by regulation timely notification by candidates for elective state office who make personal contributions to their own campaign.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contribution Limits for Candidates Accepting Expenditure Ceilings"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18540, 18542, 18543

§ 85403. Violations of Voluntary Expenditure Limits.

Any candidate who files a statement of acceptance pursuant to Section 85401 and makes campaign expenditures in excess of the limits shall be subject to the remedies in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000).

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Time Periods for Expenditures"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.4

Article 5. Independent Expenditures. § 85500-85505

§ 85500.	Independent Expenditures; 24-Hour Disclosure; Coordination.	72
§ 85501.	Prohibition on Independent Expenditures by Candidate or Officeholder Controlled Committees.	72
§ 85505.	Internet Display of Independent Expenditures; 24-Hour Disclosure Report.	73

§ 85500. Independent Expenditures; 24-Hour Disclosure; Coordination.

(a) In addition to any other report required by this title, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent expenditures of one thousand dollars (\$1,000) or more during an election cycle in connection with a candidate for elective state office or state ballot measure, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

(b) An expenditure may not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Independent Expenditures"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18225.7, 18550

§ 85501. Prohibition on Independent Expenditures by Candidate or Officeholder Controlled Committees.

A controlled committee of a candidate may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures to support or oppose other candidates.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Opinions: In re St. Croix (2005) 18 FPPC Ops. 1

§ 85505. Internet Display of Independent Expenditures; 24-Hour Disclosure Report.

(a) The Secretary of State shall include on the Internet Web site of the Secretary of State's office, as part of the campaign finance activity that is publicly disclosed, any independent expenditure, as defined in Section 82031, that is reported pursuant to Section 85500 with respect to a candidate for elective state office and a statewide ballot measure. This information shall be linked to the part of the Web site that the Secretary of State maintains concerning that candidate or ballot measure.

(b) It is the intent of the Legislature that all forms created for the purpose of filing the online or electronic report required pursuant to Section 85500 include a separate field for the filer to input the legislative district number and the number or letter of a statewide ballot measure.

History: Added by Stats. 2002, Ch. 511.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18550, 18225.7

**Article 6. Ballot Pamphlet.
§ 85600-85601**

§ 85600. Ballot Pamphlet Designation.....	73
§ 85601. Candidate Access to Ballot Pamphlet Statement.	73

§ 85600. Ballot Pamphlet Designation.

The Secretary of State shall designate in the state ballot pamphlet those candidates for statewide elective office, as defined in Section 82053, who have voluntarily agreed to the expenditure limitations set forth in Section 85400. Local elections officers shall designate in the voter information portion of the sample ballot those candidates for State Senate and Assembly who have voluntarily agreed to the expenditure limitations set forth in Section 85400.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to State Ballot Pamphlet"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

§ 85601. Candidate Access to Ballot Pamphlet Statement.

(a) A candidate for statewide elective office, as defined in Section 82053, who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets.

(b) Notwithstanding subdivision (e) of Section 88001 of this code or subdivision (e) of Section 9084 of the Elections Code, on and after November 6, 2002, the Secretary of State may not include in the state ballot pamphlet a statement from a candidate who has not voluntarily agreed to the expenditure limitations set forth in Section 85400.

(c) A candidate for State Senate or Assembly who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the voter information portion of the sample ballot that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with the timeframes and procedures set forth in the Elections Code for the preparation of the voter information portion of the sample ballot.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to Local Sample Ballot Materials"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

**Article 7. Additional Contribution Requirements.
§ 85700-85704**

§ 85700. Donor Information Requirements; Return of Contributions.	73
§ 85701. Laundered Contributions.	73
§ 85702. Contributions from Lobbyists.	74
§ 85702.5. Default Contribution Limits for City and County Jurisdictions	74
§ 85703. Local Jurisdictions.	74
§ 85704. Prohibition on Earmarking.....	74

§ 85700. Donor Information Requirements; Return of Contributions.

(a) A candidate or committee shall return not later than 60 days of receipt by the candidate or committee any contribution of one hundred dollars (\$100) or more for which the candidate or committee does not have on file in the records of the candidate or committee the name, address, occupation, and employer of the contributor.

(b) A candidate or committee may return a contribution pursuant to subdivision (a) after the date that the candidate or committee has reported the contribution under any provision of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Disclosure of Occupation and Employer"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.10, 18570

Opinions: In re Pelham (2001) 15 FPPC Ops. 1

§ 85701. Laundered Contributions.

Any candidate or committee that receives a contribution in violation of Section 84301 shall pay to the General Fund of the state the amount of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Receipt of Laundered Contributions”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85702. Contributions from Lobbyists.

An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Bundling of Contributions”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18572

§ 85702.5. Default Contribution Limits for City and County Jurisdictions

(a) A county or city may, by ordinance or resolution, impose a limit on contributions to a candidate for elective county or city office that is different from the limit set forth in subdivision (d) of Section 85301. The limitation may also be imposed by means of a county or city initiative measure.

(b) A county or city that establishes a contribution limit pursuant to subdivision (a) may adopt enforcement standards for a violation of that limit, which may include administrative, civil, or criminal penalties.

(c) The Commission is not responsible for the administration or enforcement of a contribution limit adopted pursuant to subdivision (a).

(d) This section shall become operative on January 1, 2021. A county or city’s limit on contributions to a candidate for elective county or city office that is in effect on the operative date of this section shall be deemed to be a limit imposed pursuant to subdivision (a).

History: Added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18404.1, 18421.4, 18421.8, 18521, 18521.5, 18523.1, 18530.2, 18530.8, 18531.2, 18531.5, 18531.63, 18531.64, 18535, 18536, 18537.1, 18951

§ 85703. Local Jurisdictions.

(a) This act does not nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions shall not conflict with Section 85312. However, a local jurisdiction shall not impose any contribution limitations or prohibitions on an elected member of, or a candidate for election to, a county central committee of a qualified political party, or on a committee primarily formed to support or oppose a person seeking election to a county central committee of a qualified political party.

(b) Limitations and prohibitions imposed by a local jurisdiction on payments for a member communication, as defined in subdivision (c), that conflict with Section 85312 and which are thereby prohibited by subdivision (a) include, but are not limited to, any of the following:

(1) Source restrictions on payments for member communications that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(2) Limitations on payments to a political party committee for a member communication that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(3) Limitations on the scope of payments considered directly related to the making of a member communication, including costs associated with the formulation, design, production, and distribution of the communication such as surveys, list acquisition, and consulting fees that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(c) For purposes of this section, “member communication” means a communication, within the meaning of Section 85312, to members, employees, shareholders, or families of members, employees, or shareholders of an organization, including a communication by a political party to a member who is registered as expressing a preference for that party on that member’s affidavit of registration pursuant to Sections 2150, 2151, and 2152 of the Elections Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Earmarking of Contributions Prohibited”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2007, Ch. 708; amended by Stats. 2012, Ch. 3, effective February 10, 2012; amended by Stats. 2012, Ch. 502; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.7

§ 85704. Prohibition on Earmarking.

(a) A person shall not make any contribution to a committee or candidate that is earmarked for a contribution to any other particular committee ballot measure, or candidate unless the contribution is fully disclosed pursuant to Section 84302.

(b) For purposes of subdivision (a), a contribution is earmarked if the contribution is made under any of the following circumstances:

(1) The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.

(2) The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(3) After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(c) Notwithstanding subdivisions (a) and (b), dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars (\$500) per calendar year from a single source for the purpose of making contributions or expenditures shall not be considered earmarked.

(d) The committee making the earmarked contribution shall provide the committee receiving the earmarked contribution with the name, address, occupation, and employer, if any, or principal place of business, if self-employed, of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time it makes the contribution. If the committee making the contribution received earmarked contributions that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify pursuant to this subdivision, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(e) Earmarked contributions shall be disclosed on reports required by Chapter 4 (commencing with Section 84100) as follows:

(1) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee but earmarks the funds to another specifically identified committee pursuant to paragraph (1) or (2) of subdivision (b) shall disclose the specifically identified committee as the recipient of the contribution and the other committee as an intermediary at the time the earmarked contribution is made. The specifically identified committee shall disclose the contributor and intermediary at the time the funds are received from the intermediary. The intermediary committee shall disclose receipt of the funds as a miscellaneous increase to cash at the time the funds are received and shall disclose the expenditure as the transfer of an earmarked contribution from the contributor to the specifically identified committee at the time the funds are transferred to the specifically identified committee.

(2) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee and subsequently earmarks the funds pursuant to paragraph (3) of subdivision (b) shall include a notation on the contributor's next statement that the original contribution was subsequently earmarked, including the name of the specifically identified committee, ballot measure, or candidate supported or opposed. The committee that previously received the funds shall also include a notation on its next statement that the original contribution was subsequently earmarked and shall disclose the original contributor to any new committee to which it transfers the earmarked funds.

The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(3) A contributor who qualifies as a committee pursuant to Section 82013 and who earmarks a contribution to a specifically identified ballot measure or candidate shall disclose a contribution to the committee that received the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate. Compliance with this paragraph satisfies the contributor's disclosure obligations under this title. The committee receiving the earmarked contribution shall disclose the contributor with a notation that the contribution was earmarked to the specific ballot measure or candidate when the contribution is received. The committee receiving the funds is solely responsible for disclosing the ultimate use of the earmarked contribution, whether by contribution or expenditure, at the time the funds are used. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds for disclosure on the new committee's campaign report. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(f) A violation of this section shall not be based solely on the timing of contributions made or received.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contributions from Lobbyists"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401

Article 8. Appropriation. § 85802

§ 85802. Appropriation to the Fair Political Practices Commission.

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) annually above and beyond the appropriations established for the commission in the fiscal year immediately prior to the effective date of this act, adjusted for cost-of-living changes, for expenditures to support the operations of the commission pursuant to this act. If any provision of this act is successfully challenged, any attorney's fees and costs shall be paid from the General Fund and the commission's budget shall not be reduced accordingly.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

Chapter 6. Lobbyists.

§ 86100-86300

Article 1. Registration and Reporting. § 86100-86118	76
Article 2. Prohibitions. § 86200 – 86206	82
Article 3. Exemptions. § 86300	83

Article 1. Registration and Reporting.

§ 86100-86118

§ 86100. Registration.....	76
§ 86101. Registration; Time.	76
§ 86102. Registration Fees.....	76
§ 86103. Lobbyist Certification; Requirements.*	76
§ 86104. Lobbying Firm; Registration Requirements.*. 77	
§ 86105. Lobbyist Employer, Lobbying Coalition; Registration Requirements.....	77
§ 86106. Renewal of Registration.....	78
§ 86107. Registration Statement; Amendment; Termination.*	78
§ 86108. Registration Statement; Publication.*	78
§ 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.*	78
§ 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.*	79
§ 86110. Recordkeeping.	79
§ 86111. Activity Expense; Agency Official.	79
§ 86112. Activity Expenses; Reporting.	79
§ 86112.3. Invitations.	79
§ 86112.5. Notification to Beneficiary of a Gift.	80
§ 86113. Periodic Reports; Lobbyists; Contents.....	80
§ 86114. Periodic Reports; Lobbying Firms; Contents.*80	
§ 86115. Periodic Reports; Employers and Others.	80
§ 86116. Periodic Reports; Employers and Others; Contents.*	81
§ 86116.5. Periodic Reports; State and Local Government Agencies.	81
§ 86117. Periodic Reports; Filing; Time.....	82
§ 86118. Periodic Reports; Where to File.*	82

§ 86100. Registration.

(a) The following persons shall register with the Secretary of State:

- (1) Lobbying firms.
- (2) Lobbyist employers under subdivision (a) of Section 82039.5 who employ one or more in-house lobbyists.
- (3) Lobbying coalitions who employ at least one in-house lobbyist.

(b) Each individual lobbyist shall submit a lobbyist certification under Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee, or as part of the registration of the lobbyist employer that employs the lobbyist.

(c) Lobbyist employers under subdivision (b) of Section 82039.5 who contract only for a lobbying firm's services, lobbying coalitions who contract for a lobbying firm's services and do not employ an in-house lobbyist, and persons described in subdivision (b) of Section 86115, are not required to register with the Secretary of State, but shall maintain records and file quarterly reports under this chapter.

(d) (1) Except as provided in paragraph (2), a registration statement shall be filed both by online or electronic means and physically, submitting the original statement and one copy, in paper format.

(2) Upon certification by the Secretary of State of an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602, a registration statement shall be filed by online or electronic means.

History: Amended by Stats. 1983, Chapter 209; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration with Secretary of State.") Amended by Stats 2010, Ch. 18; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18249, 18600 18601, 18616.4

§ 86101. Registration; Time.

Every lobbying firm and lobbyist employer who is required to file a registration statement under this chapter shall register with the Secretary of State no later than 10 days after qualifying as a lobbying firm or lobbyist employer.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Requirement of Registration.")

§ 86102. Registration Fees.

(a) The Secretary of State shall charge each lobbying firm and lobbyist employer required to file a registration statement under this chapter a fee of fifty dollars (\$50) per year for each lobbyist required to be listed on its registration statement.

(b) One-half of the moneys collected pursuant to this section shall be deposited in the Political Disclosure, Accountability, Transparency, and Access Fund, and the other one-half of the moneys shall be deposited in the General Fund.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985 (Formerly titled "Renewal of Registration."); amended by Stats. 2012, Ch. 506.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18601

§ 86103. Lobbyist Certification; Requirements.*

A lobbyist certification shall include all of the following:

- (a) A recent photograph of the lobbyist, the size of which shall be prescribed by the Secretary of State.
- (b) The full name, business address, and telephone number of the lobbyist.
- (c) A statement that the lobbyist has read and understands the prohibitions contained in Sections 86203 and 86205.

(d)(1) In the case of a lobbyist who filed a completed lobbyist certification in connection with the last regular session of the Legislature, a statement that the lobbyist has completed, within the previous 12 months or will complete no later than June 30 of the following year, the course described in subdivision (b) of Section 8956. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year, the certification

shall be accepted on a conditional basis. Thereafter, if the lobbyist completes the course no later than June 30 of the following year, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until **the individual** has completed the course and filed with the Secretary of State a lobbyist certification stating that **the individual** has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once **that individual's** conditional certification is void.

(2) If, in the case of a new lobbyist certification, the lobbyist has not completed the course within the previous 12 months, the lobbyist certification shall include a statement that the lobbyist will complete a scheduled course within 12 months, and the lobbyist certification shall be accepted on a conditional basis. Following the lobbyist's completion of the ethics course, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the new lobbyist certification states that the lobbyist will complete the course within 12 months and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until **that individual** has completed the course and filed with the Secretary of State a lobbyist certification stating **the individual** has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once **that individual's** conditional certification is void.

(e) Any other information required by the commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Amendment; Termination"); amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 391; amended by Stats. 1995, Ch. 346; amended by Stats. 1997, Ch. 574; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18601, 18603.1

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54

*Section 86103 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86104. Lobbying Firm; Registration Requirements.*

The registration of a lobbying firm shall include:

(a) The full name, business address, and telephone number of the lobbying firm.

(b) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.

(c) The lobbyist certification of each lobbyist in the lobbying firm.

(d) For each person with whom the lobbying firm contracts to provide the following lobbying services.

(1) The full name, business address, and telephone number of the person.

(2) A written authorization signed by the person.

(3) The time period of the contract.

(4) Information sufficient to identify the nature and interests of the person including:

(A) If the person is an individual, the name and address of **the person's** employer, if any, or **the person's** principal place of business if the person is self-employed, and a description of the business activity in which the person or **the person's** employer is engaged.

(B) If the person is a business entity, a description of the business activity in which it is engaged.

(C) If the person is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents and, if the association has not more than 50 members, the names of the members.

(D) If the person is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

(5) The lobbying interests of the person.

(6) A list of the state agencies whose legislative or administrative actions the lobbying firm will attempt to influence for the person.

(e) The name and title of a partner, owner, or officer of the lobbying firm who is responsible for filing statements and reports and keeping records required by this chapter on behalf of the lobbying firm, and a statement signed by the designated responsible person that **such person** has read and understands the prohibitions contained in Sections 86203 and 86205.

(f) Any other information required by the commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1976, Ch. 415, effective July 10, 1976; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Publication."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459; **amended by Stats. 2021, Ch. 50.**

*Section 86104 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86105. Lobbyist Employer, Lobbying Coalition; Registration Requirements.

The registration for a lobbyist employer that employs lobbyists or a lobbying coalition shall include:

(a) The following information regarding the lobbyist employer or coalition:

(1) The filer's full name, business address, email address, and telephone number.

(2) Information sufficient to identify the nature and interests of the filer, including:

(A) For an individual, the name and address of the filer's employer, if any, or if self-employed, the filer's principal place of business, and a description of the business activity in which the filer or the filer's employer is engaged.

(B) For a business entity, a description of the business activity in which it is engaged.

(C) For an industry, trade, or professional association, a description of the industry, trade, or profession it represents including a specific description of any part or faction of the industry, trade, or profession that the association exclusively or primarily represents and, if the association has 50 or fewer members, the names of the members.

(D) For other persons, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest that the person principally represents or from which its membership or financial support is principally derived.

(3) The lobbying employer's or coalition's lobbying interests.

(4) A list of the state agencies whose legislative or administrative actions the lobbyist employer or coalition will attempt to influence.

(b) The lobbyist employer or coalition shall provide:

(1) A list of the lobbyists who are employed by the lobbyist employer or coalition.

(2) The lobbyist certification of each lobbyist employed.

(c) Any other information required by the Commission consistent with this chapter's purposes and provisions.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Accounts; Designation by Name; Deposits."); amended by Stats. 1987, Ch. 459; repealed and reenacted as amended by Stats. 2019, Ch. 312.

§ 86106. Renewal of Registration.

Each registered lobbying firm and lobbyist employer which will be conducting activities which require registration shall renew its registration by filing photographs of its lobbyists, authorizations, and a registration statement between November 1 and December 31, of each even-numbered year. Each lobbyist shall renew **the lobbyist's own** lobbyist certification in connection with the renewal of registration by the lobbyist's lobbying firm or employer.

History: Repealed by Stats. 1979, Ch. 592; (Formerly titled "Accounts; Payment of Expenses; Petty Cash"); added by Stats. 1985, Ch. 1183 effective September 29, 1985; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 574; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18603, 18603.1

§ 86107. Registration Statement; Amendment; Termination.*

(a) If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed both by online or electronic means and physically, submitting the original one copy of the amendment, in paper format, with the Secretary of State within 20 days after

the change. However, if the change includes the name of a person by whom a lobbying firm is retained, the registration statement of the lobbying firm shall be amended and filed to show that change prior to the lobbying firm's attempting to influence any legislative or administrative action on behalf of that person. Lobbying firms and lobbyist employers that, during a regular session of the Legislature, cease all activity that required registration shall file a notice of termination within 20 days after the cessation. Lobbying firms and lobbyist employers that, at the close of a regular session of the Legislature, cease all activity that required registration are not required to file a notice of termination.

(b) If any change occurs in any of the information contained in a lobbyist certification or if a lobbyist terminates all activity that required the certification, the lobbyist shall submit an amended certification or notice of termination to **the lobbyist's** lobbying firm or lobbyist employer for filing with the Secretary of State within the time limits specified in subdivision (a). A lobbyist who, at the close of a regular session of the Legislature, ceases all activity that required certification is not required to file a notice of termination.

(c) Lobbyists and lobbying firms are subject to Section 86203 for the earlier of six months after filing a notice of termination or six months after the close of a regular session of the Legislature at the close of which the lobbyist or lobbying firm ceased all activity that required certification or registration.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Contents of Periodic Reports."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 936; amended by Stats. 2010, Ch. 18; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18603

*Section 86107 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86108. Registration Statement; Publication.*

All information listed on any registration statement and on any amendment, renewal, or notice of termination shall be printed by the Secretary of State and made public within 30 days after filing.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others.")

*Section 86108 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.*

Within 140 days after the commencement of each regular session of the Legislature, the Secretary of State shall publish a directory of registered individual lobbyists, lobbying firms, and lobbyist employers. The Secretary of State shall publish, from time to time, such supplements to the directory as may be necessary.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others; Contents."); amended by Stats. 1991, Ch. 391.

*Section 86109 was repealed by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.*

(a) The Secretary of State shall establish and maintain on the Internet an online version of the Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers. The Secretary of State shall update the directory weekly.

(b) The Secretary of State shall also display on the Internet a list of the specific changes made to the Directory of Lobbyist, Lobbying Firms, and Lobbying Employers, including new registrations and listings, additions, deletions, and other revisions, during the seven days preceding the update required by subdivision (a).

(c) This section may not be implemented until July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99.

(d) Notwithstanding any other provision of this title, the lobbying data made available on the Internet shall include the street name and building number of the persons or entity representatives listed on all the documents submitted to the Secretary of State pursuant to Chapter 6 (commencing with Section 86100).

History: Added by Stats. 1999, Ch. 855.

*Section 86109.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86110. Recordkeeping.

Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments or incur expenses or expect to receive payments, make payments or incur expenses in connection with activities which are reportable pursuant to this chapter shall keep detailed accounts, records, bills, and receipts as shall be required by regulations adopted by the commission to expedite the performance of all obligations imposed by this chapter.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Filing; Time.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18610, 18612, 18615

§ 86111. Activity Expense; Agency Official.

(a) "Activity expense" as used in this chapter means any expense incurred or payment made by a lobbyist, lobbying firm, lobbyist employer or a person described in subdivision (b) of Section 86115, or arranged by a lobbyist or lobbying firm, which benefits in whole or in part any elective state official, legislative official, agency official, state candidate, or a member of the immediate family of one of these

individuals. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation but do not include campaign contributions.

(b) "Agency official" as used in this chapter means any official of a state agency whose administrative actions the lobbyist, lobbying firm, lobbyist employer, or person described in subdivision (b) of Section 86115 has attempted or is attempting to influence.

History: Added by Stats. 1979, Ch. 592; amended by Stats. 1976, Ch. 415, effective July 10, 1976, repealed former Section 86111 titled "Periodic Reports; Publication"; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Lobbying Reports and Statements; Where to File.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18945, 18950

§ 86112. Activity Expenses; Reporting.

When a person is required to report activity expenses pursuant to this article, the following information shall be provided:

(a) The date and amount of each activity expense.

(b) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of benefit.

(c) The full name of the payee of each expense if other than the beneficiary.

(d) Any other information required by the commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18623, 18640

§ 86112.3. Invitations.

(a) Each person filing a report pursuant to this article who sends any written or printed invitation to an elected state officer, candidate for elective state office, legislative official or agency official, shall include on the invitation or on a letter attached to the invitation the following typed, printed, or handwritten statement that is at least as large and readable as 8-point Roman boldface type, in a color or print that contrasts with the background so as to be easily legible:

Attendance at this event by a public official will constitute acceptance of a reportable gift.

(b) The notice specified in subdivision (a) shall not be required to appear on any invitation wherein attendance at the event described in the invitation will not constitute acceptance of a reportable gift by an elected state officer, candidate for elective state office, legislative official or agency official, pursuant to paragraph (1) of subdivision (a) of Section 87207.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1993, Ch. 1140.

§ 86112.5. Notification to Beneficiary of a Gift.

(a) Each person filing a report pursuant to this article shall provide each beneficiary of a gift listed within the report the following information:

(1) The date and amount of each gift reportable by the beneficiary.

(2) A description of the goods or services provided to the beneficiary.

(b) The information required to be disclosed pursuant to subdivision (a) shall be provided to the beneficiary within 30 days following the end of each calendar quarter in which the gift was provided. For the purposes of meeting the disclosure requirements of this section, a lobbyist firm or lobbyist employer may provide the beneficiary a copy of the activity expense section of the report submitted to the Secretary of State pursuant to this article.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1991, Ch. 322.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18640

§ 86113. Periodic Reports; Lobbyists; Contents.

(a) A lobbyist shall complete and verify a periodic report which contains:

(1) A report of all activity expenses by the lobbyist during the reporting period; and

(2) A report of all contributions of one hundred dollars (\$100) or more made or delivered by the lobbyist to any elected state officer or state candidate during the reporting period.

(b) A lobbyist shall provide the original of the lobbyist's periodic report to the lobbyist's lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18611, 18623, 18942

Opinions: *In re Nida* (1976) 2 FPPC Ops 1
In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147
In re Witt (1975) 1 FPPC Ops. 145
In re Horn (1975) 1 FPPC Ops. 126
In re Morrissey (1975) 1 FPPC Ops. 104
In re Spellman (1975) 1 FPPC Ops. 16

§ 86114. Periodic Reports; Lobbying Firms; Contents.*

(a) Lobbying firms shall file periodic reports containing all of the following:

(1) The full name, address, and telephone number of the lobbying firm.

(2) The full name, business address, and telephone number of each person who contracted with the lobbying

firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement of expenses, received from the person for lobbying services during the reporting period.

(3) The total amount of payments received for lobbying services during the period.

(4) A periodic report completed and verified by each lobbyist in the lobbying firm pursuant to Section 86113.

(5) Each activity expense incurred by the lobbying firm including those reimbursed by a person who contracts with the lobbying firm for lobbying services. A total of all activity expenses of the lobbying firm and all of its lobbyists shall be included.

(6) If the lobbying firm subcontracts with another lobbying firm for lobbying services:

(A) The full name, address, and telephone number of the subcontractor.

(B) The name of the person for whom the subcontractor was retained to lobby.

(C) The total amount of all payments made to the subcontractor.

(7) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support such officers or candidates. If this contribution is reported by the lobbying firm or by a committee sponsored by the lobbying firm in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee and the identification number of the committee.

(8) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

(b) In addition to the information required by subdivision (a), lobbying firms which qualify pursuant to paragraph (2) of subdivision (a) of Section 82038.5 shall also report the name and title of each partner, owner, officer, and employee of the lobbying firm who, on at least five separate occasions during the reporting period, engaged in direct communication with any elective state official, legislative official, or agency official, for the purpose of influencing legislative or administrative action on behalf of a person who contracts with the lobbying firm for lobbying services. This does not include individuals whose actions were purely clerical.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18613, 18614, 18616.4, 18623

*Section 86114 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86115. Periodic Reports; Employers and Others.

Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86116:

(a) Any lobbyist employer; and

(b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter, unless all of the payments are of the type described in subdivision (c) of Section 82045.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18616, 18616.4, 18623

Opinions: *In re Kovall* (1978) 4 FPPC Ops. 95
In re Evans (1978) 4 FPPC Ops. 54
In re Sloan (1976) 2 FPPC Ops. 105
In re Gillies (1975) 1 FPPC Ops. 165
In re Stern (1975) 1 FPPC Ops. 59
In re Witt (1975) 1 FPPC Ops. 1

§ 86116. Periodic Reports; Employers and Others; Contents.*

Every person described in Section 86115 shall file periodic reports containing the following information:

(a) The name, business address, and telephone number of the lobbyist employer or other person filing the report.

(b) The total amount of payments to each lobbying firm.

(c) The total amount of all payments to lobbyists employed by the filer.

(d) A description of the specific lobbying interests of the filer.

(e) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113.

(f) Each activity expense of the filer. A total of all activity expenses of the filer shall be included.

(g) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support the officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee, and the identification number of the committee.

(h) (1) Except as set forth in paragraph (2), the total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

(2) A filer that makes payments to influence a ratemaking or quasi-legislative proceeding before the Public Utilities Commission, as defined in subdivision (b) or (c), respectively, of Section 82002, may, in lieu of reporting those payments pursuant to paragraph (1), report only the portion of those payments made to or for the filer's attorneys for time spent appearing as counsel and preparing to appear as counsel, or to or for the filer's witnesses for time spent testifying

and preparing to testify, in this type of Public Utilities Commission proceeding. This alternative reporting of these payments made during a calendar month is not required to include payments made to an attorney or witness who is an employee of the filer if less than 10 percent of the attorney or witness's compensated time in that month was spent in appearing, testifying, or preparing to appear or testify before the Public Utilities Commission in a ratemaking or quasi-legislative proceeding. For the purposes of this paragraph, time spent preparing to appear or preparing to testify does not include time spent preparing written testimony.

(i) Any other information required by the commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459; amended by Stats. 2001, Ch. 921; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18614, 18616, 18616.4, 18623

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Herr (1977) 3 FPPC Ops. 11
In re Sloan (1976) 2 FPPC Ops. 105
In re Nida (1976) 2 FPPC Ops. 1
In re Grunsky (1975) 1 FPPC Ops. 158
In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147
In re Witt (1975) 1 FPPC Ops. 145
In re Morrissey (1975) 1 FPPC Ops. 130
In re Carothers (1975) 1 FPPC Ops. 122
In re Wallace (1975) 1 FPPC Ops. 118
In re Gillies (1975) 1 FPPC Ops. 110
In re League of California Milk Producers (1975) 1 FPPC Ops. 13
In re Witt (1975) 1 FPPC Ops. 1

*Section 86116 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86116.5. Periodic Reports; State and Local Government Agencies.

(a) In addition to the information required pursuant to Section 86116, all state and local agencies that file reports pursuant to Sections 86115 and 86116 shall disclose, except for overhead expenses, all payments of two hundred fifty dollars (\$250) or more made in a reporting period, including, but not limited to, all of the following:

(1) Goods and services used by a lobbyist or used to support or assist a lobbyist in connection with the lobbyist's activities as a lobbyist.

(2) Payments of any other expenses which would not have been incurred but for the filer's activities to influence or attempt to influence legislative or administrative action.

(3) Dues or similar payments made to any organization, including a federation, confederation, or trade, labor, or membership organization, that makes expenditures equal to 10 percent of its total expenditures, or fifteen thousand dollars (\$15,000), or more, during any calendar quarter, to influence legislative or administrative action.

(b) Reports required pursuant to this section may be disclosed on a separate schedule and shall include all of the following information:

(1) The name and the address of the payee.

(2) The total payments made during the reporting period.

(3) The cumulative amount paid during the calendar year.

(c) All statements required by this section shall be filed as specified by Sections 86117 and 86118.

History: Added by Stats. 1992, Ch. 214; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18616

§ 86117. Periodic Reports; Filing; Time.

(a) Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. The period covered shall be from the first day of January of each new biennial legislative session through the last day of the calendar quarter prior to the month during which the report is filed, except as specified in subdivision (b), and except that the period covered shall not include any information reported in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire legislative session to date.

(b) The period covered by the first report a person is required to file pursuant to Sections 86114 and 86116 shall begin with the first day of the calendar quarter in which the filer first registered or qualified. On the first report a person is required to file, the total amount shall be stated for the entire calendar quarter covered by the first report.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1994, Ch. 1139.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18617

§ 86118. Periodic Reports; Where to File.*

The original and one copy of each report required by Sections 86114 and 86116 shall be filed with the Secretary of State, unless filing in paper format is no longer required by Sections 84605 and 84606.

History: Added by Stats. 1986, Ch. 905; amended by Stats. 2010, Ch. 18.

*Section 86118 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

Article 2. Prohibitions.

§ 86201 – 86206

§ 86201.	Gift.....	82
§ 86203.	Unlawful Gifts.	82
§ 86204.	Receipt of Unlawful Gift.	82
§ 86205.	Acts Prohibited.	82
§ 86206.	Placement Agent Fees.....	83

§ 86201. Gift.

“Gift” as used in this article means a gift made directly or indirectly to any state candidate, elected state officer, or legislative official, or to an agency official of any agency

required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18623, 18945, 18946.2

Opinions: *In re Goddard* (1978) 4 FPPC Ops. 1

In re Olson (1975) 1 FPPC Ops. 107

In re Smithers (1975) 1 FPPC Ops. 42

§ 86203. Unlawful Gifts.

It shall be unlawful for a lobbyist, or lobbying firm, to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18600, 18624, 18942, 18945, 18946.2

Opinions: *In re Institute for Governmental Advocates* (1982) 7 FPPC Ops. 1

In re Goddard (1978) 4 FPPC Ops. 1

In re Reinhardt (1977) 3 FPPC Ops. 83

In re Zenz (1975) 1 FPPC Ops. 195

In re Horn (1975) 1 FPPC Ops. 126

In re Olson (1975) 1 FPPC Ops. 107

In re Gilchrist (1975) 1 FPPC Ops. 82

In re Smithers (1975) 1 FPPC Ops. 42

In re Blenkle (1975) 1 FPPC Ops. 37

§ 86204. Receipt of Unlawful Gift.

It shall be unlawful for any person knowingly to receive any gift which is made unlawful by Section 86203.

History: Amended by Stats. 1984, Ch. 161.

§ 86205. Acts Prohibited.

No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist’s or the firm’s employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action.

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or to cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18625

Opinions: *In re Reinhardt* (1977) 3 FPPC Ops. 83

§ 86206. Placement Agent Fees.

Nothing in this article prohibits the payment of fees for contractual services provided to an investment manager by a placement agent, as defined in Section 82047.3, who is registered with the Securities and Exchange Commission and regulated by the Financial Industry Regulatory Authority, except as provided in subdivision (f) of Section 86205.

History: Added by Stats. 2010, Ch. 668

Article 3. Exemptions. § 86300

§ 86300. Exemptions.

The provisions of this chapter are not applicable to:

(a) Any elected public official acting in **the official's** official capacity, or any employee of the State of California acting within the scope of **the employee's** employment; provided that, an employee of the State of California, other than a legislative official, who attempts to influence legislative action and who would be required to register as a lobbyist except for the provisions of this subdivision shall not make gifts of more than ten dollars (\$10) in a calendar month to an elected state officer or legislative official.

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or **periodical or** radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisement, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television **station**, or individual, engages in no further or other activities in connection with urging legislative or administrative action other than to appear before a committee of the Legislature or before a state agency in support of or in opposition to such action; or

(c) A person when representing a bona fide church or religious society solely for the purpose of protecting the public right to practice the doctrines of such church.

History: Amended by Stats. 1975, Ch. 1079; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18249

Opinions: *In re Herr* (1977) 3 FPPC Ops. 11

In re Morgan (1975) 1 FPPC Ops. 177

Chapter 7. Conflicts of Interests. **§ 87100-87505**

Article 1. General Prohibitions. § 87100-87105 83

Article 2. Disclosure. § 87200 – 87210	87
Article 3. Conflict of Interest Codes. § 87300 – 87314	90
Article 3.5. Multiagency Filers. § 87350	94
Article 4. Disqualification of Former Officers and Employees. § 87400 – 87410	94
Article 4.5. Disqualification of State Officers and Employees. § 87450	97
Article 4.6. Loans to Public Officials. § 87460-87462	98
Article 5. Filing. § 87500-87505	99

Article 1. General Prohibitions. § 87100-87105

§ 87100. Public Officials; State and Local.....	83
§ 87100.1. Professional Engineers and Surveyors as Consultants.	83
§ 87101. Legally Required Participation in Governmental Decision.	84
§ 87102. Applicability of Enforcement Provisions; Additional Requirements.	84
§ 87102.5. Legislature; Use of Position to Influence Decisions.	84
§ 87102.6. Nongeneral Legislation; Definitions.	85
§ 87102.8. Elected State Officer; Use of Position to Influence Decisions.....	85
§ 87103. Financial Interest.....	86
§ 87103.5. Income from Retail Sales.....	86
§ 87103.6. Source of Income; Payments to Government Agencies.	86
§ 87104. Prohibitions on Public Officials.....	87
§ 87105. Manner of Disqualification.	87

§ 87100. Public Officials; State and Local.

A public official at any level of state or local government shall **not** make, participate in **making**, or in any way attempt to use **the public official's** official position to influence a governmental decision in which **the official** knows or has reason to know **the official** has a financial interest.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18360.1, **18360.3**, 18700, 18700.1, 18700.2, 18700.3, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18703.3 18704, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706, 18706.1, 18707, 18709, 18730.1, 18940, 18941, 18942, 18944, 18945, 18950.1

Opinions: *In re Hanko* (2002) 16 FPPC Ops. 1

In re Galligan (2000) 14 FPPC Ops. 1

§ 87100.1. Professional Engineers and Surveyors as Consultants.

(a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which **the consultant** is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decisionmaking authority as a contract city or county engineer or surveyor.

(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.

(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:

(1) The engineer has received income of two hundred fifty dollars (\$250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district.

(2) The district includes other parcels in addition to those parcels for which the engineer received the income.

The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

History: Added by Stats. 1991, Ch. 887; amended by Stats. 2021, Ch. 50.

§ 87101. Legally Required Participation in Governmental Decision.

Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent **the official's** participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make **the official's** participation legally required for purposes of this section.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18704, 18705, 18707, 18708

Opinions: *In re Tobias* (1999) 5 FPPC Ops. 5
In re Brown (1978) 4 FPPC Ops. 19
In re Hudson (1978) 4 FPPC Ops. 13
In re Hopkins (1977) 3 FPPC Ops. 107
In re Maloney (1977) 3 FPPC Ops. 69

§ 87102. Applicability of Enforcement Provisions; Additional Requirements.

The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. Except as provided in Section 87102.5, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

History: Amended by Stats. 1980, Ch. 1029; amended by Stats. 1990, Ch. 84.

§ 87102.5. Legislature; Use of Position to Influence Decisions.

(a) The remedies provided in Chapter 3 (commencing with Section 83100) apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use **the Member's** official position to influence any of the following governmental decisions in which **the Member** knows or has reason to know that **the Member** has a financial interest:

(1) Any state governmental decision, other than any action or decision before the Legislature, made in the course of **the Member's duties**.

(2) Approval, modification, or cancellation of any contract to which either house or a committee of the Legislature is a party.

(3) Introduction as a lead author of any legislation that the **Member** knows or has reason to know is nongeneral legislation.

(4) Any vote in a legislative committee or subcommittee on what the **Member** knows or has reason to know is nongeneral legislation.

(5) Any rollcall vote on the Senate or Assembly floor on an item which the **Member** knows is nongeneral legislation.

(6) Any action or decision before the Legislature in which all of the following occur:

(A) The **Member** has received any salary, wages, commissions, or similar earned income within the preceding 12 months from a lobbyist employer.

(B) The **Member** knows or has reason to know the action or decision will have a direct and significant financial impact on the lobbyist employer.

(C) The action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(7) Any action or decision before the Legislature on legislation that the **Member** knows or has reason to know will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the **Member** has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(b) For purposes of this section, all of the following apply:

(1) "Any action or decision before the Legislature" means any vote in a committee or subcommittee, or any rollcall vote on the floor of the Senate or Assembly.

(2) "Financial interest" means an interest as defined in Section 87103.

(3) "Legislation" means a bill, resolution, or constitutional amendment.

(4) "Nongeneral legislation" means legislation that is described in Section 87102.6 and is not of a general nature pursuant to Section 16 of Article IV of the Constitution.

(5) A Member of the Legislature has reason to know that an action or decision will have a direct and significant

financial impact on a person with respect to which disqualification may be required pursuant to subdivision (a) if either of the following apply:

(A) With the knowledge of the Member, the person has attempted to influence the vote of the Member with respect to the action or decision.

(B) Facts have been brought to the Member's personal attention indicating that the action or decision will have a direct and significant impact on the person.

(6) The prohibitions specified in subdivision (a) do not apply to a vote on the Budget Bill as a whole, or to a vote on a consent calendar, a motion for reconsideration, a waiver of any legislative rule, or any purely procedural matter.

(7) A Member of the Legislature has reason to know that legislation is nongeneral legislation if facts have been brought to the Member's personal attention indicating that it is nongeneral legislation.

(8) Written advice given to a Member of the Legislature regarding the Member's duties under this section by the Legislative Counsel shall have the same effect as advice given by the commission pursuant to subdivision (b) of Section 83114 if both of the following apply:

(A) The Member has made the same written request based on the same material facts to the commission for advice pursuant to Section 83114 as to the Member's duties under this section, as the written request and facts presented to the Legislative Counsel.

(B) The commission has not provided written advice pursuant to the Member's request prior to the time the Member acts in good faith reliance on the advice of the Legislative Counsel.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18703.3, 18703.4, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706.1

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87102.6. Nongeneral Legislation; Definitions.

(a) "Nongeneral legislation" means legislation as to which both of the following apply:

(1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.

(2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

(1) "Legislation" means a bill, resolution, or constitutional amendment.

(2) "Public generally" includes an industry, trade, or profession.

(3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.

(4) A legislative district, county, city, or special district constitutes a significant segment of the public.

(5) More than a small number of persons or pieces of real property is a significant segment of the public.

(6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.

(7) The Budget Bill as a whole is not nongeneral legislation.

(8) Legislation that contains at least one provision that constitutes nongeneral legislation is nongeneral legislation, even if the legislation also contains other provisions that are general and do not constitute nongeneral legislation.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2006, Ch. 538.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18703.3, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706.1

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87102.8. Elected State Officer; Use of Position to Influence Decisions.

(a) An elected state officer, as defined in subdivision (f) of Section 14 of Article V of the California Constitution, shall not make or participate in the making of, or use the officer's official position to influence, any governmental decision before the agency in which the elected state officer serves, where the officer knows or has reason to know that the officer has a financial interest.

(b) An elected state officer knows or has reason to know that the officer has a financial interest in any action by, or a decision before the agency in which the officer serves where either of the following occur:

(1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of "public generally" and "significant segment of the public" contained in Section 87102.6 apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) apply to violations of this section.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 674; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.5, 18703, 18703.3, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706.1

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87103. Financial Interest.

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official's immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

History: Amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch. 931; amended by Stats. 1985, Ch. 611; amended by Stats. 1994, Ch. 386; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18232, 18700, 18700.1, 18700.2, 18702.5, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18703, 18703.3, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706, 18706.1, 18707, 18709, 18730, 18730.1, 18940, 18940.2, 18941, 18942, 18942.1, 18944, 18945, 18946.2, 18950.1

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

In re Hanko (2002) 16 FPPC Ops. 1
In re Galligan (2000) 14 FPPC Ops. 1
In re Legan (1985) 9 FPPC Ops. 1
In re Nord (1983) 8 FPPC Ops. 6
In re Ferraro (1978) 4 FPPC Ops. 62
In re Callanan, Sands and Hill (1978) 4 FPPC Ops. 33
In re Brown (1978) 4 FPPC Ops. 19
In re Hopkins (1977) 3 FPPC Ops. 107
In re Gillmor (1977) 3 FPPC Ops. 38
In re Moore (1977) 3 FPPC Ops. 33
In re Thomas (1977) 3 FPPC Ops. 30
In re Sherwood (1976) 2 FPPC Ops. 168
In re Sankey (1976) 2 FPPC Ops. 157
In re Owen (1976) 2 FPPC Ops. 77
In re Thorner (1975) 1 FPPC Ops. 198
In re Biondo (1975) 1 FPPC Ops. 54
In re Presley (1975) 1 FPPC Ops. 39

§ 87103.5. Income from Retail Sales.

(a) Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

(b) Notwithstanding subdivision (c) of Section 87103, in a jurisdiction with a population of 10,000 or less which is located in a county with 350 or fewer retail businesses, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official of that jurisdiction who owns a 10-percent or greater interest in the entity, if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer does not exceed one percent of the gross sales revenues that the business entity earned during the 12 months prior to the time the decision is made.

(c) For the purposes of subdivision (b):

(1) Population in a jurisdiction shall be established by the United States Census.

(2) The number of retail businesses in a county shall be established by the previous quarter's Covered Employment and Wages Report (ES-202) of the Labor Market Information Division of the California Employment Development Department.

History: Added by Stats. 1984, Ch. 931; amended by Stats. 2002, Ch. 654.

§ 87103.6. Source of Income; Payments to Government Agencies.

Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

History: Added by Stats. 1991, Ch. 887.

§ 87104. Prohibitions on Public Officials.

(a) A public official of a state agency shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, the official's state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member, officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing the official's employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

History: Added by Stats. 1994, Ch. 414; amended by Stats. 1997, Ch. 145; amended by Stats. 2021, Ch. 50.

§ 87105. Manner of Disqualification.

(a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse the public official's own self from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.

History: Added by Stats. 2002, Ch. 233; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18707

Article 2. Disclosure.**§ 87200 – 87210**

§ 87200.	Applicability.....	87
§ 87201.	Candidates.....	87
§ 87202.	Officials - Elected, Appointed and Hold Over.....	87
§ 87203.	Officeholders; Annual Statements.....	88
§ 87204.	Leaving Office.....	88
§ 87205.	Persons Completing and Beginning Term of Office on the Same Day.....	88

§ 87206.	Disclosure of Investment or Interest in Real Property.....	88
§ 87206.5.	Disclosure of Leasehold Interest.....	88
§ 87207.	Disclosure of Income.....	89
§ 87208.	Disclosure of Investments and Interests in Real Property; Incorporation by Reference.....	89
§ 87209.	Business Positions.....	89
§ 87210.	Gifts Made Through Intermediaries and Others - Disclosure Requirements.....	89

§ 87200. Applicability.

This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

History: Amended by Stats. 1975, Ch. 797; effective September 16, 1975, operative September 5, 1975; amended by Stats. 1976, Ch. 129, effective May 5, 1976; amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 727, effective July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 1989, Ch. 403; amended by Stats. 2012, Ch. 626, effective September 27, 2012.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18700.3, 18707, 18723, 18723.1, 18724, 18730, 18732.5, 18753, 18940.1

§ 87201. Candidates.

Every candidate for an office specified in Section 87200 other than a justice of an appellate court or the Supreme Court shall file no later than the final filing date of a declaration of candidacy, a statement disclosing the candidate's investments, the candidate's interests in real property, and any income received during the immediately preceding 12 months.

This statement shall not be required if the candidate has filed, within 60 days prior to the filing of the candidate's declaration of candidacy, a statement for the same jurisdiction pursuant to Section 87202 or 87203.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1980, Ch. 928; amended by Stats. 1984, Ch. 931; amended by Stats. 1992, Ch. 1141; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723.1– 18730, 18732.5

Opinions: *In re Boreman* (1975) 1 FPPC Ops. 101

§ 87202. Officials - Elected, Appointed and Hold Over.

(a) Every person who is elected to an office specified in Section 87200 shall, within 30 days after assuming the office, file a statement disclosing the person's investments

and the person's interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Every person who is appointed or nominated to an office specified in Section 87200 shall file such a statement not more than 30 days after assuming office, provided, however, that a person appointed or nominated to such an office who is subject to confirmation by the Commission on Judicial Appointments or the State Senate shall file such a statement no more than 10 days after the appointment or nomination.

The statement shall not be required if the person has filed, within 60 days prior to assuming office, a statement for the same jurisdiction pursuant to Section 87203.

(b) Every elected state officer who assumes office during the month of December or January shall file a statement pursuant to Section 87203 instead of this section, except that:

(1) The period covered for reporting investments and interests in real property shall begin on the date the person filed the person's declarations of candidacy.

(2) The period covered for reporting income shall begin 12 months prior to the date the person assumed office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1978, Ch. 537; amended by Stats. 1989, Ch. 499; amended by Stats. 1997, Ch. 36; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18722, 18723, 18723.1, 18730, 18732.5, 18735, 18754, 18940

§ 87203. Officeholders; Annual Statements.

Every person who holds an office specified in Section 87200 shall, each year at a time specified by commission regulations, file a statement disclosing the person's investments, interests in real property, and income during the period since the previous statement filed under this section or Section 87202. The statement shall include any investments and interest in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18720, 18723, 18723.1, 18730, 18732.5, 18735, 18754

Opinions: *In re Sampson* (1975) 1 FPPC Ops. 183

§ 87204. Leaving Office.

Every person who leaves an office specified in Section 87200 shall, within thirty days after leaving the office, file a statement disclosing the person's investments, interests in real property, and income during the period since the previous statement filed under Sections 87202 or 87203. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18722, 18723, 18723.1, 18730, 18732.5, 18735, 18754, 18940

§ 87205. Persons Completing and Beginning Term of Office on the Same Day.

A person who completes a term of an office specified in Section 87200 and within 45 days begins a term of the same office or another such office of the same jurisdiction is deemed not to assume office or leave office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1997, Ch. 145; amended by Stats. 2005, Ch. 200.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723.1, 18730, 18732.5, 18754

§ 87206. Disclosure of Investment or Interest in Real Property.

If an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000), whether it exceeds ten thousand dollars (\$10,000) but does not exceed one hundred thousand dollars (\$100,000), whether it exceeds one hundred thousand dollars (\$100,000) but does not exceed one million dollars (\$1,000,000), or whether it exceeds one million dollars (\$1,000,000).

(e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(f) For purposes of disclosure under this article, "interest in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.

History: Amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18233, 18723.1, 18729, 18730, 18732.5, 18754

Opinions: *In re Schabarum* (1975) 1 FPPC Ops. 95

§ 87206.5. Disclosure of Leasehold Interest.

If an official must disclose a leasehold interest, the official shall do all of the following:

(a) Identify the interest as a leasehold interest.

(b) Disclose the number of years remaining on the lease.

(c) Provide the leased property's address or other precise location.

(d) Provide the exact date the lease became effective or terminated if the lease became effective or terminated during the period covered by the statement.

(e) Disclose the value of the leasehold interest as specified in subdivision (d) of Section 87206.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723.1, 18730, 18732.5, 18754

§ 87207. Disclosure of Income.

(a) If income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and street address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), whether it was greater than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000), or whether it was greater than one hundred thousand dollars (\$100,000).

(3) A description of the consideration, if any, for which the income was received.

(4) In the case of a gift, the amount and the date on which the gift was received and the travel destination for purposes of a gift that is a travel payment, advance, or reimbursement.

(5) In the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

(b) If the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, street address, and a general description of the business activity of the business entity.

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from that person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

(c) If a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interests. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1995, operative January 7, 1975; amended by Stats. 1979, Ch. 674; superseded by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 1000; amended by Stats.

1982, Ch. 29; amended by Stats. 1984, Ch. 931; amended by Stats. 1990, Ch. 1075; amended by Stats. 1997, Ch. 638; amended by Stats. 2000, Ch. 130; amended by Stats. 2015, Ch. 757; amended by Stats. 2016, Ch. 86; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723.1, 18728, 18728.5, 18730, 18730.1, 18732.5, 18740, 18754, 18940, 18941, 18942, 18942.1, 18942.2, 18942.3, 18944, 18945, 18945.2, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5, 18946.6, 18950, 18950.1

Opinions: *In re Riemer* (2013) 21 FPPC Ops. 1
In re Rosenstiel (2012) 20 FPPC Ops. 1
In re Taylor (2004) 17 FPPC Ops. 1
In re Hopkins (1977) 3 FPPC Ops. 107
In re Carey (1977) 3 FPPC Ops. 99
In re Gutierrez (1977) 3 FPPC Ops. 44
In re Thomas (1977) 3 FPPC Ops. 30
In re Cory (1976) 2 FPPC Ops. 48
In re Hayes (1975) 1 FPPC Ops. 210
In re Russel (1975) 1 FPPC Ops. 191
In re Cory (1975) 1 FPPC Ops. 153
In re Brown (1975) 1 FPPC Ops. 67

§ 87208. Disclosure of Investments and Interests in Real Property; Incorporation by Reference.

Except in statements required by Section 87203, investments and interests in real property which have been disclosed on a statement of economic interests filed in the same jurisdiction within the previous 60 days may be incorporated by reference.

History: Added by Stats. 1976, Ch. 1161.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723.1, 18730, 18732.5, 18754

§ 87209. Business Positions.

When a statement is required to be filed under this article, every person specified in Section 87200 shall disclose any business positions held by that person. For purposes of this section, "business position" means any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction or has done business in the jurisdiction at any time during the two years prior to the date the statement is required to be filed.

History: Added by Stats. 1997, Ch. 455, effective September 24, 1997.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18230, 18723.1, 18730, 18732.5, 18754

§ 87210. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

A person shall **not** make a gift totaling fifty dollars (\$50) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both **the intermediary or agent's** own full name, street address, and business activity, if any, and the full name,

street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in **the recipient's** Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1982, Ch. 29; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723.1, **18730, 18732.5, 18754, 18945**

Article 3. Conflict of Interest Codes.

§ 87300 – 87314

§ 87300.	Agency Requirement.	90
§ 87301.	Formulation.....	90
§ 87302.	Required Provisions.	90
§ 87302.3.	Disclosure by Candidates for Elective Office.	91
§ 87302.6.	Disclosure by Members of Boards and Commissions of Newly Created Agencies.	91
§ 87303.	Submission; Code Reviewing Body.....	91
§ 87304.	Failure to Submit, Adopt or Amend a Proposed Code.....	91
§ 87305.	Order to Adopt; Superior Court.	92
§ 87306.	Amendments for Changed Circumstances.	92
§ 87306.5.	Conflict of Interest Code; Local Agency Review.	92
§ 87307.	Amendments to Code by Agency; Failure to Act.	92
§ 87308.	Judicial Review.....	92
§ 87309.	Requirements for Approval.....	92
§ 87310.	Designated Employee; Broad or Indefinable Duties.....	93
§ 87311.	Review and Preparation; Administrative Procedure Act.	93
§ 87311.5.	Review and Preparation; Judicial Branch Agencies.	93
§ 87312.	Commission Assistance.	93
§ 87313.	Gifts Made Through Intermediaries and Others - Disclosure Requirements.	93
§ 87314.	Code Requirement for Public Pension and Retirement System Agencies.	93

§ 87300. Agency Requirement.

Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18351, 18730, 18730.1, 18750, 18751, 18754, 18755, 18940.1

Opinions: *In re Vonk* (1981) 6 FPPC Ops. 1
In re Leach (1978) 4 FPPC Ops. 48
In re Siegel (1977) 3 FPPC Ops. 62

§ 87301. Formulation.

It is the policy of this act that Conflict of Interest Codes shall be formulated at the most decentralized level possible, but without precluding intra-departmental review. Any question of the level of a department which should be

deemed an “agency” for purposes of Section 87300 shall be resolved by the code reviewing body.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751, **18754**

§ 87302. Required Provisions.

Each **conflict of interest code** shall contain the following provisions:

(a) Specific enumeration of the positions within the agency, other than those specified in Section 87200, **that** involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the **conflict of interest code** if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of **the designated employee's** position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real **property**, and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a **conflict of interest code** by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the **conflict of interest code**, disclosing investments, business positions, and interests in real property held on the effective date of the **conflict of interest code** and income received during the 12 months before the effective date of the **conflict of interest code**. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, **or**, if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the **conflict of interest code**, disclosing reportable investments, business positions, interest in real **property**, and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time during the period between the closing

date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. A designated employee shall not be required to disqualify the employee's own self with respect to any matter that could not legally be acted upon or decided without the designated employee's participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 12 months following initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

(1) File a written resignation with the appointing power.

(2) File a written statement with the filing officer on a form prescribed by the commission and signed under the penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

History: Amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1980, Ch. 765; amended by Stats. 1987, Ch. 1188; amended by Stats. 1989, Ch. 499; amended by Stats. 1991, Ch. 857; amended by Stats. 1992, Ch. 441; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18351, 18700.3, 18704, 18720, 18722, 18730, 18730.1, 18732, 18733, 18734, 18735, 18751, 18754, 18940, 18940.1, 18941, 18942, 18944, 18945, 18946, 18946.1, 18946.2, 18946.3, 18946.5, 18946.6, 18950, 18950.1

Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77

§ 87302.3. Disclosure by Candidates for Elective Office.

(a) Every candidate for an elective office that is designated in a conflict of interest code shall file a statement disclosing the candidate's investments, business positions, interests in real property, and income received during the immediately preceding 12 months, as enumerated in the disclosure requirements for that position. The statement shall be filed with the election official with whom the candidate's declaration of candidacy or other nomination documents to appear on the ballot are required to be filed and shall be filed

no later than the final filing date for the declaration or nomination documents.

(b) This section does not apply to either of the following:

(1) A candidate for an elective office designated in a conflict of interest code who has filed an initial, assuming office, or annual statement pursuant to that conflict of interest code within 60 days before the deadline specified in subdivision (a).

(2) A candidate for an elective office who has filed a statement for the office pursuant to Section 87302.6 within 60 days before the deadline specified in subdivision (a).

History: Added by Stats. 2007, Ch. 348.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18754

§ 87302.6. Disclosure by Members of Boards and Commissions of Newly Created Agencies.

Notwithstanding Section 87302, a member of a board or commission of a newly created agency shall file a statement at the same time and in the same manner as those individuals required to file pursuant to Section 87200. A member shall file the member's statement pursuant to Section 87302 once the agency adopts an approved conflict of interest code.

History: Added by Stats. 2002, Ch. 264; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751, 18754

§ 87303. Submission; Code Reviewing Body.

No conflict of interest code shall be effective until it has been approved by the code reviewing body. Each agency shall submit a proposed conflict of interest code to the code reviewing body by the deadline established for the agency by the code reviewing body. The deadline for a new agency shall be not later than six months after it comes into existence. Within 90 days after receiving the proposed code or receiving any proposed amendments or revisions, the code reviewing body shall do one of the following:

(a) Approve the proposed code as submitted.

(b) Revise the proposed code and approve it as revised.

(c) Return the proposed code to the agency for revision and resubmission within 60 days. The code reviewing body shall either approve the revised code or revise it and approve it. When a proposed conflict of interest code or amendment is approved by the code reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

History: Amended by Stats. 1997, Ch. 455.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18351, 18750, 18751, 18755

§ 87304. Failure to Submit, Adopt or Amend a Proposed Code.

If any agency fails to submit a proposed conflict of interest code or amendments, or if any state agency fails to report amendments pursuant to subdivision (b) of Section 87306 within the time limits prescribed pursuant to Section

87303 or 87306, the code reviewing body may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. If the code reviewing body does not issue an appropriate order or take other action within 90 days of the deadline imposed on the agency as prescribed in Section 87303 or 87306, the commission may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. The commission shall consult with the agency before ordering the adoption of a conflict of interest code for the agency.

History: Amended by Stats. 1988, Ch. 923; amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

§ 87305. Order to Adopt; Superior Court.

If after six months following the deadline for submission of the proposed Conflict of Interest Code to the code reviewing body no Conflict of Interest Code has been adopted and promulgated, the superior court may, in an action filed by the commission, the agency, the code reviewing body, any officer, employee, member or consultant of the agency, or any resident of the jurisdiction, prepare a Conflict of Interest Code and order its adoption by the agency or grant any other appropriate relief. The agency and the code reviewing body shall be parties to any action filed pursuant to this section.

History: Amended by Stats. 1980, Ch. 765.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

§ 87306. Amendments for Changed Circumstances.

(a) Every agency shall amend its Conflict of Interest Code, subject to the provisions of Section 87303, when change is necessitated by changed circumstances, including the creation of new positions which must be designated pursuant to subdivision (a) of Section 87302 and relevant changes in the duties assigned to existing positions. Amendments or revisions shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. If after nine months following the occurrence of those changes the Conflict of Interest Code has not been amended or revised, the superior court may issue any appropriate order in an action brought under the procedures set forth in Section 87305.

(b) Notwithstanding subdivision (a), every state agency shall submit to the code reviewing body a biennial report identifying changes in its code, including, but not limited to, all new positions designated pursuant to subdivision (a) of Section 87302, changes in the list of reportable sources of income, and relevant changes in the duties assigned to existing positions. These reports shall be submitted no later than March 1 of each odd-numbered year.

History: Amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18351, 18736, 18750, 18751, 18755

§ 87306.5. Conflict of Interest Code; Local Agency Review.

(a) No later than July 1 of each even-numbered year, the code reviewing body shall direct every local agency which has adopted a Conflict of Interest Code in accordance with this title to review its Conflict of Interest Code and, if a change in its code is necessitated by changed circumstances, submit an amended Conflict of Interest Code in accordance with subdivision (a) of Section 87302 and Section 87303 to the code reviewing body.

(b) Upon review of its code, if no change in the code is required, the local agency head shall submit a written statement to that effect to the code reviewing body no later than October 1 of the same year.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18736.1, 18751

§ 87307. Amendments to Code by Agency; Failure to Act.

An agency may at any time amend its Conflict of Interest Code, subject to the provisions of Section 87303, either upon its own initiative or in response to a petition submitted by an officer, employee, member or consultant of the agency, or a resident of the jurisdiction. If the agency fails to act upon such a petition within ninety days, the petition shall be deemed denied. Within thirty days after the denial of a petition, the petitioner may appeal to the code reviewing body. The code reviewing body shall either dismiss the appeal or issue an appropriate order to the agency within ninety days.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18737, 18751

§ 87308. Judicial Review.

Judicial review of any action of a code reviewing body under this chapter may be sought by the commission, by the agency, by an officer, employee, member or consultant of the agency, or by a resident of the jurisdiction.

History: Amended by Stats. 1980, Ch. 765.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18751

§ 87309. Requirements for Approval.

A conflict of interest code or amendment shall **not** be approved by the code reviewing body or upheld by a court if it:

(a) Fails to provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented;

(b) Fails to provide to each affected person a clear and specific statement of **that person's** duties under the **code**; or

(c) Fails to adequately differentiate between designated employees with different powers and responsibilities.

History: Amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751
Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77

§ 87310. Designated Employee; Broad or Indefinable Duties.

If the duties of a designated employee are so broad or indefinable that the requirements of Section 87309 cannot be complied with, the Conflict of Interest Code shall require the designated employee to comply with the requirements of Article 2 of this chapter.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

§ 87311. Review and Preparation; Administrative Procedure Act.

The review of proposed Conflict of Interest Codes by the Commission and by the Attorney General and the preparation of proposed Conflict of Interest Codes by state agencies shall be subject to the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by local government agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18351, 18751

§ 87311.5. Review and Preparation; Judicial Branch Agencies.

(a) Notwithstanding the provisions of Section 87311, the review of the Conflict of Interest Code of an agency in the judicial branch of government shall not be subject to the provisions of the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by these agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

(b) Conflict of Interest Codes of the Judicial Council, the Commission on Judicial Performance, and the Board of Governors and designated employees of the State Bar of California shall not be subject to the provisions of subdivision (c) of Section 87302.

History: Added by Stats. 1984, Ch. 727, effective July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18751

§ 87312. Commission Assistance.

The Commission shall, upon request, provide technical assistance to agencies in the preparation of Conflict of Interest Codes. Such assistance may include the preparation of model provisions for various types of agencies. Nothing in this section shall relieve each agency of the responsibility for adopting a Conflict of Interest Code appropriate to its individual circumstances.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18751

§ 87313. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

A person shall **not** make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom **the intermediary or agent** knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both **the intermediary or agent's** own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in **the recipient's** Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1984, Ch. 931; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751, 18945

§ 87314. Code Requirement for Public Pension and Retirement System Agencies.

(a) A board, commission, or agency of a public pension or retirement system shall attach to its Conflict of Interest Code an appendix entitled "Agency Positions that Manage Public Investments for Purposes of Section 87200 of the Government Code." The appendix shall list each position with the board, commission, or agency for which an individual occupying the position is required to file a Statement of Economic Interests as a public official who manages public investments within the meaning of Section 87200. The board, commission, or agency shall post the appendix on its Internet Web site in a manner that makes it easily identifiable and accessible by persons who view that Web site.

(b) (1) For purposes of this section, "public official who manages public investments" includes a salaried or unsalaried member of a committee, board, commission, or other entity that exists as, or within, a governmental agency and that possesses decisionmaking authority.

(2) A committee, board, commission, or other entity possesses decisionmaking authority for purposes of this section if any of the following apply:

(A) The entity may make a final governmental decision.

(B) The entity may compel a governmental decision or prevent a governmental decision, either by virtue of possessing exclusive power to initiate the decision or by having veto authority that may not be overridden.

(C) The entity makes substantive recommendations that are, and over an extended period of time have been, regularly approved, without significant amendment or modification, by another public official or governmental agency.

(3) A committee, board, commission, or other entity does not possess decisionmaking authority for purposes of this section if it is formed for the sole purpose of researching a subject and preparing a report or recommendation for submission to another governmental entity that has final decisionmaking authority.

History: Added by Stats. 2010, Ch. 702.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

Article 3.5. Multiagency Filers. § 87350

§ 87350. Multiagency Filers.

Notwithstanding any other provision of this title, a person required to file more than one assuming office statement, statement of economic interests, or leaving office statement, due to **the filer's** status as a designated employee for more than one joint powers insurance agency, may elect to file a multiagency statement disclosing all investments in entities doing business in the state, all interests in real property located within the state, and all income received during the applicable time period, in lieu of filing the disclosure statements for each agency.

The filer shall notify the commission of **the filer's** decision to become a multiagency filer. This status shall continue until revoked by the filer.

History: Added by Stats. 1990, Ch. 69; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18735.5

Article 4. Disqualification of Former Officers and Employees. § 87400 – 87410

§ 87400.	Definitions.	94
§ 87401.	Restrictions on Activities of Former State Officers.	94
§ 87402.	Restrictions on Activities of Former State Officers; Assisting Others.	94
§ 87403.	Exemptions.	95
§ 87404.	Proceedings to Exclude Former State Officers. 95	
§ 87405.	Application of Requirements.	95
§ 87406.	Milton Marks Postgovernmental Employment Restrictions Act.	95
§ 87406.1.	Postgovernmental Employment Restrictions for Districts and District Boards.	96
§ 87406.3.	Postgovernmental Employment Restrictions for Local Officials.	96
§ 87407.	Influencing Prospective Employment.	97
§ 87408.	Postgovernmental Employment Restrictions for Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.	97
§ 87409.	Restrictions on Activities of Former Investment Officials; Assisting Others.	97
§ 87410.	Postgovernmental Ban on Placement Agent Activities.	97

§ 87400. Definitions.

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this section shall govern the interpretation of this article.

(a) "State administrative agency" means every state office, department, division, bureau, **board**, and commission,

but does not include the Legislature, the courts or any agency in the judicial branch of government.

(b) "State administrative official" means every member, officer, **employee**, or consultant of a state administrative agency who as part of **that person's** official responsibilities engages in any judicial, **quasi-judicial**, or other proceeding in other than a purely clerical, **secretarial**, or ministerial capacity.

(c) "Judicial, **quasi-judicial**, or other proceeding" means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, **arrest**, or other particular matter involving a specific party or parties in any court or state administrative agency, **including**, but not limited to, any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(d) "Participated" means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, **investigation**, or use of confidential information as an officer or employee, but excluding approval, **disapproval**, or rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

History: Added by Stats. 1980, Ch. 66; amended by Stats. 2021, Ch. 50.

§ 87401. Restrictions on Activities of Former State Officers.

A former state administrative official, after the termination of **the official's** employment or term of office, shall **not**, for **compensation**, act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, **quasi-judicial**, or other proceeding if both of the following apply:

(a) The State of California is a party or has a direct and substantial interest.

(b) The proceeding is one in which the former state administrative official participated.

History: Added by Stats. 1980, Ch. 66; amended by Stats. 1985, Ch. 775; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18741.1, 18746.4

Opinions: *In re Lucas* (2000) 14 FPPC Ops. 14

§ 87402. Restrictions on Activities of Former State Officers; Assisting Others.

A former state administrative official, after the termination of **the official's** employment or term of office shall **not**, for **compensation**, aid, advise, counsel, **consult**, or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

History: Added by Stats. 1980, Ch. 66; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18741.1, 18746.4

Opinions: *In re Lucas* (2000) 14 FPPC Ops. 14

§ 87403. Exemptions.

The prohibitions contained in Sections 87401 and 87402 shall not apply:

(a) To prevent a former state administrative official from making or providing a statement, which is based on the former state administrative official's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses; or

(b) To communications made solely for the purpose of furnishing information by a former state administrative official if the court or state administrative agency to which the communication is directed makes findings in writing that:

(1) The former state administrative official has outstanding and otherwise unavailable qualifications;

(2) The former state administrative official is acting with respect to a particular matter which requires such qualifications; and

(3) The public interest would be served by the participation of the former state administrative official; or

(c) With respect to appearances or communications in a proceeding in which a court or state administrative agency has issued a final order, decree, decision or judgment but has retained jurisdiction if the state administrative agency of former employment gives its consent by determining that:

(1) At least five years have elapsed since the termination of the former state administrative official's employment or term of office; and

(2) The public interest would not be harmed.

History: Added by Stats. 1980, Ch. 66.

§ 87404. Proceedings to Exclude Former State Officers.

Upon the petition of any interested person or party, the court or the presiding or other officer, including but not limited to a hearing officer serving pursuant to Section 11512 of the Government Code, in any judicial, quasi-judicial or other proceeding, including but not limited to any proceeding pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this article from further participation, or from assisting or counseling any other participant, in the proceeding then pending before such court or presiding or other officer.

History: Added by Stats. 1980, Ch. 66.

§ 87405. Application of Requirements.

The requirements imposed by this article shall not apply to any person who left government service prior to the effective date of this article except that any such person who returns to government service on or after the effective date of this article shall thereafter be covered thereby.

History: Added by Stats. 1980, Ch. 66.

§ 87406. Milton Marks Postgovernmental Employment Restrictions Act.

(a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b)(1) Except as provided in paragraph (2), a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(2) A Member of the Legislature who resigns from office, for a period commencing with the effective date of the resignation and concluding one year after the adjournment sine die of the session in which the resignation occurred, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) An elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board.

(d)(1) A designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position that entails the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, and a member of a state administrative agency, for a period of one year after leaving office or employment, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which **the individual** worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the

issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board. The prohibition of this paragraph only applies to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(c) The prohibitions contained in subdivisions (b), (c), and (d) do not apply to any individual subject to this section who is or becomes either of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1993, Ch. 230; amended by Stats. 1999, Ch. 10, effective April 15, 1999; Amended by Stats. 2017, Ch. 800; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18746.1, 18746.2, 18746.4

§ 87406.1. Postgovernmental Employment Restrictions for Districts and District Boards.

(a) For purposes of this section, "district" means an air pollution control district or air quality management district and "district board" means the governing body of an air pollution control district or an air quality management district.

(b) No former member of a district board, and no former officer or employee of a district who held a position which entailed the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, shall, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that district board, or any committee, subcommittee, or present member of that district board, or any officer or employee of the district, if the appearance or communication is made for the purpose of influencing regulatory action.

(c) Subdivision (b) shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another district or an employee or representative of a public agency.

(d) This section applies to members and former members of district hearing boards.

History: Added by Stats. 1994, Ch. 747.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18746.2

§ 87406.3. Postgovernmental Employment Restrictions for Local Officials.

(a) A local elected official, chief administrative officer of a county, city manager, or general manager or chief administrator of a special district who held a position with a local government agency as defined in Section 82041 shall not, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) (1) Subdivision (a) does not apply to an individual who is, at the time of the appearance or communication, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

(2) Subdivision (a) applies to an individual who is, at the time of the appearance or communication, an independent contractor of a local government agency or a public agency and is appearing or communicating on behalf of that agency.

(c) This section does not preclude a local government agency from adopting an ordinance or policy that restricts the appearance of a former local official before that local government agency if that ordinance or policy is more restrictive than subdivision (a).

(d) Notwithstanding Sections 82002 and 82037, the following definitions apply for purposes of this section only:

(1) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat by any local government agency of any matter, including any rule, regulation, or other action in any regulatory proceeding, whether quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.

(2) "Legislative action" means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the legislative body of a local government agency or by any committee or subcommittee thereof, or by a member or employee of the legislative body of the local government agency acting in the member or employee's official capacity.

History: Added by Stats. 2005, Ch. 680, operative July 1, 2006; Amended by Stats. 2017, Ch. 196; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18746.2, 18746.3, 18746.4

§ 87407. Influencing Prospective Employment.

A public official shall not make, participate in making, or use the public official's official position to influence, any governmental decision directly relating to any person with whom the public official is negotiating, or has any arrangement concerning, prospective employment.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2003, Ch. 778; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18747

§ 87408. Postgovernmental Employment Restrictions for Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.

(a) A member of the Board of Administration of the Public Employees' Retirement System, an individual in a position designated in subdivision (a) or (e) of Section 20098, or an information technology or health benefits manager with a career executive assignment designation with the Public Employees' Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the Public Employees' Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) A member of the Teachers' Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers' Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the State Teachers' Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

History: Added by Stats. 2011, Ch. 551.

§ 87409. Restrictions on Activities of Former Investment Officials; Assisting Others.

(a) A member of the Board of Administration of the Public Employees' Retirement System, an individual in a position designated in subdivision (a) or (e) of Section

20098, or an information technology or health benefits manager with a career executive assignment designation with the Public Employees' Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the Public Employees' Retirement System.

(b) A member of the Teachers' Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers' Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the State Teachers' Retirement System.

(c) For purposes of this section, "business entity" has the same meaning as set forth in Section 82005, and includes a parent or subsidiary of a business entity.

History: Added by Stats. 2011, Ch. 551.

§ 87410. Postgovernmental Ban on Placement Agent Activities.

(a) A member of the Board of Administration of the Public Employees' Retirement System or an individual in a position designated in subdivision (a) or (e) of Section 20098, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the Public Employees' Retirement System or the State Teachers' Retirement System.

(b) A member of the Teachers' Retirement Board or an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the State Teachers' Retirement System or the Public Employees' Retirement System.

History: Added by Stats. 2011, Ch. 551.

**Article 4.5. Disqualification of State Officers
and Employees.
§ 87450**

§ 87450. Restrictions in Participation of State Officers in Decisions Relating to Contracts.

(a) In addition to the provisions of Article 1 (commencing with Section 87100), a state administrative official shall not make, participate in making, or use the official's official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of the official's immediate family, has

engaged in any business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more within 12 months prior to the time the official action is to be performed.

(b) As used in subdivision (a), “state administrative official” has the same meaning as defined in Section 87400.

History: Added by Stats. 1986, Ch. 653; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229.1

Article 4.6. Loans to Public Officials.

§ 87460-87462

§ 87460.	Loans to Public Officials.	98
§ 87461.	Loan Terms.	98
§ 87462.	Personal Loans.	99

§ 87460. Loans to Public Officials.

(a) An elected officer of a state or local government agency shall not, from the date of the elected officer’s election to office through the date that the elected officer vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer’s agency has direction and control.

(b) A public official who is required to file a statement of economic interests pursuant to Section 87200 or a public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall not, while the public official holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official’s agency has direction and control. This subdivision does not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(c) An elected officer of a state or local government agency shall not, from the date of the elected officer’s election to office through the date that the elected officer vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer’s agency has direction and control. This subdivision does not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender’s regular course of business on terms available to members of the public without regard to the elected officer’s official status.

(d) A public official who is required to file a statement of economic interests pursuant to Section 87200 or a public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall not, while the public official holds office, receive a personal loan from any person who has a contract with the state or local government agency

to which that elected officer has been elected or over which that elected officer’s agency has direction and control. This subdivision does not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender’s regular course of business on terms available to members of the public without regard to the elected officer’s official status. This subdivision does not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(e) This section does not apply to the following:

(1) Loans made to the campaign committee of an elected officer or candidate for elective office.

(2) Loans made by a public official’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans from a person which, in the aggregate, do not exceed two hundred fifty dollars (\$250) at any given time.

(4) Loans made, or offered in writing, before the operative date of this section.

History: Added by Stats. 1997, Ch. 638.

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 87461. Loan Terms.

(a) Except as set forth in subdivision (b), an elected officer of a state or local government agency shall not, from the date of the elected officer’s election to office through the date the elected officer vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(b) This section does not apply to the following types of loans:

(1) Loans made to the campaign committee of the elected officer.

(2) Loans made to the elected officer by the elected officer’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans made, or offered in writing, before the operative date of this section.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638; amended by Stats. 2021, Ch. 50.

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 87462. Personal Loans.

(a) Except as set forth in subdivision (b), a personal loan shall become a gift to the debtor for the purposes of this title in the following circumstances:

(1) If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

(2) If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

(A) The date the loan was made.

(B) The date the last payment of one hundred dollars (\$100) or more was made on the loan.

(C) The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(b) This section shall not apply to the following types of loans:

(1) A loan made to the campaign committee of an elected officer or a candidate for elective office.

(2) A loan that would otherwise not be a gift as defined in this title.

(3) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor has taken reasonable action to collect the balance due.

(4) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

(5) A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638.

Article 5. Filing.
§ 87500-87505

§ 87500.	Statements of Economic Interests – Where to File.	99
§ 87500.2.	Statements of Economic Interests – Electronic Filing.	100
§ 87500.3.	Statements of Economic Interests – Development of Electronic Filing System for the Commission.	101
§ 87500.4.	Statements of Economic Interests – Specifying Persons Authorized to File Electronically with the Commission.	101
§ 87505.	Web Site Notification.	102

§ 87500. Statements of Economic Interests – Where to File.

Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer – one original with the agency, which shall make and retain a copy and forward the original to the Commission. The Commission shall be the filing officer.

(b) Candidates for statewide elective office – one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the Commission. The Commission shall be the filing officer.

(c) Members of the Legislature and State Board of Equalization – one original with the agency, which shall make and retain a copy and forward the original to the Commission. The Commission shall be the filing officer.

(d) Candidates for the Legislature or the State Board of Equalization – one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the Commission. The Commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, county treasurer, and member of the board of supervisors – one original with the county clerk, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city treasurer, city attorney, and mayor – one original with the city clerk, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission – one original with the agency, which shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(h) Persons appointed to other state boards, commissions, or similar multimember bodies of the state—one original with the respective board, commission, or body. The original shall be handled as set forth in the Conflict of Interest Code of the respective board, commission, or body. If the board, commission, or body is not required by its Conflict of Interest Code to send the original to the Commission, it shall forward a copy to the Commission.

(i) Members of the Fair Political Practices Commission – one original with the Commission, which shall make and retain a copy and forward the original to the office of the Attorney General, which shall be the filing officer.

(j) Judges and court commissioners – one original with the clerk of the court, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer. Original statements of candidates for the office of judge shall be filed with the person with whom the candidate's declaration of candidacy is filed, who shall retain a copy and forward the original to the Commission, which shall be the filing officer.

(k) Except as provided in subdivision (l), heads of agencies, members of boards or commissions not under a department of state government, and members of boards or commissions not under the jurisdiction of a local legislative body – one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body, which shall be the filing officer. The code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(l) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body – one original to the agency or board or commission, which shall be the filing officer, unless, at its discretion, the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency, board, or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(m) Designated employees of the Legislature – one original with the house of the Legislature by which the designated employee is employed. Each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the Commission, and that no copies be retained by that house.

(n) Designated employees under contract to more than one joint powers insurance agency and who elect to file a multiagency statement pursuant to Section 87350 – the original of the statement with the Commission, which shall be the filing officer, and, with each agency with which they are under contract, a statement declaring that their statement of economic interests is on file with the Commission and available upon request.

(o) Members of a state licensing or regulatory board, bureau, or commission – one original with the agency, which shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(p) Persons not mentioned above – one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

History: Added by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 611; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 69; amended by Stats. 1992, Ch. 405; amended by Stats. 1993, Ch. 1140; amended by Stats. 1996, Ch. 289; amended by Stats. 2005, Ch. 200; amended by Stats. 2007, Ch. 348; amended by Stats. 2011, Ch. 252.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18115, 18115.1, 18115.2, 18227, 18732.5, 18735.5, 18753, 18754, 18757

§ 87500.2. Statements of Economic Interests – Electronic Filing.

(a) An agency may permit the electronic filing of a statement of economic interests required by Article 2 (commencing with Section 87200) or Article 3 (commencing with

Section 87300), including amendments, in accordance with regulations adopted by the Commission.

(b) In consultation with interested agencies, the Commission shall use common database integration features in developing database design requirements for all electronic filings that may be used.

(c)(1) An agency that intends to permit electronic filing of a statement of economic interests shall submit a proposal, which shall include a description of the electronic filing system that the agency proposes to use, to the Commission for approval and certification. An agency that submits a proposal shall include a fee of one thousand dollars (\$1,000) that is payable to the Commission for the costs of approving and certifying the proposal.

(2) An agency shall not charge a person to electronically file a statement of economic interests.

(3) The Commission shall review an agency's proposal for compliance with the system requirement regulations adopted pursuant to subdivisions (a) and (b) and the requirements of subdivision (d). If the proposed system complies with these requirements, the Commission shall approve and certify the agency's electronic filing system as soon as practicable after receiving the agency's submitted proposal.

(d) An agency's proposed electronic filing system shall meet the following requirements:

(1) A statement of economic interests filed electronically shall include an electronic transmission that is submitted under penalty of perjury and that conforms to subdivision (b) of Section 1633.11 of the Civil Code.

(2)(A) The agency's filing officer shall issue to a person who electronically files their statement of economic interests or amendment an electronic confirmation that notifies the filer that their statement of economic interests or amendment was received. The confirmation shall include the date and the time that the statement of economic interests or amendment was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(B) A copy retained by the filer of a statement of economic interests or amendment that was electronically filed and the confirmation issued pursuant to subparagraph (A) that shows that the filer timely filed their statement of economic interests or amendment shall create a rebuttable presumption that the filer timely filed their statement of economic interests or amendment.

(3) The agency shall utilize an electronic filing system that includes layered security to ensure data integrity. The system shall have the capability to uniquely identify a filer electronically when the filer accesses the electronic filing system. The operational process for the system shall include industry best practices to ensure that the security and integrity of the data and information contained in the statement of economic interests are not jeopardized or compromised.

(4) The agency shall provide the public with a copy of an official's statement of economic interests upon request, in accordance with Section 81008. The copy of the electronically filed statement of economic interests shall be identical to the statement of economic interests published by the

Commission and shall include the date that the statement was filed.

(e) The Commission may adopt regulations to require that an agency redact information on a statement of economic interests prior to posting the statement of economic interests on the internet.

(f) The Commission may conduct discretionary audits of an agency's approved and certified electronic filing system to evaluate its performance and compliance with the requirements of this section.

(g) The Commission shall accept an electronic copy of a statement of economic interests that is forwarded to it by an agency that has received an electronically filed statement from a filer pursuant to this section.

(h) A city or county shall not continue to use an electronic filing system if the Commission does not approve and certify that electronic filing system as complying with the requirements of the Commission's regulations and the other requirements of this section.

History: Added by Stats. 2012, Ch. 500, effective September 24, 2012; amended by Stats. 2019, Ch. 315.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18115, 18756, 18757

§ 87500.3. Statements of Economic Interests – Development of Electronic Filing System for the Commission.

(a) The Commission may develop and operate an online system for filing statements of economic interests required by Article 2 (commencing with Section 87200) and Article 3 (commencing with Section 87300). Consistent with Section 87500.4, the online system shall enable a filer to comply with the requirements of this chapter relating to the filing of statements of economic interests and shall include, but not be limited to, both of the following:

(1) A means or method whereby a filer may electronically file, free of charge, a statement of economic interests that includes an electronic transmission that is submitted under penalty of perjury in conformity with Section 81004 of this code and subdivision (b) of Section 1633.11 of the Civil Code.

(2) Security safeguards that include firewalls, data encryption, secure authentication, and all necessary hardware and software and industry best practices to ensure that the security and integrity of the data and information contained in each statement of economic interests are not jeopardized or compromised.

(b)(1) A system developed pursuant to subdivision (a) shall issue to a person who electronically files **the person's** statement of economic interests, or an amendment to a statement of economic interests, an electronic confirmation that notifies the filer that **the filer's** statement of economic interests or amendment was received. The confirmation shall include the date and the time that the statement of economic interests or amendment was received and the method by which the filer may view and print the data received.

(2) A paper copy retained by the filer of a statement of economic interests or amendment that was electronically filed and the confirmation issued pursuant to paragraph (1) that shows that the filer timely filed **the filer's** statement of economic interests or amendment shall create a rebuttable presumption that the filer filed **the filer's** statement of economic interests or amendment on time.

(c) If the Commission develops an online system pursuant to subdivision (a), it shall conduct public hearings to receive input on the implementation of that system, maintain ongoing coordination among affected state and local agencies as necessary, and develop training and assistance programs for state and local filing officers and filers regarding use of the online system for filing statements of economic interests.

(d)(1) Except as provided in paragraph (2), the Commission may make all the data filed on a system developed pursuant to subdivision (a) available on the Commission's **internet website** in an easily understood format that provides the greatest public access, and shall provide assistance to those seeking public access to the information.

(2) The Commission shall redact private information, including, but not limited to, the signatures of filers, from the data that is made available on the **internet** pursuant to this subdivision. The Commission shall develop and implement a policy regarding redaction of private information for the purposes of this paragraph, and shall conduct one or more public hearings to receive input on the development of that policy.

History: Added by Stats. 2013, Ch. 643, effective October 8, 2013; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18757

§ 87500.4. Statements of Economic Interests – Specifying Persons Authorized to File Electronically with the Commission.

(a) If the Commission establishes an online system pursuant to Section 87500.3, the Commission shall specify which categories of persons described in Section 87500 may file statements of economic interests electronically through the online system established by the Commission.

(b)(1) If the Commission, pursuant to subdivision (a), specifies that persons described in Section 87500 may file statements of economic interests electronically through the online system established by the Commission, the Commission, upon authorization by the filing officer designated by Section 87500, shall assume the duties of the filing officer for each filer within each category of filers authorized to file electronically through the online system, irrespective of whether the filer elects to file **the filer's** statement of economic interests electronically or on paper with the Commission. A filing officer who does not authorize the Commission to assume **the filing officer's** duties as described in this paragraph shall continue to perform the duties prescribed in Section 81010. The filing officer duties assumed by the Commission with respect to each filer in each authorized

category shall include, but not be limited to, all of the following:

- (A) Notifying the filer of **the filer's** filing obligation.
- (B) Receiving the filer's statement of economic interests.

(C) Ensuring compliance with filing requirements in the event the filer fails to file in a timely manner or is required to amend **the filer's** statement of economic interests.

(D) Distributing to filing officers copies of the completed statement of economic interests of a person who is required by this chapter to file more than one statement of economic interests for each period, and who, despite being authorized to file the statement with the Commission electronically, elects to file the statement with the Commission using a paper form.

(2) If the Commission assumes the duties of a filing officer pursuant to this subdivision, the filing officer whose duties are assumed shall provide to the Commission, in a manner prescribed by the Commission, the name and contact information for each filer in the filing officer's jurisdiction.

(c) The Commission shall notify a filing officer who may be affected by a determination of the Commission pursuant to this section to authorize a category of filers to file electronically, no later than six months before the implementation of that determination, in order to allow adequate preparation for implementation.

(d) A person who is required by this chapter to file more than one statement of economic interests for each reporting period and who files **the person's** statements of economic interests with the Commission electronically after being authorized to do so pursuant to Section 87500.3 is not required to file a statement of economic interests with any other person or agency. If a filer authorized to file electronically with the Commission files with the Commission on paper, the Commission shall distribute copies of the statement to any other filing officers pursuant to subparagraph (D) of paragraph (1) of subdivision (b).

(e)(1) After the Commission makes an initial determination pursuant to subdivision (a) regarding which categories of persons described in Section 87500 are permitted to file statements of economic interests electronically through the online system established by the Commission, the Commission may subsequently revise its determination at any time.

(2) In accordance with Section 87500.3, the Commission shall continue to conduct public hearings and receive input on the implementation of the online system, and that input shall inform any decision by the Commission to revise, pursuant to paragraph (1), its determination of which categories of persons described in Section 87500 are permitted to file statements of economic interests electronically through the online system established by the Commission.

History: Added by Stats. 2013, Ch. 643, effective October 8, 2013; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18115.2, 18757

§ 87505. Web Site Notification.

Each city clerk or county clerk who maintains an Internet Web site shall post on that Internet Web site a notification that includes all of the following:

(a) A list of the elected officers identified in Section 87200 who file statements of economic interests with that city clerk or county clerk pursuant to Section 87500.

(b) A statement that copies of the statements of economic interests filed by the elected officers described in subdivision (a) may be obtained by visiting the offices of the Commission or that city clerk or county clerk, as appropriate. The statement shall include the physical address for the Commission's office and the city clerk's office or the county clerk's office, as appropriate.

(c) A link to the Commission's Internet Web site and a statement that statements of economic interests for some state and local government agency elected officers may be available in an electronic format on the Commission's Internet Web site.

History: Added by Stats. 2012, Ch. 498.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18115.2

Chapter 8. Ballot Pamphlet.

§ 88000-88007

§ 88000.	Responsibility.	102
§ 88001.	Contents.	102
§ 88002.	Format.	103
§ 88002.5.	Summary.	103
§ 88003.	Duties of Legislative Analyst.	104
§ 88004.	Manner, Form of Printing Measures.	104
§ 88005.	Printing Specifications.	104
§ 88005.5.	Duties of Legislative Counsel.	104
§ 88006.	Public Examination of Pamphlet.	104
§ 88007.	Amendment of Chapter by Legislature.	104

§ 88000. Responsibility.

There shall be a state ballot pamphlet which shall be prepared by the Secretary of State.

§ 88001. Contents.

The ballot pamphlet shall contain all of the following:

- (a) A complete copy of each state measure.
- (b) A copy of the specific constitutional or statutory provision, if any, that would be repealed or revised by each state measure.
- (c) A copy of the arguments and rebuttals for and against each state measure.
- (d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics, and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

(h) The Voter Bill of Rights pursuant to Section 2300 of the Elections Code.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question as to the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's Internet Web site for information about candidates for the offices of President and Vice President of the United States.

(l) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and non-partisan offices as required by Section 9083.5 of the Elections Code.

(m) A written explanation of the top 10 contributor lists required by Section 84223, including a description of the Internet Web sites where those lists are available to the public.

History: Amended by Stats. 1977, Ch. 520; amended by Stats. 1991, Ch. 491; amended by Stats. 1994, Ch. 923; amended by Stats. 2008, Ch. 137; amended by Stats. 2009, Ch. 1; amended by Stats. 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26
In re Bunyan (1976) 2 FPPC Ops. 10

§ 88002. Format.

The ballot pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

(a)(1) Upon the top portion of the first page and not exceeding one-third of the page shall appear:

(A) The identification of the measure by number and title.

(B) The official summary prepared by the Attorney General.

(C) The total number of votes cast for and against the measure in both the State Senate and Assembly if the measure was passed by the Legislature.

(2) The space in the title and summary that is used for an explanatory table prepared pursuant to paragraph (2) of subdivision (e) of Section 9087 of the Elections Code and Section 88003 shall not be included when measuring the amount of space the information described in paragraph (1) has taken for purposes of determining compliance with the restriction prohibiting the information described in paragraph (1) from exceeding one-third of the page.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst, provided that the analysis fits on a single page. If it does not fit on a single page, then the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Immediately below the analysis prepared by the Legislative Analyst shall appear a printed statement that refers voters to the Secretary of State's Internet Web site for a list of committees primarily formed to support or oppose a ballot measure, and information on how to access the committee's top 10 contributors.

(d) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the page on which the analysis of the Legislative Analyst ends. The rebuttals shall be placed immediately below the arguments.

(e) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis.

(f) The complete text of each measure shall appear at the back of the pamphlet. The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(g) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency."

History: Amended by Stats. 1990, Ch. 1430; amended by Stats. 2014, Ch. 920.

§ 88002.5. Summary.

(a) The ballot pamphlet shall also contain a section, located near the front of the pamphlet, that provides a concise summary of the general meaning and effect of "yes" and "no" votes on each state measure.

(b) The summary statements required by this section shall be prepared by the Legislative Analyst. These statements are not intended to provide comprehensive information on each measure. The Legislative Analyst shall be solely responsible for determining the contents of these statements. The statements shall be available for public examination and amendment pursuant to Section 88006.

History: Added by Stats. 1993, Ch. 156; amended by Stats. 1999, Ch. 312.

§ 88003. Duties of Legislative Analyst.

The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Any estimate of increased cost to local governments shall be set out in boldface print in the ballot pamphlet. The analysis shall be written in clear and concise terms which will easily be understood by the average voter, and shall avoid the use of technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information which the average voter needs to understand the measure adequately. The Legislative Analyst may contract with professional writers, educational specialists, or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The Legislative Analyst may also request the assistance of any state department, agency, or official in preparing the Legislative Analyst's analysis. Prior to submission of the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons appointed by the Legislative Analyst for the purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one shall be bilingual, and one shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make such recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and the Legislative Analyst shall incorporate in the analysis those changes recommended by the committee that the Legislative Analyst deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section. The title and summary of any measure which appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government financial impact. For state bond measures that are submitted to the voters for their approval or rejection, the summary of the Legislative Analyst's estimate of the net state and local government fiscal impact shall include an explanatory table of the information in the summary.

History: Amended by Stats. 1975, Ch. 486, effective September 2, 1975; amended by Stats. 1992, Ch. 232; amended by Stats. 2011, Ch. 453; amended by Stats. 2021, Ch. 50.

§ 88004. Manner, Form of Printing Measures.

Measures shall be printed in the ballot pamphlet, so far as possible, in the same order, manner and form in which they are designated upon the ballot.

§ 88005. Printing Specifications.

The ballot pamphlet shall be printed according to the following specifications:

- (a) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in 8-point type.
- (b) It shall be of a size and printed on a quality and weight of paper which in the judgment of the Secretary of State best serves the voters.
- (c) The pamphlet shall contain a certificate of correctness by the Secretary of State.

History: Amended by Stats. 2008, Ch. 133.

References at the time of publication (see page 2):

Opinions: *In re Miller* (1978) 4 FPCC Ops. 26.

§ 88005.5. Duties of Legislative Counsel.

The Legislative Counsel shall prepare and proofread the texts of all measures and the provisions which are repealed or revised.

§ 88006. Public Examination of Pamphlet.

Not less than 20 days before submitting the copy for the ballot pamphlet to the State Printer, the Secretary of State shall make the copy available for public examination. Any elector may seek a writ of mandate requiring the copy to be amended or deleted from the ballot pamphlet. A peremptory writ of mandate shall issue only upon clear and convincing proof that the copy in question is false, misleading, or inconsistent with the requirements of this chapter or the Elections Code, and that issuance of the writ will not substantially interfere with the printing and distribution of the ballot pamphlet as required by law. Venue for a proceeding under this section shall be exclusively in Sacramento County. The Secretary of State shall be named as the respondent and the State Printer and the person or official who authored the copy in question shall be named as real parties in interest. If the proceeding is initiated by the Secretary of State, the State Printer shall be named as the respondent.

History: Amended by Stats. 1996, Ch. 724; amended by Stats. 2021, Ch. 50.

§ 88007. Amendment of Chapter by Legislature.

Notwithstanding the provisions of Section 81012, the Legislature may without restriction amend this chapter to add to the ballot pamphlet information regarding candidates or any other information.

Chapter 9. Incumbency.

§ 89000-89003

§ 89000.	Order of Names on Ballot.	105
§ 89001.	Newsletter or Mass Mailing.	105

§ 89002.	Mass Mailings Sent at Public Expense.	105
§ 89003.	Mass Mailings Sent at Public Expense; Temporal Prohibition.	106

§ 89000. Order of Names on Ballot.

Any provision of law to the contrary notwithstanding, the order of names of candidates on the ballot in every election shall be determined without regard to whether the candidate is an incumbent.

§ 89001. Newsletter or Mass Mailing.

No newsletter or other mass mailing shall be sent at public expense.

History: Amended by Stats. 1986, Ch. 654; amended by Stats. 1987, Ch. 230; amended by Prop. 73 of the June 1988 statewide primary election, effective June 8, 1988.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18901.1

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26

§ 89002. Mass Mailings Sent at Public Expense.

(a) Except as provided in subdivision (b), a mailing is prohibited by Section 89001 if all of the following criteria are met:

(1) An item sent is delivered, by any means, to the recipient at **the recipient's** residence, place of employment or business, or post office box. The item delivered to the recipient must be a tangible item, such as a videotape, record, or button, or a written document.

(2) The item sent either:

(A) Features an elected officer affiliated with the agency that produces or sends the mailing.

(B) Includes the name, office, photograph, or other reference to an elected officer affiliated with the agency that produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer.

(3) Any of the costs of distribution are paid for with public money or the costs of design, production, and printing exceeding fifty dollars (\$50) are paid with public moneys, and the design, production, or printing is done with the intent of sending the item other than as permitted by this section.

(4) More than 200 substantially similar items are sent in a single calendar month, excluding any item sent in response to an unsolicited request and any item described in subdivision (b).

(b) Notwithstanding subdivision (a), a mass mailing of the following items is not prohibited by Section 89001:

(1) An item in which the elected officer's name appears only in the letterhead or logotype of the stationery, forms, including "For Your Information" or "Compliments of" cards or stamps, and envelopes of the agency sending the mailing, or of a committee of the agency, or of the elected officer, or in a roster listing containing the names of all elected officers of the agency. For purposes of this section, the return address portion of a self-mailer is considered the envelope. In any such item, the names of all elected officers must appear in the same type size, typeface, type color, and

location. The item shall not include the elected officer's photograph, signature, or any other reference to the elected officer, except as specifically permitted by this section. The item may, however, include the elected officer's office or district number and the elected officer's name or district number in **the elected officer's internet website** address or electronic mail address.

(2) A press release sent to members of the media.

(3) An item sent in the normal course of business from one governmental entity or officer to another governmental entity or officer, including all local, state, and federal officers or entities.

(4) An intra-agency communication sent in the normal course of business to employees, officers, deputies, and other staff.

(5) An item sent in connection with the payment or collection of funds by the agency sending the mailing, including tax bills, checks, and similar documents, in any instance in which use of the elected officer's name, office, title, or signature is necessary to the payment or collection of the funds. The item shall not include the elected officer's photograph, signature, or any other reference to the elected officer, except as specifically permitted by this section.

(6) Any item sent by an agency responsible for administering a government program, to persons subject to that program, in any instance in which the mailing of the item is essential to the functioning of the program, the item does not include the elected officer's photograph, and use of the elected officer's name, office, title, or signature is necessary to the functioning of the program.

(7) Any legal notice or other item sent as required by law, court order, or order adopted by an administrative agency pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), and in which use of the elected officer's name, office, title, or signature is necessary in the notice or other mailing. For purposes of this paragraph, inclusion of an elected officer's name on a ballot as a candidate for elective office, and inclusion of an elected officer's name and signature on a ballot argument, shall be considered necessary to that notice or other item.

(8) A telephone directory, organization chart, or similar listing or roster which includes the names of elected officers as well as other individuals in the agency sending the mailing, in which the name of each elected officer and individual listed appears in the same type size, typeface, and type color. The item shall not include an elected officer's photograph, name, signature, or any other reference to an elected officer, except as specifically permitted by this section.

(9)(A) An announcement of any meeting or event of either of the following:

(i) An announcement sent to an elected officer's constituents concerning a public meeting that is directly related to the elected officer's incumbent governmental duties, is to be held by the elected officer, and that the elected officer intends to attend.

(ii) An announcement of any official agency event or events for which the agency is providing the use of its facilities or staff or other financial support.

(B) Any announcement provided for in this paragraph shall not include the elected officer's photograph or signature and may include only a single mention of the elected officer's name except as permitted elsewhere in this section.

(10) An agenda or other writing that is required to be made available pursuant to Sections 11125.1 and 54957.5, or a bill, file, history, journal, committee analysis, floor analysis, agenda of an interim or special hearing of a committee of the Legislature, or index of legislation, published by the Legislature.

(11) A business card that does not contain the elected officer's photograph or more than one mention of the elected officer's name.

(c) For purposes of this section, the following definitions apply:

(1) "Elected officer affiliated with the agency" means an elected officer who is a member, officer, or employee of the agency, or of a subunit thereof such as a committee, or who has supervisory control over the agency or appoints one or more members of the agency.

(2) "Features an elected officer" means that the item mailed includes the elected officer's photograph or signature or singles out the elected officer by the manner of display of the elected officer's name or office in the layout of the document, such as by headlines, captions, type size, typeface, or type color.

(3) "Substantially similar" is defined as follows:

(A) Two items are "substantially similar" if any of the following applies:

(i) The items are identical, except for changes necessary to identify the recipient and the recipient's address.

(ii) The items are intended to honor, commend, congratulate, or recognize an individual or group, or individuals or groups, for the same event or occasion, are intended to celebrate or recognize the same holiday, or are intended to congratulate an individual or group, or individuals or groups, on the same type of event, such as birthdays or anniversaries.

(iii) Both of the following apply to the items mailed:

(I) Most of the bills, legislation, governmental action, activities, events, or issues of public concern mentioned in one item are mentioned in the other.

(II) Most of the information contained in one item is contained in the other.

(B) Enclosure of the same informational materials in two items mailed, such as copies of the same bill, public document, or report, shall not, by itself, mean that the two items are "substantially similar." The informational materials shall not include the elected officer's name, photograph, signature, or any other reference to the elected officer except as permitted elsewhere in this section.

(C) An item is only considered substantially similar to other items sent by the same official, not to items sent by other officials in the same agency.

(4) "Unsolicited request" is defined as follows:

(A) A written or oral communication, including a petition, that specifically requests a response and is not requested or induced by the recipient elected officer or by any third person acting at the recipient elected officer's behest. However, an unsolicited oral or written communication, including a petition, that does not contain a specific request for a response shall be deemed to constitute an unsolicited request for a single written response.

(B) An unsolicited request for continuing information on a subject shall be deemed an unsolicited request for multiple responses directly related to that subject for a period of time not to exceed 24 months. An unsolicited request to receive a regularly published agency newsletter shall be deemed an unsolicited request for each issue of that newsletter.

(C) A previously unsolicited request to receive an agency newsletter or mass mailing on an ongoing basis shall not be deemed to have become solicited by the sole fact that the requestor responds to an agency notice indicating that, in the absence of a response, the requestor's name will be purged from the mailing list for that newsletter or mass mailing. A notice in the following language shall be deemed to meet this standard:

"The law does not permit this office to use public funds to keep you updated on items of interest unless you specifically request that it do so."

Inclusion of a similar notice in other items does not constitute a solicitation under this section.

(D) A communication sent in response to an elected officer's participation at a public forum or press conference, or to an elected officer's issuance of a press release, shall be deemed an unsolicited request.

(E) A person who subscribes to newspapers or other periodicals published by persons other than elected officers shall be deemed to have made unsolicited requests for materials published in those subscription publications.

History: Added by Stats. 2017, Ch. 827; amended by Stats. 2021, Ch. 50.

§ 89003. Mass Mailings Sent at Public Expense; Temporal Prohibition.

Notwithstanding subdivision (b) of Section 89002, a mass mailing, as defined in Section 82041.5, that meets the criteria of subdivision (a) of Section 89002 shall not be sent within the 60 days preceding an election by or on behalf of a candidate whose name will appear on the ballot at that election, except as provided in paragraphs (2) to (8), inclusive, and paragraph (10) of subdivision (b) of Section 89002.

History: Added by Stats. 2017, Ch. 827

Chapter 9.5. Ethics.

§ 89500-89522

Article 1.	Honoraria. § 89500-89502	107
Article 2.	Gifts. § 89503	107
Article 3.	Travel. § 89506	108
Article 4.	Campaign Funds. § 89510 – 89522	109

Article 1. Honoraria.
§ 89500-89502

§ 89500.	Chapter Title.	107
§ 89501.	Honoraria.	107
§ 89502.	Honorarium.	107

§ 89500. Chapter Title.

This chapter shall be known and may be cited as the Ethics in Government Act of 1990.

History: Added by Stats. 1990, Ch. 84.

§ 89501. Honoraria.

(a) For purposes of this chapter, "honorarium" means, except as provided in subdivision (b), any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

(b) The term "honorarium" does not include:

(1) Earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches. The commission shall adopt regulations to implement this subdivision.

(2) Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the State Controller for donation to the General Fund, or in the case of a public official of a local government agency, delivered to the public official's agency for donation to an equivalent fund, without being claimed as a deduction from income for tax purposes.

(c) Section 89506 applies to all payments, advances, or reimbursements for travel and related lodging and subsistence.

History: Repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18930, 18931.1, 18931.2, 18931.3, 18932, 18932.1, 18932.2, 18932.3, 18932.4, 18932.5, 18933, 18940, 18944, 18945.1, 18946.2, 18946.5, 18946.6, 18950, 18950.1, 18950.2

§ 89502. Honorarium.

(a) An elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall not accept any honorarium.

(b) (1) A candidate for elective state office, for judicial office, or for elective office in a local government agency shall not accept any honorarium. A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after the person is sworn into the elective office, or, if the person lost the election, after the person has terminated

the person's campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) does not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) A member of a state board or commission or designated employee of a state or local government agency shall not accept an honorarium from any source if the member or employee would be required to report the receipt of income or gifts from that source on the member's or employee's statement of economic interests.

(d) This section does not apply to a person in the person's capacity as judge. This section does not apply to a person in the person's capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

History: Added by Stats. 1990, Ch. 84; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18736, 18932.1, 18932.2,

Article 2. Gifts.
§ 89503-89503.5

§ 89503.	Gift Limits.	107
§ 89503.5.	Gift; Received and Accepted.	108

§ 89503. Gift Limits.

(a) An elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall not accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).

(b)(1) A candidate for elective state office, for judicial office, or for elective office in a local government agency shall not accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250). A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after the person is sworn into the elective office, or, if the person lost the election, after the person has terminated the person's campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) does not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) A member of a state board or commission or designated employee of a state or local government agency shall not accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars

(\$250) if the member or employee would be required to report the receipt of income or gifts from that source on **the member's** statement of economic interests.

(d) This section **does** not apply to a person in **the person's** capacity as judge. This section **does** not apply to a person in **the person's** capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

(e) This section **does** not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506.

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(f) Beginning on January 1, 1993, the commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10).

(g) The limitations in this section are in addition to the limitations on gifts in Section 86203.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1993, Ch. 769; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18730.1, 18736, 18940.2, 18941, 18942, 18942.1, 18942.2, 18942.3, 18945, 18946, 18946.4

Opinions: *In re Solis* (2000) 14 FPPC Ops. 7

§ 89503.5. Gift; Received and Accepted.

A gift is both "received" and "accepted" when the public official, or the official's immediate family member, knowingly takes actual possession of the gift, is provided the benefit of the gift, or takes any action exercising direction or control of the gift.

History: Added by Stats. 2019, Ch. 312.

Article 3. Travel. § 89506

§ 89506. Travel Payments, Advances and Reimbursements.

(a) Payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following applies:

(1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elective state office or local elective office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the

day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States who substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel that is reported on the recipient's statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel that is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or that is a contribution.

(2) Travel that is provided by the governmental agency of a local elected officeholder, an elected state officer, member of a state board or commission, an individual specified in Section 87200, or a designated employee.

(3) Travel that is reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel that is excluded from the definition of a gift by any other provision of this title.

(e) This section does not apply to payments, advances, or reimbursements for travel and related lodging and subsistence permitted or limited by Section 170.9 of the Code of Civil Procedure.

(f)(1) A nonprofit organization that regularly organizes and hosts travel for elected officials and that makes payments, advances, or reimbursements that total more than ten thousand dollars (\$10,000) in a calendar year, or that total more than five thousand dollars (\$5,000) in a calendar year for a single person, for travel by an elected state officer or local elected officeholder as described in subdivision (a) shall disclose to the Commission the names of donors who did both of the following in the preceding year:

(A) Donated one thousand dollars (\$1,000) or more to the nonprofit organization.

(B) Accompanied an elected state officer or local elected officeholder, either personally or through an agent, employee, or representative, for any portion of travel described in subdivision (a).

(2) For purposes of this subdivision, a nonprofit organization "regularly organizes and hosts travel for elected officials" if the sum of the nonprofit organization's expenses that relate to any of the following types of activities with regard to elected officials was greater than one-third of its total expenses reflected on the nonprofit organization's Internal Revenue Service Form 990, or the equivalent, filed most recently within the last 12 months:

- (A) Travel.
- (B) Study tours.
- (C) Conferences, conventions, and meetings.

(3) This subdivision does not preclude a finding that a nonprofit organization is acting as an intermediary or agent of the donor. If the nonprofit organization is acting as an intermediary or agent of the donor, all of the following apply:

(A) The donor to the nonprofit organization is the source of the gift.

(B) The donor shall be identified as a financial interest under Section 87103.

(C) The gift shall be reported as required by Section 87207.

(D) The gift shall be subject to the limitations on gifts specified in Section 89503.

(4) For purposes of this subdivision, a nonprofit organization includes an organization that is exempt from taxation under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 674; amended by Stats. 1994, Ch. 1105; amended by Stats. 1995, Ch. 690; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2015, Ch. 757; amended by Stats. 2016, Ch. 86

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18930, 18931.1, 18931.2, 18931.3, 18932, 18932.1, 18932.2, 18932.3, 18932.4, 18932.5, 18933, 18940, 18940.2, 18944, 18945.1, 18946.2, 18946.5, 18946.6, 18950, 18950.1, 18950.2

Article 4. Campaign Funds. **§ 89510 – 89522**

§ 89510.	Contributions Held in Trust.	109
§ 89511.	Campaign Funds Held by Candidates and Committees.	109
§ 89511.5.	Use of Personal Funds for Incumbent Elected Officers.	110
§ 89512.	Expenditures Associated with Seeking or Holding Office.	110
§ 89512.5.	Expenditures by Committees not Controlled by Candidates.	110
§ 89513.	Use of Campaign Funds for Specific Activities.	111
§ 89514.	Use of Campaign Funds for Attorney's Fees.	112
§ 89515.	Use of Campaign Funds for Donations and Loans.	112
§ 89516.	Use of Campaign Funds for Vehicle Expenses.	112
§ 89517.	Use of Campaign Funds for Real Property, Appliances or Equipment.	113
§ 89517.5.	Use of Campaign Funds for Security System.	113
§ 89517.6	Use of Campaign Funds for Cybersecurity of Electronic Devices.	113
§ 89518.	Use of Campaign Funds for Compensation.	113
§ 89519.	Use of Surplus Campaign Funds.	114
§ 89519.5.	Use of Campaign Funds Held by an Officeholder Convicted of Certain Felonies of the Election Code.	114
§ 89520.	Violations.	114
§ 89521.	Unlawful Honorarium, Gift or Expenditure.	114
§ 89522.	Campaign Funds; Prohibited Use Under Elections Code.	115

§ 89510. Contributions Held in Trust.

(a) A candidate for elective state office may only accept contributions within the limits provided in Chapter 5 (commencing with Section 85100).

(b) All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.7

§ 89511. Campaign Funds Held by Candidates and Committees.

(a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b)(1) For purposes of this chapter, "campaign funds" includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, "committee" means a controlled committee, ballot measure committee, committee

opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(3) For purposes of this chapter, “substantial personal benefit” means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

(4) For purposes of this article, “household” includes the candidate’s or elected officer’s spouse, dependent children, and parents who reside with the candidate or elected officer.

(5)(A) For purposes of this article, “attorney’s fees and other costs” includes only the following:

(i) Attorney’s fees and other legal costs related to the defense of the candidate or officer.

(ii) Administrative costs directly related to compliance with the requirements of this title.

(B) “Attorney’s fees and other costs” does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or, except as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 2000, Ch. 130; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18421.7, 18960

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 89511.5. Use of Personal Funds for Incumbent Elected Officers.

(a) An incumbent elected officer may utilize the incumbent elected officer’s personal funds for expenditures authorized by subdivision (b) of Section 89510 without first depositing those funds in the incumbent elected officer’s controlled committee’s campaign bank account, if both of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The treasurer of the committee is provided with a dated receipt and a written description of the expenditure.

(b) An incumbent elected officer may be reimbursed for expenditures of the incumbent elected officer’s personal funds, from either the controlled committee campaign bank account established pursuant to Section 85201 with respect to election to the incumbent term of office, or from a controlled committee campaign bank account established pursuant to Section 85201 with respect to election to a future term of office, if all of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The incumbent elected officer, prior to reimbursement, provides the treasurer of the committee with a dated receipt and a written description of each expenditure.

(3) Reimbursement is paid within 90 days of the expenditure, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included,

in the case of an expenditure charged to a credit card or charge account.

(c) When the elected officer’s controlled committee is notified that expenditures totaling one hundred dollars (\$100) or more in a fiscal year have been made by the incumbent elected officer, the committee shall report, pursuant to subdivision (k) of Section 84211, the expenditures on the campaign statement for the period in which the expenditures were made and the reimbursements on the campaign statement for the period in which the reimbursements were made.

(d) If reimbursement is not paid within the time authorized by this section, the expenditure shall be reported on the campaign statement as a nonmonetary contribution received on the 90th day after the expenditure is paid, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(e) This section shall not be construed to authorize an incumbent elected officer to make expenditures from any campaign bank account for expenses other than those expenses associated with the incumbent elected officer’s election to the specific office for which the account was established and expenses associated with holding that office.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 2007, Ch. 348; amended by Stats. 2021, Ch. 50.

§ 89512. Expenditures Associated with Seeking or Holding Office.

(a) An expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. An expenditure associated with holding office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a legislative or governmental purpose. Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.

(b) Except as expressly authorized by this article, an expenditure for a fine, penalty, judgment, or settlement is not within the lawful execution of the trust imposed by Section 89510.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.7

§ 89512.5. Expenditures by Committees not Controlled by Candidates.

(a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.

History: Added by Stats. 1991, Ch. 546.

§ 89513. Use of Campaign Funds for Specific Activities.

This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a)(1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee, or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, the candidate or elected officer's representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. The earning or awarding of mileage credit and the redeeming of credit for actual travel are not subject to reporting pursuant to Section 84211.

(b)(1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of their households. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychi-

atrists, psychologists, or counselors and expenses for medications, treatments, medical equipment, hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c)(1) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(A) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(B) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title. However, campaign funds shall not be used to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in either of the following:

(i) A personal benefit to the candidate or officer if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose.

(ii) A substantial personal benefit to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay a restitution fine imposed under Section 86 of the Penal Code.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e)(1) Except as otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or the candidate or elected officer's immediate family are governed by subdivision (f).

(f)(1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) This section does not prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee

while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

(h)(1) Campaign funds shall not be used to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the campaign for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(i)(1) For purposes of this subdivision, "childcare expenses" include the reasonable costs of professional daycare services, babysitting, nanny services, food and beverages, transportation to and from the location of a childcare services provider, before and after school programs, summer day camps, and preschool. Additional qualifying expenses include costs related to a nurse, home care provider, or other care provider for a disabled dependent child. "Childcare expenses" do not include private school tuition, medical expenses, tutoring services, or payments to a relative, within the third degree of consanguinity, of a child, unless the relative owns or operates a professional daycare or babysitting service and the cost of the service is no greater than the relative would otherwise charge.

(2) Campaign funds may be used to pay or reimburse a candidate for reasonable and necessary childcare expenses for a dependent child resulting directly from the candidate engaging in campaign activities. For purposes of this paragraph, "directly" means that the candidate would not have incurred the childcare expenses if the candidate did not engage in the campaign activities.

(3) This section shall not be construed to limit the use of campaign funds to pay for childcare expenses resulting from an officeholder engaging in a campaign activity with both political and legislative or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 546; amended by Stats. 2006, Ch. 155; amended by Stats. 2006, Ch. 538; amended by Stats. 2007, Ch. 130;

amended by Stats. 2014, Ch. 881 and 884; amended by Stats. 2019, Ch. 384; amended by Stats. 2019, Ch. 564.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18421.7

§ 89514. Use of Campaign Funds for Attorney's Fees.

Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

§ 89515. Use of Campaign Funds for Donations and Loans.

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or **an immediate family member of one of those individuals**, and where the donation or loan bears a reasonable relation to a political, legislative, or governmental purpose.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1

§ 89516. Use of Campaign Funds for Vehicle Expenses.

Notwithstanding Sections 89512 and 89513, this section governs the use of campaign funds for vehicle expenses.

(a) Campaign funds shall not be used to purchase a vehicle unless both of the following apply:

(1) Title to the vehicle is held by the committee and not the candidate, elected officer, campaign treasurer, or any other individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or **an immediate family member of one of those individuals**.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(b) Campaign funds shall not be used to lease a vehicle unless both of the following apply:

(1) The lessee is the committee, or a state or local government agency and not the candidate, elected officer, or **an immediate family member of the candidate or elected official**; or the lessor is a state or local government agency.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(c) Campaign funds may be used to pay for or reimburse the operating costs, including, but not limited to, insurance, maintenance, and repairs, for any vehicle for which campaign funds may be spent pursuant to this section.

(d) Campaign funds may be used to reimburse a candidate, elected officer, **a candidate's or elected officer's** immediate family, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or an employee or member of the staff of the committee or of the elected officer's governmental agency, for the use of **that individual's** vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

(e) For the purposes of this section, use of a vehicle is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18961

§ 89517. Use of Campaign Funds for Real Property, Appliances or Equipment.

(a) Campaign funds shall not be used for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or **an immediate family member of one of those individuals.**(b)

Campaign funds shall not be used to purchase real property. Except as prohibited by subdivision (a), campaign funds may be used to lease real property for up to one year at a time where the use of that property is directly related to political, legislative, or governmental purposes.

(c) For the purposes of this section, real property, appliance, or equipment is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; **amended by Stats. 2021, Ch. 50.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18961

§ 89517.5. Use of Campaign Funds for Security System.

Notwithstanding Section 89517, campaign funds may be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to **the candidate's or elected officer's** physical safety, provided that the threats arise from **the candidate's or elected officer's** activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. The candidate or elected officer shall reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.

History: Added by Stats. 1993, Ch. 1143; **amended by Stats. 2021, Ch. 50.**

§ 89517.6 Use of Campaign Funds for Cybersecurity of Electronic Devices

Notwithstanding Section 89517, campaign funds may be used to pay for, or reimburse the state for, the costs of installing and monitoring hardware, software, or services related to the cybersecurity of electronic devices of a candidate, elected officer, or campaign worker. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission in the candidate's or elected officer's campaign statements filed pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of this title.

History: Added by Stats. 2019, Ch. 46.

§ 89518. Use of Campaign Funds for Compensation.

(a) Campaign funds shall not be used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

(b) Campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative, or governmental activities, except as provided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

§ 89519. Use of Surplus Campaign Funds.

(a) Upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100).

(b) Surplus campaign funds shall be used only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(3) Donations to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of the former candidate's or elected officer's immediate family, or the former candidate's or elected officer's campaign treasurer.

(4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.

(5) Contributions to support or oppose a candidate for federal office, a candidate for elective office in a state other than California, or a ballot measure.

(6) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees and other costs for litigation that arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

(c) For purposes of this section, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to the candidate's or elected officer's physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from the candidate's or elected officer's activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report an expenditure of campaign funds made pursuant to this section to the Commission. The report to the Commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and the telephone number of the law enforcement agency, and a brief description of the threat. No more than five thousand

dollars (\$5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds become surplus campaign funds. The candidate or elected officer shall reimburse the surplus fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds became surplus campaign funds. The campaign funds become surplus campaign funds upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 1993, Ch. 1143; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2013, Ch. 9, effective July 1, 2014; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18519.4, 18530.4, 18531.2, 18951

Opinions: *In re Pirayou* (2006) 19 FPPC Ops. 1

§ 89519.5. Use of Campaign Funds Held by an Officeholder Convicted of Certain Felonies of the Election Code.

(a) An officeholder who is convicted of a felony enumerated in Section 20 of the Elections Code, and whose conviction has become final, shall use funds held by the officeholder's candidate controlled committee only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(b) Six months after the conviction becomes final, the officeholder shall forfeit any remaining funds subject to subdivision (a), and these funds shall be deposited in the General Fund.

(c) This section does not apply to funds held by a ballot measure committee or in a legal defense fund formed pursuant to Section 85304.

History: Added by Stats. 2016, Ch. 837.

§ 89520. Violations.

The remedies provided in Chapter 11 (commencing with Section 91000) shall not apply to violations of this chapter.

History: Added by Stats. 1990, Ch. 84.

§ 89521. Unlawful Honorarium, Gift or Expenditure; Egregious Personal Benefit.

(a) Any person who makes or receives an honorarium, gift, or expenditure in violation of this chapter is liable in a civil action brought by the commission for an amount of up to three times the amount of the unlawful honorarium, gift, or expenditure.

(b)(1) Any person who uses campaign funds in a manner that violates this article and results in an egregious personal benefit is liable in an administrative or civil action brought by the commission for an amount of up to two times the amount of the unlawful expenditure.

(2) For purposes of this subdivision, “egregious personal benefit” means a direct personal benefit with a total value of ten thousand dollars (\$10,000) or more to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2021, Ch. 315.

§ 89522. Campaign Funds; Prohibited Use Under Elections Code.

This chapter shall not be construed to permit an expenditure of campaign funds prohibited by Section 18680 of the Elections Code.

History: Added by Stats. 1991, Ch. 546; amended by Stats. 1994, Ch. 923

Chapter 10. Auditing. **§ 90000-90009**

§ 90000.	Responsibility.	115
§ 90001.	Mandatory Audits and Investigations.	115
§ 90002.	Audits and Investigations; Time.	116
§ 90003.	Discretionary Audits.	116
§ 90004.	Periodic Reports; Public Documents.....	116
§ 90005.	Confidentiality; Exception.	117
§ 90006.	Audit and Investigation by Commission.....	117
§ 90007.	Auditing Guidelines and Standards.....	117
§ 90008.	Preelection Auditing.	117
§ 90009.	Injunction to Compel Disclosure.	117

§ 90000. Responsibility.

Except as provided in Section 90006, the Franchise Tax Board shall make audits and field investigations with respect to the following:

(a) Reports and statements filed with the Secretary of State under Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100).

(b) Local candidates and their controlled committees selected for audit pursuant to subdivision (i) of Section 90001.

History: Amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 483.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18994, 18995, 18998

§ 90001. Mandatory Audits and Investigations.

Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbying firm and each lobbyist employer who employs one or more lobbyists shall be subject to an audit on a random basis with these lobbying firms or lobbyist employers having a 25-percent chance of being audited.

When a lobbying firm or lobbyist employer is audited, the individual lobbyists who are employed by the lobbying firm or the lobbyist employer shall also be audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars (\$25,000) or more in contributions have been raised or twenty-five thousand dollars (\$25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of the candidate's candidacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars (\$25,000) shall be subject to an audit on a random basis of 10 percent of the number of such candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been received or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting the candidate's candidacy. Random selection shall be made of 25 percent of the Senate districts, 25 percent of the Assembly districts, and 25 percent of the judicial offices contested in an election year.

(d) Each candidate for the Legislature in a special primary or special runoff election for whom it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been raised or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting the candidate's candidacy.

(e) Each controlled committee of any candidate who is being audited pursuant to subdivision (b), (c), or (d).

(f) Each committee, other than a committee specified in subdivision (c) of Section 82013, primarily supporting or opposing a candidate who is being audited pursuant to subdivision (b), (c), or (d) if it is determined that the committee has expended more than ten thousand dollars (\$10,000).

(g) Each committee, other than a committee specified in subdivision (c) of Section 82013, whose participation is primarily in support of or in opposition to a state measure or state measures if it is determined that the committee has expended more than ten thousand dollars (\$10,000) on such measure or measures.

(h) Each committee, other than a committee defined in subdivision (c) of Section 82013, a controlled committee or a committee primarily supporting or opposing a state candidate or measure, if it is determined that the committee has raised or expended more than ten thousand dollars (\$10,000) supporting or opposing state candidates or state measures during any calendar year, except that if the commission determines from an audit report that a committee is in substantial compliance with the provisions of the act, the committee thereafter shall be subject to an audit on a random basis with

each such committee having a 25-percent chance of being audited.

(i)(1) With respect to local candidates and their controlled committees, the Commission shall promulgate regulations which provide a method of selection for these audits.

(2) With respect to candidates for the Board of Administration of the Public Employees' Retirement System, the commission shall promulgate regulations that provide a method for selection of these audits. The Public Employees' Retirement System shall reimburse the commission for all reasonable expenses incurred pursuant to this section.

(j) In accordance with subdivisions (a), (b), (c), and (h), the Fair Political Practices Commission shall select by lot the persons or districts to be audited on a random basis. For campaign audits the selection shall be made in public after the last date for filing the first report or statement following the general or special election for which the candidate ran, or following the election at which the measure was adopted or defeated. For lobbying firm and lobbyist employer audits, the selection shall be made in public in February of odd-numbered years.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1979, Ch. 551; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 835; amended by Stats. 1994, Ch. 1139; amended by Stats. 1998, Ch. 923; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18601, 18991, 18992, 18993, 18995, 18997, 18998

§ 90002. Audits and Investigations; Time.

(a) The scope of audits and investigations under Section 90001 is as follows:

(1) Audits and investigations of lobbying firms and employers of lobbyists shall be conducted biennially covering reports filed during the previous two-year period. If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(2) For campaign statements or reports of a candidate, controlled committee, or committee primarily supporting or opposing a candidate, the audit or investigation shall cover all campaign statements and reports filed for the primary and general election, or a special or runoff election, as well as any previous campaign statements or reports filed since the last election for that office. The audit or investigation shall not include statements or reports previously audited under Section 90001 or 90003.

(3) For campaign statements or reports of a committee primarily supporting or opposing a measure, the audit or investigation shall cover all campaign statements and reports filed by the committee in connection with the measure.

(4) For all other committees, the audit or investigation shall cover all campaign statements and reports filed during the previous two calendar years.

(b) The audit or investigation periods may be extended to include any transaction that relates to or is connected with the election being audited or investigated or the two-year period.

(c) An audit or investigation conducted under Section 90001 shall not include campaign statements or reports filed in conjunction with an election for any other office.

(d) This section shall not be interpreted to act as a limit on the Franchise Tax Board or the Commission in undertaking a discretionary audit under Section 90003.

History: Amended by Stats. 2014, Ch. 9; repealed and reenacted as amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18530.4, 18530.45, 18531.62, 18992, 18998

§ 90003. Discretionary Audits.

In addition to the audits and investigations required by Section 90001, the Franchise Tax Board and the Commission may make investigations and audits with respect to any reports or statements required by this title.

History: Amended by Stats. 2004, Ch. 483; amended by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18998

§ 90004. Periodic Reports; Public Documents.

(a) The Franchise Tax Board shall periodically prepare reports, which, except as otherwise provided in this section, shall be sent to the Commission, the Secretary of State, and the Attorney General. If the reports relate to candidates for or committees supporting or opposing candidates for the office of Attorney General, the reports shall be sent to the Commission, the Secretary of State, and the District Attorneys of the Counties of Los Angeles, Sacramento, and San Francisco. If the reports relate to local candidates and their controlled committees, the reports shall be sent to the Commission, the local filing officer with whom the candidate or committee is required to file the originals of campaign reports pursuant to Section 84215, and the district attorney for the candidate's county of domicile.

(b) The Franchise Tax Board shall complete its report of any audit conducted on a random basis pursuant to Section 90001 within two years after the person or entity subject to the audit is selected by the Commission to be audited.

(c) The reports of the Franchise Tax Board shall be public documents and shall contain in detail the Franchise Tax Board's findings with respect to the accuracy and completeness of each report and statement reviewed and its findings with respect to any report or statement that should have been but was not filed. The Secretary of State and the local filing officer shall place the audit reports in the appropriate campaign statement or lobbying files.

History: Amended by Stats. 1976, Ch. 564; amended by Stats. 1979, Ch. 531; amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 591; amended by Stats. 2005, Ch. 22; amended by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18995, 18998

§ 90005. Confidentiality; Exception.

A member, employee, or agent of the Franchise Tax Board or the Commission shall not divulge or make known in any manner the particulars of any record, documents, or information that **the individual** receives by virtue of this chapter, except in furtherance of the work of the Franchise Tax Board or the Commission or in connection with a court proceeding or the lawful investigation of any agency.

History: Amended by Stats. 2014, Ch. 9; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62

§ 90006. Audit and Investigation by Commission.

Audits and field investigations of candidates for Controller and member of the Board of Equalization and of committees supporting such candidates shall be made by the Commission instead of the Franchise Tax Board.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18998

§ 90007. Auditing Guidelines and Standards.

(a) The commission shall adopt auditing guidelines and standards which shall govern audits and field investigations conducted under Section 90001. The guidelines and standards shall be formulated to accomplish the following purposes:

(1) The audits should encourage compliance and detect violations of this title;

(2) The audits should be conducted with maximum efficiency in a cost-effective manner; and

(3) The audits should be as unobtrusive as possible consistent with the foregoing purposes.

(b) In adopting its guidelines and standards the commission shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

History: Added by Stats. 1978, Ch. 779, effective September 18, 1978.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18995

§ 90008. Preelection Auditing.

(a) It is the intent of the Legislature that the people of California have timely access to information concerning the campaign contributions and expenditures of all committees, corporations, and individuals, and that this information be provided before the election, when it is relevant, in accordance with the requirements of this title. It is the further intent of the Legislature that the Commission ensure that these disclosures are being made, and that this title be liberally construed and any judicial process be expedited to achieve this purpose.

(b) The Commission, and the Franchise Tax Board at the direction of the Commission, may audit any record required to be maintained under this title to ensure compliance with this title prior to an election, even if the record is a report or statement that has not yet been filed.

History: Added by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18998

§ 90009. Injunction to Compel Disclosure.

(a) To further the purposes of this title, the Commission may seek injunctive relief in a superior court to compel disclosure consistent with this title.

(b) A court shall grant expedited review to an action filed pursuant to subdivision (a) as follows:

(1) The court shall conduct an expedited hearing with an opportunity for the defendant to respond.

(2) Briefs of the parties shall be required pursuant to an expedited schedule.

(c) A superior or appellate court may, at its discretion, grant a stay of an order granting relief pursuant to subdivision (a).

History: Added by Stats. 2014, Ch. 9.

Chapter 11. Enforcement.**§ 91000-91014**

§ 91000.	Violations; Criminal.	117
§ 91000.5.	Administrative Proceedings.	118
§ 91001.	Responsibility for Enforcement.	118
§ 91001.5.	Authority of City Attorneys of Charter Cities.	118
§ 91002.	Effect of Conviction.	118
§ 91003.	Injunction.	118
§ 91003.5.	Conflicts of Interest Violation.	118
§ 91004.	Violations of Reporting Requirements; Civil Liability.	119
§ 91005.	Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.	119
§ 91005.5.	Civil Penalties.	119
§ 91006.	Joint and Several Liability.	119
§ 91007.	Procedure for Civil Actions.	119
§ 91008.	Judgment on the Merits; Precedence; Dismissal.	120
§ 91008.5.	Civil Action Precluded by Commission Order.	120
§ 91009.	Considerations; Liability.	120
§ 91010.	Campaign Disclosure Violations; Request to Civil Prosecutor.	120
§ 91011.	Statute of Limitations.	120
§ 91012.	Costs; Attorney Fees; Bond.	120
§ 91013.	Late Filing of Statement or Report; Fees.	120
§ 91013.5.	Collection of Penalties.	120
§ 91013.7.	Judgment for Collection of Penalties.	121
§ 91014.	Applicability of Other State Law.	121

§ 91000. Violations; Criminal.

(a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 91000.5. Administrative Proceedings.

An administrative action brought pursuant to Chapter 3 (commencing with Section 83100) alleging a violation of any of the provisions of this title shall not be commenced more than five years after the date on which the violation occurred.

(a) The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.

(b) If the person alleged to have violated this title engages in the fraudulent concealment of the person's acts or identity, the five-year period shall be tolled for the period of the concealment. For purposes of this subdivision, "fraudulent concealment" means the person knows of material facts related to the person's duties under this title and knowingly conceals them in performing or omitting to perform those duties, for the purpose of defrauding the public of information to which it is entitled under this title.

(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under Chapter 3 (commencing with Section 83100), the person alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date the documents are produced.

History: Added by Stats. 1997, Ch. 179; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18610, 18612, 18615

§ 91001. Responsibility for Enforcement.

(a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The district attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the commission with respect to the state or any state agency, except itself. The Attorney General is the civil prosecutor with respect to the commission. The district attorneys are the civil prosecutors with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Upon written authorization from a district attorney, the commission may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Under such circumstances, Section 91007 shall not apply to the commission.

(c) Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall

be considered in applying the remedies and sanctions of this title.

History: Amended by Stats. 1976, Ch. 1161; repealed and reenacted as amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1979, Ch. 357.

§ 91001.5. Authority of City Attorneys of Charter Cities.

In any case in which a district attorney could act as the civil or criminal prosecutor under the provisions of this title, the elected city attorney of any charter city may act as the civil or criminal prosecutor with respect to any violations of this title occurring within the city.

History: Added by Stats. 1976, Ch. 594, effective August 26, 1976.

§ 91002. Effect of Conviction.

No person convicted of a misdemeanor under this title shall be a candidate for any elective office or act as a lobbyist for a period of four years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section. Any person violating this section is guilty of a felony.

§ 91003. Injunction.

(a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require any plaintiff other than the commission to file a complaint with the commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails that party's costs of litigation, including reasonable attorney's fees.

(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 (commencing with Section 87100), Article 4 (commencing with Section 87400), or Article 4.5 (commencing with Section 87450) of Chapter 7 of this title or of a disqualification provision of a conflict of interest code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include, but are not limited to, orders, permits, resolutions, and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. of 1987, Ch. 628; amended by Stats. 2021, Ch. 50.

§ 91003.5. Conflicts of Interest Violation.

Any person who violates a provision of Article 2 (commencing with Section 87200), 3 (commencing with Section 87300), or 4.5 (commencing with Section 87450) of Chapter

7 is subject to discipline by **that person's** agency, including dismissal, consistent with any applicable civil service or other personnel laws, regulations, and procedures.

History: Amended by Stats. 1986, Ch. 653; **amended by Stats. 2021, Ch. 50.**

§ 91004. Violations of Reporting Requirements; Civil Liability.

Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18427

§ 91005. Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.

(a) Any person who makes or receives a contribution, gift, or expenditure in violation of Section 84300, 84304, 86203, or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to one thousand dollars (\$1,000) or three times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(b) Any designated employee or public official specified in Section 87200, except an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a conflict of interest code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

History: Amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130.

§ 91005.5. Civil Penalties.

Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars (\$5,000) per violation.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

History: Amended by Stats. 1982, Ch. 727; amended by Proposition 208 of the November 1996 Statewide General Election; Repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 91006. Joint and Several Liability.

If two or more persons are responsible for any violation, they shall be jointly and severally liable.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18316.6

§ 91007. Procedure for Civil Actions.

(a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond to the person in writing, indicating whether **the civil prosecutor** intends to file a civil action.

(1) If the civil prosecutor responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(2) If the civil prosecutor responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the civil prosecutor. If, pursuant to this subdivision, the civil prosecutor does not respond within 120 days, the civil prosecutor shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.

(3) The time period within which a civil action shall be commenced, as set forth in Section 91011, shall be tolled from the date of receipt by the civil prosecutor of the written request to either the date that the civil action is dismissed without prejudice or the date of receipt by the person of the negative response from the civil prosecutor, but only for a civil action brought by the person who requested the civil prosecutor to commence the action.

(b) Any person filing a complaint, cross-complaint, or other initial pleading in a civil action pursuant to Section 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

- (1) The full title and number of the case.
- (2) The court in which the case is pending.
- (3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act of 1974.

(c) **A** complaint, cross-complaint, or other initial pleading shall **not** be dismissed for failure to comply with subdivision (b).

History: Amended by Stats. 1985, Ch. 1200; amended by Stats. 1999, Ch. 577; amended by Stats. 2000, Ch. 135; amended by Stats. 2021, Ch. 50.

§ 91008. Judgment on the Merits; Precedence; Dismissal.

Not more than one judgment on the merits with respect to any violation may be obtained under Sections 91004 and 91005. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Such actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the civil prosecutor or any plaintiff in an action based on the same violation.

§ 91008.5. Civil Action Precluded by Commission Order.

No civil action may be filed under Section 91004, 91005, or 91005.5 with regard to any person for any violations of this title after the commission has issued an order pursuant to Section 83116 against that person for the same violation.

History: Added by Stats. 1984, Ch. 670.

§ 91009. Considerations; Liability.

In determining the amount of liability under Sections 91004 or 91005, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought under Section 91004 or 91005, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction.

§ 91010. Campaign Disclosure Violations; Request to Civil Prosecutor.

No request to the civil prosecutor pursuant to Section 91007 shall be made or filed in connection with a report or statement required by Chapter 4 (commencing with Section 84100) until the time when an audit and investigation could be begun under subdivision (c) of Section 90002.

History: Amended by Stats. 1992, Ch. 405.

§ 91011. Statute of Limitations.

(a) No civil action alleging a violation in connection with a report or statement required by Chapter 4 (commencing with Section 84100) shall be filed more than four years after an audit could begin as set forth in subdivision (c) of Section 90002, or more than one year after the Franchise Tax Board forwards its report to the commission, pursuant to Section 90004, of any audit conducted of the alleged violator, whichever period is less.

(b) No civil action alleging a violation of any provisions of this title, other than those described in subdivision

(a), shall be filed more than four years after the date the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1980, Ch. 742; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2004, Ch. 591.

§ 91012. Costs; Attorney Fees; Bond.

The court may award to a plaintiff or defendant other than an agency, who prevails in any action authorized by this title, that party's costs of litigation, including reasonable attorney's fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs.

History: Amended by Stats. 2021, Ch. 50.

§ 91013. Late Filing of Statement or Report; Fees.

(a) If any person files an original statement or report after any deadline imposed by this act, the person shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis the filing officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, the person shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars (\$10) per day, starting 10 days, or 5 days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which the filing officer is an officer. Liability under this section shall not exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1977, Ch. 555; amended by Stats. 1985, Ch. 1200; amended by Stats. 1993, Ch. 1140; amended by Stats. 2021, Ch. 50.

References at the time of publication (see page 2):

Opinions: *In re Wood* (2000) 13 FPPC Ops. 21
In re Layton (1975) 1 FPPC Ops. 113
In re Rundstrom (1975) 1 FPPC Ops. 188

§ 91013.5. Collection of Penalties.

(a) In addition to any other available remedies, the commission or the filing officer may bring a civil action and

obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The action may be filed as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer. In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(1) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations.

(2) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

(3) That a demand for payment has been made by the commission or the filing officer and full payment has not been received.

(b) A civil action brought pursuant to subdivision (a) shall be commenced within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

History: Added by Stats. 1984, Ch. 670; amended by Stats. 2004, Ch. 483.

§ 91013.7. Judgment for Collection of Penalties.

(a) If the time for judicial review of a final Commission order or decision has lapsed, or if all means of judicial review of the order or decision have been exhausted, the Commission may apply to the clerk of the court for a judgment to collect the penalties imposed by the order or decision, or the order as modified in accordance with a decision on judicial review.

(b) The application, which shall include a certified copy of the order or decision, or the order as modified in accordance with a decision on judicial review, and proof of service of the order or decision, constitutes a sufficient showing to warrant issuance of the judgment to collect the penalties. The clerk of the court shall enter the judgment immediately in conformity with the application.

(c) An application made pursuant to this section shall be made to the clerk of the superior court in the county where the monetary penalties, fees, or civil penalties were imposed by the Commission.

(d) A judgment entered in accordance with this section has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action and may be enforced in the same manner as any other judgment of the court in which it is entered.

(e) The Commission may bring an application pursuant to this section only within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

(f) The remedy available under this section is in addition to those available under Section 91013.5 or any other law.

History: Added by Stats. 2013, Ch. 645.

§ 91014. Applicability of Other State Law.

Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.

POLITICAL REFORM ACT 2021

Fair Political Practices Commission



POLITICAL REFORM ACT — 2021

Introduction

This 2021 version of the Political Reform Act (the “Act”) is not an official publication of the Government Code. It has been produced for use by the public and staff of the Fair Political Practices Commission. The boldface title before each Government Code Section and the histories following some sections have been added for clarity and are not part of the Act.

Commission regulations implementing the Act are contained in the California Code of Regulations, Title 2, Division 6 (Sections 18110-18998). References to applicable regulations and opinions follow each statute. These references were accurate as of January 1, 2021, but changes may have occurred since then. Thus, the references are provided for convenience only and should not be relied upon.

Opinion summaries appear in Appendix I. In addition, Commission opinions and advice letters are available on Westlaw, LexisNexis, and the FPPC’s website. Appendix II contains citations to enforcement decisions, and Appendix III contains a summary of enforcement decisions. Appendix IV contains Government Code Sections 1090 through 1097.5. AB 1090 (Fong), Chapter 650, Statutes of 2013, authorized the Commission to provide advice to public officials and enforce violations relating to Section 1090, which prohibits specified officials from being financially interested in a contract. Appendix V contains repealed sections of the Political Reform Act. Appendix VI contains the text of sections of the Political Reform Act with future operative dates.

For more information, contact the Commission or visit fppc.ca.gov.

Contact the Commission

General Information: (916) 322-5660

Advice: 1-866-ASK-FPPC
1-866-275-3772 *1
Advice@fppc.ca.gov

Commission Mailing Address:
Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811



CONTENTS

Chapter 1. General.	2	Chapter 10. Auditing.	114
Chapter 2. Definitions.	5	Chapter 11. Enforcement.	116
Chapter 3. Fair Political Practices Commission	19		
Chapter 4. Campaign Disclosure.	25	Appendix I: Summary of Opinions	
Article 1. Organization of Committees.	25	Appendix II: Enforcement Decision Citations	
Article 2. Filing of Campaign Statements.	28	Appendix III: Summary of Enforcement Decisions	
Article 2.5. LAFCO Proposal Requirements.	43	Appendix IV: Government Code Sections 1090 – 1097.5	
Article 3. Prohibitions.	43	Appendix V: Repealed Sections of the Political Reform Act	
Article 4. Exemptions.....	48	Appendix VI: Sections of the Political Reform Act with a Future Operative Date	
Article 5. Disclosure in Advertisements.....	48	Index	
Chapter 4.6. Online Disclosure Act of 1997.	57		
Chapter 5. Limitations on Contributions.	62		
Article 1. Title of Chapter.	62		
Article 2. Candidacy.....	62		
Article 2.5. Applicability of the Political Reform Act of 1974.	64		
Article 3. Contribution Limitations.	64		
Article 4. Voluntary Expenditure Ceilings.....	70		
Article 5. Independent Expenditures.	71		
Article 6. Ballot Pamphlet.	72		
Article 7. Additional Contribution Requirements.....	73		
Article 8. Appropriation.	75		
Chapter 6. Lobbyists.	75		
Article 1. Registration and Reporting.....	75		
Article 2. Prohibitions.	81		
Article 3. Exemptions.....	82		
Chapter 7. Conflicts of Interests.	82		
Article 1. General Prohibitions.....	82		
Article 2. Disclosure.....	86		
Article 3. Conflict of Interest Codes.	89		
Article 3.5. Multiagency Filers.	93		
Article 4. Disqualification of Former Officers and Employees.	93		
Article 4.5. Disqualification of State Officers and Employees.	96		
Article 4.6. Loans to Public Officials.....	97		
Article 5. Filing	98		
Chapter 8. Ballot Pamphlet.	101		
Chapter 9. Incumbency.....	103		
Chapter 9.5. Ethics.....	105		
Article 1. Honoraria.	105		
Article 2. Gifts.....	106		
Article 3. Travel.	107		
Article 4. Campaign Funds.....	108		

Chapter 1. General.**§ 81000 – 81015**

§ 81000.	Title.....	2
§ 81001.	Findings and Declarations.....	2
§ 81002.	Purposes of Title.....	2
§ 81003.	Construction of Title.....	2
§ 81004.	Reports and Statements; Perjury; Verification.*	2
§ 81004.5.	Reports and Statements; Amendments.....	3
§ 81005.	Reports and Statements; Filing Deadline on Weekend or Holiday.....	3
§ 81006.	Filing Fees Prohibition.....	3
§ 81007.	Mailing of Report or Statement.*.....	3
§ 81007.5.	Faxing of Report or Statement.*.....	3
§ 81008.	Public Records; Inspection; Reproduction; Time; Charges.*.....	3
§ 81009.	Preservation of Reports and Statements.*.....	4
§ 81009.5.	Local Ordinances.....	4
§ 81010.	Duties of the Filing Officer.*.....	4
§ 81010.5.	Duties of Filing Officers; Effect of Non- Compliance.....	4
§ 81011.5.	Information on Statewide Petitions.....	4
§ 81012.	Amendment or Repeal of Title.....	5
§ 81013.	Imposition of Additional Requirements.....	5
§ 81014.	Regulations.....	5
§ 81015.	Severability.....	5

§ 81000. Title.

This title shall be known and may be cited as the “Political Reform Act of 1974.”

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18200

§ 81001. Findings and Declarations.

The people find and declare as follows:

(a) State and local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth;

(b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them;

(c) Costs of conducting election campaigns have increased greatly in recent years, and candidates have been forced to finance their campaigns by seeking large contributions from lobbyists and organizations who thereby gain disproportionate influence over governmental decisions;

(d) The influence of large campaign contributors is increased because existing laws for disclosure of campaign receipts and expenditures have proved to be inadequate;

(e) Lobbyists often make their contributions to incumbents who cannot be effectively challenged because of election laws and abusive practices which give the incumbent an unfair advantage;

(f) The wealthy individuals and organizations which make large campaign contributions frequently extend their influence by employing lobbyists and spending large amounts to influence legislative and administrative actions;

(g) The influence of large campaign contributors in ballot measure elections is increased because the ballot pamphlet mailed to the voters by the state is difficult to read and almost impossible for a layman to understand; and

(h) Previous laws regulating political practices have suffered from inadequate enforcement by state and local authorities.

§ 81002. Purposes of Title.

The people enact this title to accomplish the following purposes:

(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

(b) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.

(c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.

(d) The state ballot pamphlet should be converted into a useful document so that voters will not be entirely dependent on paid advertising for information regarding state measures.

(e) Laws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly.

(f) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced.

History: Amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18313.5, 18313.6, 18705, 18708

§ 81003. Construction of Title.

This title should be liberally construed to accomplish its purposes.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18705, 18708

§ 81004. Reports and Statements; Perjury; Verification.*

(a) All reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his knowledge it is true and complete.

(b) A report or statement filed by a committee which qualifies under subdivision (a) of Section 82013 shall be signed and verified by the treasurer, and a report or statement filed by any other person shall be signed and verified by the filer. If the filer is an entity other than an individual, the report or statement shall be signed and verified by a responsible officer of the entity or by an attorney or a certified

public accountant acting as agent for the entity. Every person who signs and verifies any report or statement required to be filed under this title which contains material matter which he knows to be false is guilty of perjury.

History: Amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.6, 18402.2, 18421.10, 18426.1, 18427, 18539.2

Opinions: *In re Layton* (1975) 1 FPPC Ops. 113
In re Augustine (1975) 1 FPPC Ops. 69

*Section 81004 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81004.5. Reports and Statements; Amendments.

Any report or statement filed pursuant to this title may be amended by the filer at any time. Amending an incorrect or incomplete report or statement may be considered as evidence of good faith.

History: Added by Stats. 1976, Ch. 1161.

§ 81005. Reports and Statements; Filing Deadline on Weekend or Holiday.

(a) If this title requires that a statement or report be filed before or on a specified date or during or within a specified period, and the filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for the statement or report shall be extended to the next regular business day.

(b) This extension does not apply to the following statements or reports:

(1) Contribution reports required by Section 84203, subdivision (b) of Section 84203.3, or Section 85309, or the contributor's notice of a late in-kind contribution required by subdivision (a) of Section 84203.3, when the due date for these types of reports falls on a Saturday, Sunday, or official state holiday immediately before an election.

(2) Independent expenditure reports required by Section 84204 or 85500.

History: Added by Stats. 2019, Ch. 312.

§ 81006. Filing Fees Prohibition.

Except as provided in this title, no fee or charge shall be collected by any officer for the filing of any report or statement or for the forms upon which reports or statements are to be prepared.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

§ 81007. Mailing of Report or Statement.*

When a report or statement or copies thereof required to be filed with any officer under this title have been sent by first-class mail or by any other guaranteed overnight delivery service addressed to the officer, it shall for purposes of any deadline be deemed to have been received by him or her on the date of the deposit in the mail or of receipt by that delivery service. It shall be presumed until the contrary is established that any date stamped by the post office on the

envelope or contained on the delivery service receipt containing the report or statement is the date it was deposited in the mail or received by the delivery service. Mail which is not received by the filing officer shall be presumed not to have been sent unless the filer possesses a post office or delivery service receipt establishing the date of deposit and the name and address of the addressee.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1994, Ch. 638.

*Section 81007 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81007.5. Faxing of Report or Statement.*

(a) Any report or statement or copies thereof required to be filed with any official under Chapter 4 (commencing with Section 84100) or Chapter 7 (commencing with Section 87100) may be faxed by the applicable deadline, provided that the required originals or paper copies are sent by first-class mail or by any other personal delivery or guaranteed overnight delivery service within 24 hours of the applicable deadline and provided that the total number of pages of each report or statement faxed is no more than 30 pages.

(b) A faxed report or statement shall not be deemed filed if the faxed report or statement is not a true and correct copy of the original or copy of the report or statement personally delivered or sent by first-class mail or guaranteed overnight delivery service pursuant to subdivision (a).

(c) A filing officer who receives a faxed report or statement shall make the report or statement available to the public in the same manner as provided in Section 81008. If the faxed report or statement is requested prior to the receipt of the original or copy of the report or statement by the filing officer, the filing officer shall inform the requester that the faxed report or statement will not be considered a filed report or statement if the requirements of subdivision (b) have not been met by the filer.

History: Added by Stats. 1994, Ch. 638; amended by Stats. 1997, Ch. 394.

*Section 81007.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81008. Public Records; Inspection; Reproduction; Time; Charges.*

Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from these persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars (\$5) per request for copies of reports and statements which

are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1988, Ch. 1208; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2013, Ch. 654.

*Section 81008 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81009. Preservation of Reports and Statements.*

(a) Statements of organization, registration statements, and original campaign statements of persons holding elective state office, candidates for any such office, committees supporting any such officeholder or candidate, and committees supporting or opposing statewide measures, shall be retained by filing officers indefinitely.

(b) Original campaign statements of mayors, city council members, county supervisors, candidates for any of these offices, and committees supporting any officeholder or candidate shall be retained indefinitely, except that original campaign statements of candidates not elected to these offices and of committees supporting candidates not elected to these offices shall be retained by filing officers for a period of not less than five years.

(c) Original campaign statements of all other persons shall be retained by filing officers for a period of not less than seven years.

(d) Original statements of economic interests of persons holding statewide elective office shall be retained by filing officers indefinitely.

(e) Original reports and statements not specified above in this section shall be retained by filing officers for a period of not less than seven years.

(f) Copies of reports or statements shall be retained by the officer with whom they are filed for a period of not less than four years, provided, however, that a filing officer is not required to retain more than one copy of a report or statement.

(g) After an original report or statement or a copy has been on file for at least two years, the officer with whom it is filed may comply with this section by retaining a copy on microfilm or other space-saving materials available for public inspection instead of the original report or statement or copy. Upon request, the officer shall provide copies of such statements pursuant to Section 81008.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1979, Ch. 531; amended by Stats. 1984, Ch. 390, effective July 11, 1984; amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

*Section 81009 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81009.5. Local Ordinances.

(a) Any local government agency which has enacted, enacts, amends, or repeals an ordinance or other provision of law affecting campaign contributions and expenditures shall file a copy of the action with the Commission.

(b) Notwithstanding Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 (commencing with Section 84100) for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.

History: Added by Stats. 1979, Ch. 531; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1991, Ch. 674.

Opinions: *In re Olson* (2001) 15 FPPC Ops. 13

§ 81010. Duties of the Filing Officer.*

With respect to reports and statements filed with him pursuant to this title, the filing officer shall:

(a) Supply the necessary forms and manuals prescribed by the Commission;

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;

(c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;

(d) Report apparent violations of this title to the appropriate agencies; and

(e) Compile and maintain a current list of all reports and statements filed with this office.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18110, 18115, 18732.5

Opinions: *In re Rundstrom* (1975) 1 FPPC Ops. 188

In re Layton (1975) 1 FPPC Ops. 113

*Section 81010 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81010.5. Duties of Filing Officers; Effect of Non-Compliance.

A filing officer or filing official's failure to comply with a duty or to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements and reports disclosing information as required by this title or any enforceable conflict of interest code.

History: Added by Stats. 2019, Ch. 312.

§ 81011.5. Information on Statewide Petitions.

Any provision of law to the contrary notwithstanding, the election precinct of a person signing a statewide petition shall not be required to appear on the petition when it is filed with the county elections official, nor any additional information regarding a signer other than the information required to be written by the signer.

History: Added by Stats. 1977, Ch. 1095; (Identical to former Section 85203, repealed by Stats. 1977, Ch. 1095); amended Stats. 2002, Ch. 221.

§ 81012. Amendment or Repeal of Title.

This title may be amended or repealed by the procedures set forth in this section. If any portion of subdivision (a) is declared invalid, then subdivision (b) shall be the exclusive means of amending or repealing this title.

(a) This title may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the Commission for distribution to the news media and to every person who has requested the Commission to send copies of such bills to him or her.

(b) This title may be amended or repealed by a statute that becomes effective only when approved by the electors.

History: Amended by Stats. 1976, Ch. 883, effective September 13, 1976; amended by Stats. 1985, Ch. 1200.

§ 81013. Imposition of Additional Requirements.

Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18312,

Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77
In re Miller (1976) 2 FPPC Ops. 91

§ 81014. Regulations.

Whenever any reference is made in this title to a federal or state statute and that statute has been or is subsequently repealed or amended, the Commission may promulgate regulations to carry out the intent of this title as nearly as possible.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18312

§ 81015. Severability.

If any provision of this title, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this title to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this title are severable.

Chapter 2. Definitions.

§ 82000 – 82054

§ 82000.	Interpretation of this Title.....	6
§ 82001.	Adjusting an Amount for Cost of Living Changes.....	6
§ 82002.	Administrative Action.....	6

§ 82003.	Agency.....	6
§ 82004.	Agency Official.....	6
§ 82004.5.	Behested Payment.....	6
§ 82005.	Business Entity.....	7
§ 82006.	Campaign Statement.*.....	7
§ 82007.	Candidate.....	7
§ 82008.	City.....	7
§ 82009.5.	Clerk.....	7
§ 82010.	Closing Date.....	7
§ 82011.	Code Reviewing Body.....	7
§ 82012.	Commission.....	7
§ 82013.	Committee.....	7
§ 82014.	Conflict of Interest Code.....	8
§ 82015.	Contribution.....	8
§ 82015.5.	Contribution; Aggregation.....	8
§ 82016.	Controlled Committee.....	9
§ 82017.	County.....	9
§ 82018.	Cumulative Amount.....	9
§ 82019.	Designated Employee.....	9
§ 82020.	Elected Officer.....	9
§ 82021.	Elected State Officer.....	9
§ 82022.	Election.....	9
§ 82022.5.	Election-Related Activities.....	10
§ 82023.	Elective Office.....	10
§ 82024.	Elective State Office.....	10
§ 82025.	Expenditure.....	10
§ 82025.3.	External Manager.....	12
§ 82025.5.	Fair Market Value.....	12
§ 82026.	Filer.....	12
§ 82027.	Filing Officer.....	12
§ 82027.5.	General Purpose Committee.....	12
§ 82028.	Gift.....	12
§ 82029.	Immediate Family.....	13
§ 82030.	Income.....	13
§ 82030.5.	Income; Earned.....	14
§ 82031.	Independent Expenditure.....	14
§ 82032.	Influencing Legislative or Administrative Action.....	14
§ 82033.	Interest in Real Property.....	14
§ 82034.	Investment.....	14
§ 82035.	Jurisdiction.....	15
§ 82035.5.	LAFCO Proposal.....	15
§ 82036.	Late Contribution.....	15
§ 82036.5.	Late Independent Expenditure.....	15
§ 82037.	Legislative Action.....	15
§ 82038.	Legislative Official.....	15
§ 82038.3.	Lobbying Coalition.....	15
§ 82038.5.	Lobbying Firm.....	15
§ 82039.	Lobbyist.....	16
§ 82039.5.	Lobbyist Employer.....	16
§ 82041.	Local Government Agency.....	16
§ 82041.3.	Made at the Behest of.....	16
§ 82041.5.	Mass Mailing.....	16
§ 82042.	Mayor.....	16
§ 82043.	Measure.....	16
§ 82044.	Payment.....	17
§ 82045.	Payment to Influence Legislative or Administrative Action.....	17
§ 82046.	Period Covered.....	17
§ 82047.	Person.....	17
§ 82047.3.	Placement Agent.....	17
§ 82047.5.	Primarily Formed Committee.....	18
§ 82047.6.	Principal Officer.....	18
§ 82047.7.	Proponent of a State Ballot Measure.....	18
§ 82048.	Public Official.....	18

§ 82048.3. Slate Mailer.....	18
§ 82048.4. Slate Mailer Organization.....	18
§ 82048.5. Special District.....	19
§ 82048.7. Sponsored Committee.....	19
§ 82048.8. Spouse.....	19
§ 82049. State Agency.....	19
§ 82050. State Candidate.....	19
§ 82051. State Measure.....	19
§ 82052. Statewide Candidate.....	19
§ 82052.5. Statewide Election.....	19
§ 82053. Statewide Elective Office.....	19
§ 82054. Statewide Petition.....	19

§ 82000. Interpretation of this Title.

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this chapter shall govern the interpretation of this title.

§ 82001. Adjusting an Amount for Cost of Living Changes.

“Adjusting an amount for cost-of-living changes” means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

History: Amended by Stats. 1978, Ch. 199, effective June 6, 1978.

§ 82002. Administrative Action.

(a) “Administrative action” means either of the following:

(1) The proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, including any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(2) With regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets on behalf of a state public retirement system.

(b) “Ratemaking proceeding” means, for the purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

(c) “Quasi-legislative proceeding” means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons, including, but not limited to, rule-makings and investigations that may establish rules affecting an entire industry.

History: Amended by Stats. 1991, Ch. 491; amended by Stats. 2001, Ch. 921; amended by Stats. 2010, Ch. 668; amended by Stats. 2017, Ch. 561.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18202

Opinions: *In re Evans* (1978) 4 FPPC Ops. 84

In re Leonard (1976) 2 FPPC Ops. 54

In re Nida (1976) 2 FPPC Ops. 1

In re Carson (1975) 1 FPPC Ops. 46

§ 82003. Agency.

“Agency” means any state agency or local government agency.

§ 82004. Agency Official.

“Agency official” means any member, officer, employee or consultant of any state agency who as part of his official responsibilities participates in any administrative action in other than a purely clerical, secretarial or ministerial capacity.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18249

Opinions: *In re Morrissey* (1976) 2 FPPC Ops. 120

In re Morrissey (1976) 2 FPPC Ops. 84

In re Wallace (1975) 1 FPPC Ops. 118

§ 82004.5. Behested Payment.

“Behested payment” means a payment that is made at the behest of a committee, an elected officer, a member of the Public Utilities Commission, or an agent thereof, under any of the following circumstances:

(a) Full and adequate consideration is received from the committee or elected officer.

(b) The payment is made to a different candidate or to a committee not controlled by the behesting candidate.

(c) As to an elected officer, it is clear from the surrounding circumstances that the payment was made for purposes unrelated to the officer’s seeking or holding of elective office. For purposes of this subdivision, a payment is made for purposes related to an elected officer’s seeking or holding of elective office if all or a portion of the payment is used for election-related activities, as defined in Section 82022.5. The following types of payments are presumed to be for purposes unrelated to an elected officer’s seeking or holding of elective office:

(1) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(2) A payment made by a state, local, or federal governmental agency.

(3) A payment made by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) A payment made principally for charitable purposes.

(5) A payment made principally for legislative or governmental purposes by a person other than a state, local, or federal governmental agency.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18215.3

§ 82005. Business Entity.

“Business entity” means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

§ 82006. Campaign Statement.*

“Campaign statement” means an itemized report which is prepared on a form prescribed by the Commission and which provides the information required by Chapter 4 of this title.

References at the time of publication (see page 2):

Opinions: *In re Layton* (1975) 1 FPPC Ops. 113

*Section 82006 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 82007. Candidate.

(a) “Candidate” means any of the following:

(1) Anyone who is listed on a ballot or is qualified to have write-in votes cast on their behalf counted by elections officials for nomination or election to any elective office.

(2) Anyone who receives a contribution, makes an expenditure, or gives their consent for another person to receive a contribution or make an expenditure, to bring about the person’s nomination or election to an elective office, even if any of the following apply:

(A) The specific elective office for which the person will seek nomination or election is unknown at the time the contribution is received or the expenditure is made.

(B) The person has not announced the candidacy or filed a declaration of candidacy.

(3) An elected officer, including any elected officer who is the subject of a recall.

(b) Anyone who becomes a candidate retains candidate status until that status is terminated under Section 84214.

(c) “Candidate” does not include any candidate, as defined in Section 30101(2) of Title 52 of the United States Code, for federal office, as to the person’s activities related to seeking nomination or election to that federal office.

History: Amended by Stats. 1980, Ch. 289; repealed and reenacted as amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18404, 18531.5

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1

In re Lui (1987) 10 FPPC Ops. 10

In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110

§ 82008. City.

“City” means a general law or a chartered city.

§ 82009.5. Clerk.

“Clerk” refers to the city or county clerk unless the city council or board of supervisors has designated any other agency to perform the specified function.

§ 82010. Closing Date.

“Closing date” means the date through which any report or statement filed under this title is required to be complete.

§ 82011. Code Reviewing Body.

“Code reviewing body” means all of the following:

(a) The commission, with respect to the conflict-of-interest code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.

(b) The board of supervisors, with respect to the conflict-of-interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

(c) The city council, with respect to the conflict-of-interest code of any city agency other than the city council.

(d) The Attorney General, with respect to the conflict-of-interest code of the commission.

(e) The Chief Justice of California or his or her designee, with respect to the conflict-of-interest code of the members of the Judicial Council, Commission on Judicial Performance, and Board of Governors of the State Bar of California.

(f) The Board of Governors of the State Bar of California with respect to the conflict-of-interest code of the State Bar of California.

(g) The Chief Justice of California, the administrative presiding judges of the courts of appeal, and the presiding judges of superior courts, or their designees, with respect to the conflict-of-interest code of any agency of the judicial branch of government subject to the immediate administrative supervision of that court.

(h) The Judicial Council of California, with respect to the conflict-of-interest code of any state agency within the judicial branch of government not included under subdivisions (e), (f), and (g).

History: Amended by Stats. 1980, Ch. 779; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 775; amended by Stats. 1995, Ch. 587; amended by Stats. 2003, Ch. 62.

§ 82012. Commission.

“Commission” means the Fair Political Practices Commission.

§ 82013. Committee.

“Committee” means any person or combination of persons who directly or indirectly does any of the following:

(a) Receives contributions totaling two thousand dollars (\$2,000) or more in a calendar year;

(b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or

(c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1980, Ch. 289; amended by Stats. 1984, Ch. 670; amended by Stats. 1987, Ch. 632; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

- Regulations: 2 Cal. Code of Regs. Sections [18402.2](#), 18404.2, 18420.1, [18421.10](#), [18428](#), [18450.3](#), 18521.5,
- Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Welsh (1978) 4 FPPC Ops. 78
In re Kahn (1976) 2 FPPC Ops. 151
In re Lumsdon (1976) 2 FPPC Ops. 140
In re Cannon (1976) 2 FPPC Ops. 133
In re Masini (1976) 2 FPPC Ops. 38
In re Fontana (1976) 2 FPPC Ops. 25
In re Christiansen (1975) 1 FPPC Ops. 170
In re Augustine (1975) 1 FPPC Ops. 69

§ 82014. Conflict of Interest Code.

“Conflict of Interest Code” means a set of rules and regulations adopted by an agency pursuant to Chapter 7 of this title.

§ 82015. Contribution.

(a) “Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for political purposes.

(b) “Contribution” includes all of the following:

(1) The purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of his or her candidacy, other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(2) The transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(3) The payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(A) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(B) The communication is made at the behest of the affected candidate or committee.

(4) A payment made by a person to a multipurpose organization as defined and described in Section 84222.

(5)(A) A payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at

the home of the lobbyist, including the value of the use of the home as a fundraising event venue. A payment described in this paragraph is attributable to the lobbyist for purposes of Section 85702.

(B) A payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue.

(c) “Contribution” does not include any of the following:

(1) Amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(2) Except as provided in paragraph (5) of subdivision (b), a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(3) Volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they will be, directly or indirectly, repaid to him or her.

(4) A behested payment, as defined in Section 82004.5, but only as to the behesting committee, elected officer, or member of the Public Utilities Commission.

History: Amended by Stats. 1980, Ch. 289; amended by Stats. 1997, Ch. 450, effective September 24, 1997; amended by Stats. 2008, Ch. 418; amended by Stats. 2009, Ch. 363; amended by Stats. 2013, Ch. 16, effective July 1, 2014; amended by Stats. 2014, Ch. 882 and 930; amended by Stats. 2015, Ch. 756, effective October 10, 2015; Amended by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

- Regulations: 2 Cal. Code of Regs. Sections 18215, 18215.2, 18216, 18225.7, [18402.2](#), 18420.1, 18421.1, 18421.31, 18422, 18422.1 18423, 18428, 18521.5, 18530.3, 18531.7, 18540, 18572, 18950, 18950.3
- Opinions: *In re Montoya* (1989) 12 FPPC Ops. 7
In re Johnson (1989) 12 FPPC Ops. 1
In re Bell (1988) 11 FPPC Ops. 1
In re Nielsen (1979) 5 FPPC Ops. 18
In re Buchanan (1979) 5 FPPC Ops. 14
In re Reinhardt (1977) 3 FPPC Ops. 83
In re Cannon (1976) 2 FPPC Ops. 133
In re Willmarth (1976) 2 FPPC Ops. 130
In re Adams (1976) 2 FPPC Ops. 127
In re Dixon (1976) 2 FPPC Ops. 70
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Hayes (1975) 1 FPPC Ops. 210
In re Christiansen (1975) 1 FPPC Ops. 170
In re Cory (1975) 1 FPPC Ops. 137

§ 82015.5. Contribution; Aggregation.

(a) To determine when contributions are aggregated under this title, “entity” means any person other than an individual, and “majority owned” means ownership of more than 50 percent.

(b) If an individual directs or controls an entity’s contributions, the entity’s contributions shall be aggregated with contributions made by both of the following:

(1) That individual.

(2) Any other entity whose contributions that individual directs or controls.

(c) If two or more entities make contributions that are directed or controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by a person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their contribution-making decisions.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18428, 18450.1, 18450.3

§ 82016. Controlled Committee.

(a) “Controlled committee” means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205, is not a controlled committee.

History: Amended by Stats. 1983, Ch. 898; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18217, 18405, 18521.5

§ 82017. County.

“County” includes a city and county.

§ 82018. Cumulative Amount.

(a) Except as provided in subdivisions (b), (c), and (d), “cumulative amount” means the amount of contributions received or expenditures made in the calendar year.

(b) For a filer required to file a campaign statement or independent expenditure report in one year in connection with an election to be held in another year, the period over which the cumulative amount is calculated shall end on the closing date of the first semiannual statement filed after the election.

(c) For a filer required to file a campaign statement in connection with the qualification of a measure which extends into two calendar years, the period over which the cumulative amount is calculated shall end on December 31 of the second calendar year.

(d) For a person filing a campaign statement with a period modified by the provisions of this section, the next period over which the cumulative amount is calculated shall begin on the day after the closing date of the statement.

History: Amended by Stats. 1976, Ch. 1106; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats. 1985, Ch. 1456; amended by Stats. 1992, Ch. 405; amended by Stats. 1993, Ch. 769.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4

§ 82019. Designated Employee.

(a) “Designated employee” means any officer, employee, member, or consultant of any agency whose position with the agency:

(1) Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical, or manual.

(2) Is elective, other than an elective state office.

(3) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

(4) Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

(b)(1) “Designated employee” does not include an elected state officer, any unsalaried member of any board or commission which serves a solely advisory function, any public official specified in Section 87200, and also does not include any unsalaried member of a nonregulatory committee, section, commission, or other such entity of the State Bar of California.

(2) “Designated employee” does not include a federal officer or employee serving in an official federal capacity on a state or local government agency. The state or local government agency shall annually obtain, and maintain in its files for public inspection, a copy of any public financial disclosure report filed by the federal officer or employee pursuant to federal law.

History: Amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 1108; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18219, 18700.3

§ 82020. Elected Officer.

“Elected officer” means any person who holds an elective office or has been elected to an elective office but has not yet taken office. A person who is appointed to fill a vacant elective office is an elected officer.

§ 82021. Elected State Officer.

“Elected state officer” means any person who holds an elective state office or has been elected to an elective state office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elected state officer.

§ 82022. Election.

“Election” means any primary, general, special or recall election held in this state. The primary and general or special elections are separate elections for purposes of this title.

§ 82022.5. Election-Related Activities.

“Election-related activities” include, but are not limited to, the following with respect to candidate-based elections:

(a) Communications that contain express advocacy of the nomination or election of a candidate or the defeat of his or her opponent.

(b) Communications that contain reference to a candidate’s candidacy for elective office, the candidate’s election campaign, or the candidate’s or his or her opponent’s qualifications for elective office.

(c) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(d) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in subdivisions (a) to (c), inclusive.

(e) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(f) Preparing campaign budgets.

(g) Preparing campaign finance disclosure statements.

(h) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

History: Added by Stats. 2017, Ch. 749.

§ 82023. Elective Office.

“Elective office” means any state, regional, county, municipal, district or judicial office that is filled at an election. “Elective office” also includes membership on a county central committee of a qualified political party, and membership through election on the Board of Administration of the Public Employees’ Retirement System or the Teachers’ Retirement Board.

History: Amended by Stats. 1998, Ch. 923; amended by Stats. 2010, Ch. 633.

§ 82024. Elective State Office.

“Elective state office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, member elected to the Board of Administration of the Public Employees’ Retirement System, member elected to the Teachers’ Retirement Board, and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 1998, Ch. 923; amended by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723

§ 82025. Expenditure.

(a) “Expenditure” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. “Expenditure” does not include a candidate’s use of the candidate’s own money to pay for either a filing fee for

a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

(b) A payment is made for political purposes if it is any of the following:

(1) For purposes of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure.

(2) Made by any of the following:

(A) A candidate, unless it is clear from surrounding circumstances that the payment was made for personal purposes unrelated to the candidate’s candidacy or status as an officeholder.

(B) A controlled committee.

(C) An official committee of a political party, including a state central committee, county central committee, assembly district committee, or any subcommittee of such committee.

(D) An organization formed or existing primarily for political purposes, as described in paragraph (1), including, but not limited to, a political action committee established by any membership organization, labor union, or corporation.

(c) “Expenditure” includes any monetary or nonmonetary payment made by any person, other than the persons or organizations described in subdivision (b), that is used for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage, or defeat of a clearly identified ballot measure.

(1) “Clearly identified” is defined as follows:

(A) A candidate is clearly identified if the communication states the candidate’s name, makes unambiguous reference to the candidate’s office or status as a candidate, or unambiguously describes the candidate in any manner.

(B) A group of candidates is clearly identified if the communication makes unambiguous reference to some well-defined characteristic of the group, even if the communication does not name each candidate. A communication that clearly identifies a group of candidates and expressly advocates their election or defeat is reportable as an expenditure, but the expenditure need not be allocated among all members of the class or group on the campaign statement reporting the expenditure.

(C) A measure that has qualified to be placed on the ballot is clearly identified if the communication states a proposition number, official title, or popular name associated with the measure. In addition, the measure is clearly identified if the communication refers to the subject matter of the measure and either states that the measure is before the people for a vote or, taken as a whole and in context, unambiguously refers to the measure.

(D) A measure that has not qualified to be placed on the ballot is clearly identified if the communication refers to the subject matter of the measure and the qualification drive.

(2) A communication “expressly advocates” the nomination, election, or defeat of a candidate or the qualification,

passage, or defeat of a measure if it contains express words of advocacy such as “vote for,” “elect,” “support,” “cast your ballot,” “vote against,” “defeat,” “reject,” “sign petitions for,” or, within 60 days before an election in which the candidate or measure appears on the ballot, the communication otherwise refers to a clearly identified candidate or measure so that the communication, taken as a whole, unambiguously urges a particular result in an election.

(A) Except for those communications paid for with public moneys by a state or local government agency, a communication, taken as a whole, unambiguously urges a particular result in an election if it is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure. A communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure when, taken as a whole, it could only be interpreted by a reasonable person as containing an appeal to vote for or against a specific candidate or measure because of both of the following:

(i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning.

(ii) Reasonable minds could not differ as to whether it encourages a vote for or against a clearly identified candidate or measure, or encourages some other kind of action on a legislative, executive, or judicial matter or issue.

(B) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that in most contexts would not be susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure: “Smith’s the One”; “No Measure A”; “Rally ‘round O’Malley”; “Create jobs with Measure X”; “Only Nancy Brown can clean out City Hall”; “Proposition 123 - your last chance to save California”; “Joe Green will earn your trust”; “Bob Boone is unqualified for office and a special-interest puppet”; “Shirley Hall - bad for California, bad for you.”

(C) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that would be susceptible of a reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure: “Assembly Member Nancy Brown needs to be tough on criminals. Call her and tell her to stand firm on AB 100”; “Poor children need a home too. Support the Mayor’s stance against more budget cuts”; “Thank you, Supervisor Smith, for continuing to support our farmers.”

(D) Safe Harbor. A communication does not expressly advocate the nomination, election, or defeat of a candidate, or the qualification, passage, or defeat of a measure, within the meaning of this section, if both of the following apply:

(i) The communication does not mention an election, candidacy, political party unless required by law, opposing candidate, or voting by the general public, and it does not take a position on the character, qualifications, or fitness for office of a candidate or officeholder, or the merits of a ballot measure.

(ii) The communication focuses on a legislative, executive, or judicial matter or issue, either urging a candidate to take a particular position or action with respect to the matter or issue, or urging the public to adopt a particular position and to contact the candidate with respect to the matter or issue.

(E) Rules of Interpretation. If a communication does not qualify for the safe harbor described in subparagraph (D), the commission shall consider if the communication has an interpretation other than as an appeal to vote for or against a clearly identified candidate or measure, in order to determine if, on balance, the communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or measure.

(3) Reporting Expenditures.

(A) The amount of an expenditure reportable pursuant to this subdivision shall include all costs directly attributable to the communication, including, but not limited to, salaries, production, postage, space or time purchased, agency fees, printing, and any additional administrative or overhead costs attributable to the communication. The expenditure does not include any of the regular ongoing business overhead that will be incurred in similar amounts regardless of the communication.

(B) When a printed or broadcast communication circulates outside the state, the expenditure may be calculated on the basis of the fraction of the total cost attributable to circulation within the state.

(C) Costs directly traceable to the communication are reportable when the communication is made, or when payments are made in connection with the development, production, or dissemination of the communication, whichever occurs first.

(D) The costs of printing and distributing petitions, recruiting, training, and paying expenses of petition circulators, and other costs incurred in connection with the qualification of a measure are reportable expenditures.

(4) Except for those communications paid for with public moneys by a state or local government agency, notwithstanding this subdivision, “expenditure” does not include costs incurred for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage, or defeat of a clearly identified measure or measures by either of the following:

(A) A broadcasting station, including a cable or satellite television operation, programmer, or producer, internet website, or a regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication, that routinely carries news and commentary of general interest, for the cost of covering or carrying a news story, commentary, or editorial.

(B) A regularly published newsletter or regularly published periodical, other than those specified in subparagraph (A), whose circulation is limited to an organization’s members, employees, shareholders, other affiliated individuals, and those who request or purchase the publication. This subparagraph applies only to the costs regularly incurred in publishing the newsletter or periodical. If additional costs are

incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size, or format, the additional costs are expenditures.

(5) The term “expenditure” also does not include uncompensated internet activity by an individual supporting or opposing a candidate or measure as stated in Section 18215.2 of Title 2 of the California Code of Regulations.

(d) A payment used to make contributions, as defined in Section 82015, is an expenditure.

History: Amended by Stats. 1997, Ch. 394; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.2, 18225.4, 18225.7, 18421.1, 18421.6, 18423, 18450.11, 18526, 18530.3, 18531.7

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10
In re Buchanan (1979) 5 FPPC Ops. 14
In re Welsh (1978) 4 FPPC Ops. 78
In re Cannon (1976) 2 FPPC Ops. 133
In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Hayes (1975) 1 FPPC Ops. 210
In re Christiansen (1975) 1 FPPC Ops. 170
In re Kelly, Masini (1975) 1 FPPC Ops. 162

§ 82025.3. External Manager.

(a) “External manager” means either of the following:

(1) A person who is seeking to be, or is, retained by a state public retirement system in California or an investment vehicle to manage a portfolio of securities or other assets for compensation.

(2) A person who manages an investment fund and who offers or sells, or has offered or sold, an ownership interest in the investment fund to a state public retirement system in California or an investment vehicle.

(b) For purposes of this section, “investment fund” has the same meaning as set forth in Section 7513.8.

(c) For purposes of this section, “investment vehicle” has the same meaning as set forth in Section 82047.3.

History: Added by Stats. 2010, Ch. 668; amended by Stats. 2011, Ch. 704, effective October 9, 2011.

§ 82025.5. Fair Market Value.

“Fair market value” means the estimated fair market value of goods, services, facilities or anything of value other than money. Whenever the amount of goods, services, facilities, or anything of value other than money is required to be reported under this title, the amount reported shall be the fair market value, and a description of the goods, services, facilities, or other thing of value shall be appended to the report or statement. “Full and adequate consideration” as used in this title means fair market value.

History: Added by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Opinions: *In re Hopkins* (1977) 3 FPPC Ops. 107
In re Stone (1977) 3 FPPC Ops. 52
In re Thomas (1977) 3 FPPC Ops. 30
In re Cory (1975) 1 FPPC Ops. 153

§ 82026. Filer.

“Filer” means the person filing or required to file any statement or report under this title.

§ 82027. Filing Officer.

“Filing officer” means the office or officer with whom any statement or report is required to be filed under this title. If copies of a statement or report are required to be filed with more than one office or officer, the one first named is the filing officer, and the copy filed with him shall be signed in the original and shall be deemed the original copy.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18227, 18227.5

§ 82027.5. General Purpose Committee.

(a) “General purpose committee” means all committees pursuant to subdivision (b) or (c) of Section 82013, and any committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5.

(b) A “state general purpose committee” is a political party committee, as defined in Section 85205, or a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

(c) A “county general purpose committee” is a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.

(d) A “city general purpose committee” is a committee to support or oppose candidates or measures voted on in only one city.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 2004, Ch. 623, effective September 21, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18227.5, 18421.8, 18521.5

§ 82028. Gift.

(a) “Gift” means, except as provided in subdivision (b), any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(b) The term “gift” does not include:

(1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed “informational material.”

(2) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section

501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 of this title.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

History: Amended by Stats. 1978, Ch. 641; amended by Stats. 1986, Ch. 654; amended by Stats. 1997, Ch. 450, effective September 24, 1997.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18730.1, 18932.4, 18940, 18940.1, 18941, 18942, 18942.1, 18942.2, 18942.3, 18943, 18944, 18944.1, 18944.2, 18944.3, 18944.4, 18945, 18945.2, 18945.4, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5, 18950, 18950.1, 18950.2, 18950.3

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Hopkins (1977) 3 FPPC Ops. 107
In re Stone (1977) 3 FPPC Ops. 52
In re Gutierrez (1977) 3 FPPC Ops. 44
In re Thomas (1977) 3 FPPC Ops. 30
In re Nida (1977) 3 FPPC Ops. 1
In re Torres (1976) 2 FPPC Ops. 31
In re Brown (1975) 1 FPPC Ops. 677
In re Hayes (1975) 1 FPPC Ops. 210
In re Russel (1975) 1 FPPC Ops. 191
In re Cory (1975) 1 FPPC Ops. 153
In re Cory (1975) 1 FPPC Ops. 137
In re Cory (1976) 2 FPPC Ops. 48
In re Spellman (1975) 1 FPPC Ops. 16
In re Lunardi (1975) 1 FPPC Ops. 97

§ 82029. Immediate Family.

"Immediate family" means the spouse and dependent children.

History: Amended by Stats. 1980, Ch. 1000.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18234

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 82030. Income.

(a) "Income" means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. "Income," other than a gift, does not include income received from any source

outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) "Income" also does not include:

(1) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100).

(2) Salary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) Any devise or inheritance.

(4) Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.

(6) Redemption of a mutual fund.

(7) Alimony or child support payments.

(8) Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status.

(9) Any loan from or payments received on a loan made to an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan or loan payment received from any such person shall be considered income if he or she is acting as an agent or intermediary for any person not covered by this paragraph.

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status.

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

(12) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the filer sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1977, Ch. 344, effective August 20, 1977; amended by Stats. 1978, Ch. 641; amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch.

931; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2002, Ch. 172; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18230, 18232, 18234, 18235, 18728.5, 18940, 18944, 18950.1, 18950.2, 18950.3

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Elmore (1978) 4 FPPC Ops. 8
In re Carey (1977) 3 FPPC Ops. 99
In re Moore (1977) 3 FPPC Ops. 33
In re Hayes (1975) 1 FPPC Ops. 210
In re Brown (1975) 1 FPPC Ops. 67

§ 82030.5. Income; Earned.

(a) For purposes of this title, “earned income” means, except as provided in subdivision (b), income from wages, salaries, professional fees, and other amounts received or promised to be received as compensation for personal services rendered.

(b) Income which is not “earned income” includes, but is not limited to, the following:

(1) Any income derived from stocks, bonds, property, or other investments, or from retail or wholesale sales.

(2) Any amount paid by, or on behalf of, an elected state officer to a tax-qualified pension, profit sharing, or stock bonus plan and received by the elected state officer from the plan.

(3) The community property interest in the income of a spouse.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229
 Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 82031. Independent Expenditure.

“Independent expenditure” means an expenditure made by any person, including a payment of public moneys by a state or local governmental agency, in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

History: Formerly titled “Independent Committee.” Repealed by Stats. 1979, Ch. 779. Added by Stats. 1980, Ch. 289. (Formerly Section 82031.5.) Amended by Stats. 2009, Ch. 363.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18225.7, 18420.1, 18521.5, 18530.3

§ 82032. Influencing Legislative or Administrative Action.

“Influencing legislative or administrative action” means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

References at the time of publication (see page 2):

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Leonard (1976) 2 FPPC Ops. 54
In re Nida (1976) 2 FPPC Ops. 1

§ 82033. Interest in Real Property.

“Interest in real property” includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18233, 18234, 18235, 18729

Opinions: *In re Overstreet* (1981) 6 FPPC Ops. 12

§ 82034. Investment.

“Investment” means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000). The term “investment” does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or in a common trust fund created pursuant to Section 1564 of the Financial Code, interest in a government defined-benefit pension plan, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a 10-percent interest or greater. The term “parent, subsidiary or otherwise related business entity” shall be specifically defined by regulations of the commission.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130; amended by Stats. 2007, Ch. 348.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18230, 18234, 18235, 18237

Opinions: *In re Nord* (1983) 8 FPPC Ops. 6

In re Baty (1979) 5 FPPC Ops. 10
In re Elmore (1978) 4 FPPC Ops. 8

§ 82035. Jurisdiction.

“Jurisdiction” means the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction. Real property shall be deemed to be “within the jurisdiction” with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

History: Amended by Stats. 1975, Ch. 499, effective September 5, 1975; amended by Stats. 1993, Ch. 769.

§ 82035.5. LAFCO Proposal.

“LAFCO proposal” means a proposal, as defined in Section 56069, including a proceeding, as defined by Section 56067.

History: Added by Stats. 2008, Ch. 192; amended by Stats. 2009, Ch. 113.
 References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

§ 82036. Late Contribution.

“Late contribution” means any of the following:

(a) A contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure during the 90-day period preceding the date of the election, or on the date of the election, at which the candidate or measure is to be voted on. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

(b) A contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a political party committee, as defined in Section 85205, within 90 days before the date of a state election or on the date of the election.

History: Amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats. 2004, Ch. 623, effective September 21, 2004; amended by Stats. 2005, Ch. 22; amended by Stats. 2010, Ch. 633; amended by Stats. 2012, Ch. 496; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18425

§ 82036.5. Late Independent Expenditure.

“Late independent expenditure” means an independent expenditure that totals in the aggregate one thousand dollars (\$1,000) or more and is made for or against a specific candidate or measure involved in an election during the 90-day period preceding the date of the election or on the date of the election. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

History: Added by Stats. 1980, Ch. 289; amended by Stats. 2010, Ch. 633; amended by Stats. 2012, Ch. 496; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18550

§ 82037. Legislative Action.

“Legislative action” means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his official capacity. “Legislative action” also means the action of the Governor in approving or vetoing any bill.

References at the time of publication (see page 2):

Opinions: *In re Cohen* (1975) 1 FPPC Ops. 10

§ 82038. Legislative Official.

“Legislative official” means any employee or consultant of the Legislature whose duties are not solely secretarial, clerical or manual.

References at the time of publication (see page 2):

Opinions: *In re Morrissey* (1976) 2 FPPC Ops. 120

§ 82038.3. Lobbying Coalition.

(a) “Lobbying coalition” means a group of 10 or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for sharing the expenses of employing a lobbyist or contracting for the services of a lobbying firm.

(b) For purposes of Sections 86115 and 86116, a lobbying coalition shall file the same statements and reports as a lobbyist employer.

(c) A bona fide federation, confederation, or trade, labor, or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action.

(d) A person making payments to a lobbying coalition does not qualify as a lobbying firm or lobbyist employer as a result of those payments.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18616.4

§ 82038.5. Lobbying Firm.

(a) “Lobbying firm” means any business entity, including an individual contract lobbyist, which meets either of the following criteria:

(1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

(2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with

any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action.

(b) No business entity is a lobbying firm by reason of activities described in Section 86300.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18238.5

§ 82039. Lobbyist.

(a) “Lobbyist” means either of the following:

(1) Any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.

(2) A placement agent, as defined in Section 82047.3.

(b) An individual is not a lobbyist by reason of activities described in Section 86300.

(c) For the purposes of subdivision (a), a proceeding before the Public Utilities Commission constitutes “administrative action” if it meets any of the definitions set forth in subdivision (b) or (c) of Section 82002. However, a communication made for the purpose of influencing this type of Public Utilities Commission proceeding is not within subdivision (a) if the communication is made at a public hearing, public workshop, or other public forum that is part of the proceeding, or if the communication is included in the official record of the proceeding.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1984, Ch. 161; amended by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2001, Ch. 921; amended by Stats. 2010, Ch. 668.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18239, 18601

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Morrissey (1976) 2 FPPC Ops. 84
In re Leonard (1976) 2 FPPC Ops. 54
In re Zenz (1975) 1 FPPC Ops. 195
In re Hardie (1975) 1 FPPC Ops. 140
In re Stern (1975) 1 FPPC Ops. 59
In re McCarthy (1975) 1 FPPC Ops. 50
In re Carson (1975) 1 FPPC Ops. 46
In re California Labor Federation (1975) 1 FPPC Ops. 28
In re Cohen (1975) 1 FPPC Ops. 10

§ 82039.5. Lobbyist Employer.

“Lobbyist employer” means any person, other than a lobbying firm, who:

(a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or

(b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.

History: Added by Stats. 1985, Ch. 1183, Effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18239.5

§ 82041. Local Government Agency.

“Local government agency” means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

History: Amended by Stats. 1984, Ch. 727, effective July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18754

Opinions: *In re Rotman* (1987) 10 FPPC Ops. 1
In re Leach (1978) 4 FPPC Ops. 48
In re Siegel (1977) 3 FPPC Ops. 62
In re Witt (1975) 1 FPPC Ops. 1

§ 82041.3. Made at the Behest of.

“Made at the behest of” means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.3, 18225.7

§ 82041.5. Mass Mailing.

“Mass mailing” means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.

History: Amended by Proposition 73 on the June 1988 statewide primary ballot, effective June 8, 1988; amended by Stats. 1988, Ch. 1027.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18435, 18901.1

Opinions: *In re Welsh* (1978) 4 FPPC Ops. 78
In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 82042. Mayor.

“Mayor” of a city includes mayor of a city and county.

§ 82043. Measure.

“Measure” means any constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a legislative body, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum or recall procedure whether or not it qualifies for the ballot.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.5

Opinions: *In re Fontana* (1976) 2 FPPC Ops. 25

§ 82044. Payment.

“Payment” means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18944, 18950.1

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Gutierrez (1977) 3 FPPC Ops. 44
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Cory (1975) 1 FPPC Ops. 137

§ 82045. Payment to Influence Legislative or Administrative Action.

“Payment to influence legislative or administrative action” means any of the following types of payment:

(a) Direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing or contracting for the services of the lobbyist separately or jointly with other persons;

(b) Payment in support or assistance of a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(c) Payment which directly or indirectly benefits any elective state official, legislative official or agency official or a member of the immediate family of any such official;

(d) Payment, including compensation, payment or reimbursement for the services, time or expenses of an employee, for or in connection with direct communication with any elective state official, legislative official or agency official;

(e) Payment for or in connection with soliciting or urging other persons to enter into direct communication with any elective state official, legislative official or agency official.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229.1

Opinions: *In re Kovall* (1978) 4 FPPC Ops. 95
In re Nida (1977) 3 FPPC Ops. 1
In re Morrissey (1976) 2 FPPC Ops. 84
In re Naylor (1976) 2 FPPC Ops. 65
In re Leonard (1976) 2 FPPC Ops. 54
In re Gillies (1975) 1 FPPC Ops. 165
In re Morrissey (1975) 1 FPPC Ops. 130

§ 82046. Period Covered.

(a) “Period covered” by a statement or report required to be filed by this title, other than a campaign statement, means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which was required to be filed, and ending with the closing date of the statement or report in question. If the person filing the statement or report has not previously filed a statement or report of the same type, the period covered begins on the day on which the first reportable

transaction occurred. Nothing in this chapter shall be interpreted to exempt any person from disclosing transactions which occurred prior to the effective date of this title according to the laws then in effect.

(b) “Period covered” by a campaign statement required to be filed by this title means, unless a different period is specified, the period beginning the day after the closing date of the most recent campaign statement which was required to be filed and ending with the closing date of the statement in question. If a person has not previously filed a campaign statement, the period covered begins on January 1.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Opinions: *In re Welsh* (1978) 4 FPPC Ops. 78
In re Juvinal, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 82047. Person.

“Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

History: Amended by Stats. 1994, Ch. 1010.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs., Sections 18432.5

Opinions: *In re Lumsdon* (1976) 2 FPPC Ops. 140
In re Witt (1975) 1 FPPC Ops. 1

§ 82047.3. Placement Agent.

(a) “Placement agent” means an individual directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager or an investment fund managed by an external manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to a state public retirement system in California or an investment vehicle either of the following:

(1) In the case of an external manager within the meaning of paragraph (1) of subdivision (a) of Section 82025.3, the investment management services of the external manager.

(2) In the case of an external manager within the meaning of paragraph (2) of subdivision (a) of Section 82025.3, an ownership interest in an investment fund managed by the external manager.

(b) Notwithstanding subdivision (a), an individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager and who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager is not a placement agent.

(c) Notwithstanding subdivision (a), an employee, officer, or director of an external manager, or of an affiliate of an external manager, is not a placement agent with respect

to an offer or sale of investment management services described in subdivision (a) if all of the following apply:

(1) The external manager is registered as an investment adviser or a broker-dealer with the Securities and Exchange Commission or, if exempt from or not subject to registration with the Securities and Exchange Commission, any appropriate state securities regulator.

(2) The external manager is participating in a competitive bidding process, such as a request for proposals, subject to subdivision (a) of Section 22364 of the Education Code or subdivision (a) of Section 20153 of this code, as applicable, or has been selected through that process, and is providing services pursuant to a contract executed as a result of that competitive bidding process.

(3) The external manager, if selected through a competitive bidding process described in paragraph (2), has agreed to a fiduciary standard of care, as defined by the standards of conduct applicable to the retirement board of a public pension or retirement system and set forth in Section 17 of Article XVI of the California Constitution, when managing a portfolio of assets of a state public retirement system in California.

(d) For purposes of this section, “investment fund” has the same meaning as set forth in Section 7513.8.

(e) For purposes of this section, “investment vehicle” means a corporation, partnership, limited partnership, limited liability company, association, or other entity, either domestic or foreign, managed by an external manager in which a state public retirement system in California is the majority investor and that is organized in order to invest with, or retain the investment management services of, other external managers.

History: Added by Stats. 2010, Ch. 668; amended by Stats. 2011, Ch. 704, effective October 9, 2011.

§ 82047.5. Primarily Formed Committee.

“Primarily formed committee” means a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose any of the following:

- (a) A single candidate.
- (b) A single measure.
- (c) A group of specific candidates being voted upon in the same city, county, or multicounty election.
- (d) Two or more measures being voted upon in the same city, county, multicounty, or state election.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1990, Ch. 626; amended by Stats. 1991, Ch. 191; amended by Stats. 1995, Ch. 295.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18247.5, 18421.8, 18521.5

§ 82047.6. Principal Officer.

(a) “Principal officer” means the individual primarily responsible for approving the political activities of a committee, including, but not limited to, the following activities:

- (1) Authorizing the content of communications made by the committee.
- (2) Authorizing expenditures, including contributions, on behalf of the committee.

(3) Determining the committee’s campaign strategy.

(b) If two or more individuals share the primary responsibility for approving the political activities of a committee, each individual is a principal officer.

History: Added by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.10

§ 82047.7. Proponent of a State Ballot Measure.

“Proponent of a state ballot measure” means “proponent” as defined in Section 9002 of the Elections Code.

History: Added by Stats. 1988, Ch. 704; amended by Stats. 1994, Ch. 923; renumbered by Stats. 2012, Ch. 496. (Formerly Section 82047.6.)

§ 82048. Public Official.

(a) “Public official” means every member, officer, employee or consultant of a state or local government agency.

(b) Notwithstanding subdivision (a), “public official” does not include the following:

(1) A judge or court commissioner in the judicial branch of government.

(2) A member of the Board of Governors and designated employees of the State Bar of California.

(3) A member of the Judicial Council.

(4) A member of the Commission on Judicial Performance, provided that he or she is subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

(5) A federal officer or employee serving in an official federal capacity on a state or local government agency.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18700.3, 18940.1

Opinions: *In re Rotman* (1987) 10 FPPC Ops. 1
In re Maloney (1977) 3 FPPC Ops. 69
In re Siegel (1977) 3 FPPC Ops. 62

§ 82048.3. Slate Mailer.

“Slate mailer” means a mass mailing which supports or opposes a total of four or more candidates or ballot measures.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18401.1

§ 82048.4. Slate Mailer Organization.

(a) “Slate mailer organization” means, except as provided in subdivision (b), any person who, directly or indirectly, does all of the following:

(1) Is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers.

(2) Receives or is promised payments totaling five hundred dollars (\$500) or more in a calendar year for the production of one or more slate mailers.

(b) Notwithstanding subdivision (a), a slate mailer organization shall not include any of the following:

(1) A candidate or officeholder or a candidate's or officeholder's controlled committee.

(2) An official committee of any political party.

(3) A legislative caucus committee.

(4) A committee primarily formed to support or oppose a candidate, officeholder, or ballot measure.

(c) The production and distribution of slate mailers by a slate mailer organization shall not be considered making contributions or expenditures for purposes of subdivision (b) or (c) of Section 82013. If a slate mailer organization makes contributions or expenditures other than by producing or distributing slate mailers, and it reports those contributions and expenditures pursuant to Sections 84218 and 84219, no additional campaign reports shall be required of the slate mailer organization pursuant to Section 84200 or 84200.5.

History: Added by Stats. 1987, Ch. 905; renumbered by Stats. 1988, Ch. 160.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18401.1

§ 82048.5. Special District.

"Special district" means any agency of the state established for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or zone, an air pollution control district, or a redevelopment agency. "Special district" shall not include a city, county, city and county, or school district.

History: Added by Stats. 1994, Ch. 36.

§ 82048.7. Sponsored Committee.

(a) "Sponsored committee" means a committee, other than a candidate controlled committee, that has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives 80 percent or more of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

(c) A sponsor that is a multipurpose organization, as defined in subdivision (a) of Section 84222, and that makes contributions or expenditures from its general treasury funds shall comply with Section 84222.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1988, Ch. 1155; amended by Stats. 1991, Ch. 130; amended by Stats. 2005, Ch. 200; amended by Stats. 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18419, 18421.1

§ 82048.8. Spouse.

"Spouse" includes registered domestic partners recognized by state law.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18943

§ 82049. State Agency.

"State agency" means every state office, department, division, bureau, board and commission, and the Legislature.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18249, 18754

§ 82050. State Candidate.

"State candidate" means a candidate who seeks nomination or election to any elective state office.

§ 82051. State Measure.

"State measure" means any measure which is submitted or is intended to be submitted to the voters of the state.

§ 82052. Statewide Candidate.

"Statewide candidate" means a candidate who seeks election to any statewide elective office.

§ 82052.5. Statewide Election.

"Statewide election" means an election for statewide elective office.

§ 82053. Statewide Elective Office.

"Statewide elective office" means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 82054. Statewide Petition.

"Statewide petition" means a petition to qualify a proposed state measure.

Chapter 3. Fair Political Practices

Commission.

§ 83100 – 83124

§ 83100.	Establishment; Membership.....	20
§ 83101.	Appointment by Governor.....	20
§ 83102.	Appointment by Attorney General, Secretary of State and Controller.....	20
§ 83103.	Terms of Office.....	20
§ 83104.	Vacancies; Quorum.....	20
§ 83105.	Qualifications; Removal.....	20
§ 83106.	Compensation; Expenses.....	20
§ 83107.	Executive Officer; Staff; Staff Compensation.....	20
§ 83108.	Delegation of Authority.....	20
§ 83109.	Civil Service Classification.....	21

§ 83110.	Offices; Public Meetings.....	21
§ 83111.	Administration and Implementation of Title....	21
§ 83111.5.	Actions to Implement Title.	21
§ 83112.	Rules and Regulations.....	21
§ 83113.	Additional Duties.....	21
§ 83114.	Requests For and Issuances of Opinions; Advice.....	21
§ 83115.	Investigations; Notice.	22
§ 83115.5.	Findings of Probable Cause; Requirements. ...	22
§ 83116.	Violation of Title.	22
§ 83116.3.	Administrative Law Judge; Rejection.	22
§ 83116.5.	Liability for Violations; Administrative.....	22
§ 83117.	Authority of Commission.	22
§ 83117.5.	Receipt of Gift.	22
§ 83118.	Subpoena Powers.....	23
§ 83119.	Self-Incrimination.....	23
§ 83120.	Judicial Review.....	23
§ 83121.	Judicial Advancement of Action.....	23
§ 83122.	Fair Political Practices Commission; Appropriation.....	23
§ 83123.5.	Enforcement of San Bernardino County Campaign Ordinance.	23
§ 83123.6.	Enforcement of Local Government Campaign and Ethics Ordinance.	24
§ 83124.	Cost of Living Adjustment.....	25

§ 83100. Establishment; Membership.

There is hereby established in state government the Fair Political Practices Commission. The Commission shall have five members, including the chairman. No more than three members of the Commission shall be members of the same political party.

§ 83101. Appointment by Governor.

The chairman and one additional member of the Commission shall be appointed by the Governor. The Governor's appointees shall not be members of the same political party.

§ 83102. Appointment by Attorney General, Secretary of State and Controller.

(a) The Attorney General, the Secretary of State and the Controller shall each appoint one member of the Commission.

(b) If the Attorney General, the Secretary of State and the Controller are all members of the same political party, the chairman of the state central committee of any other political party with a registration of more than five hundred thousand may submit to the Controller a list of not less than five persons who are qualified and willing to be members of the Commission. The list shall be submitted not less than ten days after the effective date of this chapter for the Controller's initial appointment, and not later than January 2 immediately prior to any subsequent appointment by the Controller. If the Controller receives one or more lists pursuant to this section, his appointment shall be made from one of such lists.

§ 83103. Terms of Office.

Members and the chairman of the Commission shall serve four-year terms beginning on February 1 and ending on January 31 or as soon thereafter as their successors are

qualified, except that the initial appointees under Section 83102 shall serve six-year terms. No member or chairman who has been appointed at the beginning of a term is eligible for reappointment.

History: Amended by Stats. of 1987, Ch. 624.

§ 83104. Vacancies; Quorum.

Vacancies on the Commission shall be filled, within thirty days, by appointment of the same official who appointed the prior holder of the position. The provisions of Section 83102 (b) are not applicable to the filling of vacancies. Appointments to fill vacancies shall be for the unexpired term of the member or chairman whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise all of the powers of the board. Three members shall constitute a quorum.

§ 83105. Qualifications; Removal.

Each member of the Commission shall be an elector. No member of the Commission, during his or her tenure, shall hold, any other public office, serve as an officer of any political party or partisan organization, participate in or contribute to an election campaign, or employ or be employed as a lobbyist nor, during his or her term of appointment, seek election to any other public office. Members of the Commission may be removed by the Governor, with concurrence of the Senate, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this section, after written notice and opportunity for a reply.

History: Amended by Stats. 1986, Ch. 620.

§ 83106. Compensation; Expenses.

The chairman of the Commission shall be compensated at the same rate as the president of the Public Utilities Commission. Each remaining member shall be compensated at the rate of one hundred dollars (\$100) for each day on which he engages in official duties. The members and chairman of the Commission shall be reimbursed for expenses incurred in performance of their official duties.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18307

§ 83107. Executive Officer; Staff; Staff Compensation.

The Commission shall appoint an executive director who shall act in accordance with Commission policies and regulations and with applicable law. The Commission shall appoint and discharge officers, counsel and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18327

§ 83108. Delegation of Authority.

The Commission may delegate authority to the chairman or the executive director to act in the name of the Commission between meetings of the Commission.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18319, 18361.9, 18363,
18751

§ 83109. Civil Service Classification.

For purposes of Section 19818.6, a nonclerical position under the Commission shall not be included in the same class in the civil service classification plan with any position of any other department or agency.

History: Amended by Stats. 2013, Ch. 654.

§ 83110. Offices; Public Meetings.

The principal office of the Commission shall be in Sacramento but it may establish offices, meet, and exercise its powers at any other place in the state. Meetings of the Commission shall be public except that the Commission may provide otherwise for discussions of personnel and litigation.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18310, 18310.1

§ 83111. Administration and Implementation of Title.

The Commission has primary responsibility for the impartial, effective administration and implementation of this title.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18200, 18310.1,
18361.10

§ 83111.5. Actions to Implement Title.

The Commission shall take no action to implement this title that would abridge constitutional guarantees of freedom of speech, that would deny any person of life, liberty, or property without due process of law, or that would deny any person the equal protection of the laws.

History: Added by Stats. 1999, Ch. 225.

§ 83112. Rules and Regulations.

The Commission may adopt, amend and rescind rules and regulations to carry out the purposes and provisions of this title, and to govern procedures of the Commission. These rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.) and shall be consistent with this title and other applicable law.

History: Fair Political Practices Commission v. Office of Administrative Law and Linda Stockdale Brewer, Sacramento County Superior Court, Case No. 512795 (affirmed by Court of Appeal, Third District (April 27, 1992), Case No. C010924).

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18200, 18312, 18327,
18351, 18402, 18420, 18420.1, 18423, 18435, 18440,
18450.1, 18450.5, 18521.5, 18531.5, 18535, 18539.2

§ 83113. Additional Duties.

The Commission shall, in addition to its other duties, do all of the following:

(a) Prescribe forms for reports, statements, notices and other documents required by this title.

(b) Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this title, and explaining the duties of persons and committees under this title.

(c) Provide assistance to agencies and public officials in administering the provisions of this title.

(d) Maintain a central file of local campaign contribution and expenditure ordinances forwarded to it by local government agencies.

(e) Annually publish a booklet not later than March 1 that sets forth the provisions of this title and includes other information the Commission deems pertinent to the interpretation and enforcement of this title. The Commission shall provide a reasonable number of copies of the booklet at no charge for the use of governmental agencies and subdivisions thereof that request copies of the booklet.

The Commission may charge a fee, not to exceed the prorated cost of producing the booklet, for providing copies of the booklet to other persons and organizations.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1999, Ch. 855.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18313, 18313.5, 18313.6

§ 83114. Requests For and Issuances of Opinions; Advice.

(a) Any person may request the Commission to issue an opinion with respect to his duties under this title. The Commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. No person who acts in good faith on an opinion issued to him by the Commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The Commission's opinions shall be public records and may from time to time be published.

(b) Any person may request the Commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the Commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the Commission to provide advice within 21 days of the request or such later extended time.

History: Amended by Stats. 1976, Ch. 1080.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18320, 18321, 18322,
18324, 18326, 18329, 18329.5

§ 83115. Investigations; Notice.

Upon the sworn complaint of any person or on its own initiative, the Commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action. Within 14 days after receipt of a complaint under this section, the Commission shall notify in writing the person who made the complaint of the action, if any, the Commission has taken or plans to take on the complaint, together with the reasons for such action or nonaction. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

History: Amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18360, 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18362

§ 83115.5. Findings of Probable Cause; Requirements.

No finding of probable cause to believe this title has been violated shall be made by the Commission unless, at least 21 days prior to the Commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the Commission a written request that the proceeding be public.

History: Added by Stats. 1976, Ch. 1080.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18362

§ 83116. Violation of Title.

When the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The commission shall have all the powers granted by that chapter. When the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (a) Cease and desist violation of this title.
- (b) File any reports, statements, or other documents or information required by this title.

- (c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.5, 18316.6, 18360.2, 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18361.9, 18361.10, 18361.11, 18362

§ 83116.3. Administrative Law Judge; Rejection.

Whenever the Commission rejects the decision of an administrative law judge made pursuant to Section 11517, the Commission shall state the reasons in writing for rejecting the decision.

History: Added by Stats. 1999, Ch. 297.

§ 83116.5. Liability for Violations; Administrative.

Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and a violation of this section shall not constitute an additional violation under Chapter 11 (commencing with Section 91000).

History: Added by Stats. 1984, Ch. 670; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.5, 18316.6, 18402.2

§ 83117. Authority of Commission.

The Commission may:

- (a) Accept grants, contributions and appropriations;
- (b) Contract for any services which cannot satisfactorily be performed by its employees;
- (c) Employ legal counsel. Upon request of the Commission, the Attorney General shall provide legal advice and representation without charge to the Commission.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18327

§ 83117.5. Receipt of Gift.

It shall be unlawful for a member of the Commission to receive a gift of ten dollars (\$10) or more per month.

"Gift" as used in this section means a gift made directly or indirectly by a state candidate, an elected state officer, a legislative official, an agency official, or a lobbyist or by any person listed in Section 87200.

History: Added by Stats. 1975, Ch. 797, effective September 16, 1975.

§ 83118. Subpoena Powers.

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18363

§ 83119. Self-Incrimination.

The Commission may refuse to excuse any person from testifying, or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the Commission notwithstanding an objection that the testimony or evidence required of him may tend to incriminate him. No individual shall be prosecuted in any manner or subjected to any penalty or forfeiture whatever for or on account of any transaction, act, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. No immunity shall be granted to any witness under this section unless the Commission has notified the Attorney General of its intention to grant immunity to the witness at least thirty days in advance, or unless the Attorney General waives this requirement.

§ 83120. Judicial Review.

An interested person may seek judicial review of any action of the Commission.

§ 83121. Judicial Advancement of Action.

If judicial review is sought of any action of the Commission relating to a pending election, the matter shall be advanced on the docket of the court and put ahead of other actions. The court may, consistent with due process of law, shorten deadlines and take other steps necessary to permit a timely decision.

§ 83122. Fair Political Practices Commission; Appropriation.

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) during the fiscal year of 1974-1975, and the sum of one million dollars (\$1,000,000), adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the Commission pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the Commission and other agencies as may be necessary to carry out the provisions of this title.

The Department of Finance, in preparing the state budget and the Budget Bill submitted to the Legislature,

shall include an item for the support of the Political Reform Act of 1974, which item shall indicate all of the following: (1) the amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of such agencies; (2) the additional amounts required to be appropriated by the Legislature to the Commission to carry out the purposes of this title, as provided for in this section; and (3) in parentheses, for informational purposes, the continuing appropriation during each fiscal year of one million dollars (\$1,000,000) adjusted for cost-of-living changes made to the Commission by this section.

The definition of "expenditure" in Section 82025 is not applicable to this section.

History: Amended by Stats. 1976, Ch. 1075, effective September 21, 1976.

§ 83123.5. Enforcement of San Bernardino County Campaign Ordinance.

(a) Upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, the Commission is authorized to assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance passed by the Board of Supervisors of the County of San Bernardino. The Commission is authorized to be the civil prosecutor responsible for the civil enforcement of that local campaign finance reform ordinance in accordance with this title. As the civil prosecutor of the County of San Bernardino's local campaign finance reform ordinance, the Commission may do both of the following:

(1) Investigate possible violations of the local campaign finance reform ordinance.

(2) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(b) Any local campaign finance reform ordinance of the County of San Bernardino enforced by the Commission pursuant to this section shall comply with this title.

(c) The Board of Supervisors of the County of San Bernardino shall consult with the Commission prior to adopting and amending any local campaign finance reform ordinance that is subsequently enforced by the Commission pursuant to this section.

(d)(1) The Board of Supervisors of the County of San Bernardino and the Commission may enter into any agreements necessary and appropriate to carry out the provisions of this section, including agreements pertaining to any necessary reimbursement of state costs with county funds for costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance reform ordinance pursuant to this section.

(2) An agreement entered into pursuant to this subdivision shall not contain any form of a cancellation fee, a liquidated damages provision, or other financial disincentive to the exercise of the right to terminate the agreement pursuant to subdivision (c), except that the Commission may require the Board of Supervisors of the County of San Bernardino to pay the Commission for services rendered and any other

expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement in the event that the Board of Supervisors of the County of San Bernardino terminates the agreement.

(e) The Board of Supervisors of the County of San Bernardino or the Commission may, at any time, by ordinance or resolution, terminate any agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance reform ordinance or any provision thereof.

History: Added by Stats. 2012, Ch. 169; amended by Stats. 2016, Ch. 202; amended by Stats. 2019, Ch. 315.

§ 83123.6. Enforcement of Local Government Campaign and Ethics Ordinance.

(a)(1) Upon mutual agreement between the Commission and the governing body of a local government agency, the Commission may assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance or government ethics law passed by the local government agency.

(2)(A) Upon approval of an agreement pursuant to paragraph (1), the Commission shall be the civil prosecutor responsible for the civil enforcement of the local campaign finance or government ethics law of the local government agency in accordance with this title.

(B) As the civil prosecutor, the Commission may do all of the following with respect to the local campaign finance or government ethics law:

(i) Provide advice.

(ii) Investigate possible violations.

(iii) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(iv) Bring civil actions.

(C) The Commission shall not be required to obtain authorization from the local government agency to bring an administrative or civil action pursuant to subparagraph (B).

(b) A local campaign finance or government ethics law of the local government agency enforced by the Commission pursuant to this section shall comply with this title.

(c) The governing body of the local government agency shall consult with the Commission before adopting and amending any local campaign finance or government ethics law that is subsequently enforced by the Commission pursuant to this section.

(d)(1) The governing body of the local government agency and the Commission shall enter into any agreements necessary and appropriate to carry out the provisions of paragraph (1) of subdivision (a), including agreements pertaining to any necessary local reimbursement of direct and indirect costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance or government ethics law pursuant to this section. Before approving an agreement for local reimbursement, the Commission shall submit the proposed agreement to the Department of General Services for review. The Commission may approve the agreement 90 days after submitting it to the Department

of General Services or after receiving the department's written review of the agreement, whichever occurs first. The Commission shall submit an approved agreement, along with any review received, to the Department of Finance.

(2) An agreement entered into pursuant to this subdivision shall not contain a cancellation fee, a liquidated damages provision, or other financial disincentive to terminate the agreement pursuant to subdivision (e), except that, if the local government agency terminates the agreement, the Commission may require the governing body of the local government agency to pay the Commission for services rendered and any other expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement.

(e) The governing body of the local government agency or the Commission may, at any time, by ordinance or resolution, terminate an agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance ordinance or any provision thereof. The termination shall be effective 90 days after the enactment of the ordinance or resolution unless an agreement between the local government and the Commission requires a longer period.

(f) The Commission shall conspicuously post on its Internet Web site a list of every local government agency that it has entered into agreement with pursuant to this section.

(g) An agreement for the enforcement of a local campaign finance or government ethics law between the Commission and the City of Stockton, or the City of Sacramento that was in effect on December 31, 2018, shall be deemed to comply with this section.

(h) If an agreement is entered into pursuant to this section, the Commission shall report to the Legislature regarding the performance of that agreement on or before January 1, 2025, and shall submit that report in compliance with Section 9795. The Commission shall develop the report in consultation with the governing body of the local government agency. The report shall include, but not be limited to, all of the following:

(1) The status of the agreement.

(2) The estimated annual cost savings, if any, for the local government agency.

(3) A summary of relevant annual performance metrics, including measures of use, enforcement, and customer satisfaction.

(4) Public comments submitted to the Commission or the local government agency relative to the operation of the agreement.

(5) Legislative recommendations.

(i) This section does not apply to a jurisdiction with a population of 3,000,000 or more or to the County of San Bernardino.

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

History: Added by Stats. 2015, Ch. 186, effective January 1, 2016; repealed and added by Stats. 2018, Ch. 394.

§ 83124. Cost of Living Adjustment.

The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18544, 18545, 18531.10

Chapter 4. Campaign Disclosure.**§ 84100 – 84511**

Article 1.	Organization of Committees. § 84100 – 84108..	25
Article 2.	Filing of Campaign Statements. § 84200 – 84225	
	.....	28
Article 2.5.	Campaign Reporting Requirements LAFCO	
	Proposals. § 84250 – 84252	43
Article 3.	Prohibitions. § 84300 – 84310.....	43
Article 4.	Exemptions. § 84400.....	48
Article 5.	Advertisements. § 84501 – 84511.....	48

Article 1. Organization of Committees.**§ 84100 – 84108**

§ 84100.	Treasurer.	25
§ 84101.	Statement of Organization; Filing.*	25
§ 84101.5.	Annual Fees.*	26
§ 84102.	Statement of Organization; Contents.*	26
§ 84103.	Statement of Organization; Amendment.*	27
§ 84104.	Recordkeeping.	28
§ 84105.	Notification to Contributors.	28
§ 84106.	Sponsored Committee; Identification.	28
§ 84107.	Ballot Measure Committee; Identification.	28
§ 84108.	Slate Mailer Organization; Statement of Organization.*	28

§ 84100. Treasurer.

Every recipient committee, as defined by subdivision (a) of Section 82013, shall have a treasurer. An expenditure shall not be made by or on behalf of a committee without the authorization of the treasurer or the treasurer's designated agents. A contribution or expenditure shall not be accepted or made by or on behalf of a committee when the office of treasurer is vacant.

(b) A recipient committee, as defined by subdivision (a) of Section 82013, may designate one assistant treasurer on the committee's statement of organization. The assistant treasurer may sign and verify a campaign statement on behalf of the committee if the assistant uses reasonable diligence to prepare and review the statement and signs to that effect under penalty of perjury as required by Section 81004.

History: Repealed and reenacted as amended by Stats. 1979, Ch. 779, amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.6, 18401, 18426.1, 18427

Opinions: *In re Augustine* (1975) 1 FPPC Ops. 69

§ 84101. Statement of Organization; Filing.*

(a) A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file a statement of organization. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has

qualified as a committee. The Secretary of State shall assign a number to each committee that files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the county elections official of each county that he or she deems appropriate. A county elections official who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of the statement to the clerk of each city in the county that he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.8 or 84200.9, the committee shall file, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) If an independent expenditure committee qualifies as a committee pursuant to subdivision (a) of Section 82013 during the time period described in Section 82036.5 and makes independent expenditures of one thousand dollars (\$1,000) or more to support or oppose a candidate or candidates for office, the committee shall file, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this section shall be filed with the filing officer with whom the committee is required to file the original of its campaign reports pursuant to Section 84215, and shall be filed at all locations required for the candidate or candidates supported or opposed by the independent expenditures. The filings required by this section are in addition to filings that may be required by Section 84204.

(d) For purposes of this section, in calculating whether two thousand dollars (\$2,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate's personal funds.

History: Amended by Stats. 1978, Ch. 551; amended by Stats. 1979, Ch. 531; amended by Stats. 1986, Ch. 544; amended by Stats. 1992, Ch. 405; amended by Stats. 2001, Ch. 901; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2010, Ch. 633; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.1, 18404, 18410, 18421.8, 18503, 18520, 18521

*Section 84101 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84101.5. Annual Fees.*

(a) Notwithstanding Section 81006, the Secretary of State shall charge each committee that is required to file a statement of organization pursuant to subdivision (a) of Section 84101, and each committee that is required to file a statement of organization pursuant to subdivision (a) of Section 84101 shall pay, a fee of fifty dollars (\$50) per year until the committee is terminated pursuant to Section 84214.

(b) A committee shall pay the fee prescribed in subdivision (a) no later than 15 days after filing its statement of organization.

(c)(1) A committee annually shall pay the fee prescribed in subdivision (a) no later than January 15 of each year.

(2) A committee that is created and pays the initial fee pursuant to subdivision (b) in the final three months of a calendar year is not subject to the annual fee pursuant to paragraph (1) for the following calendar year.

(3) A committee that existed prior to January 1, 2013, shall pay the fee prescribed in subdivision (a) no later than February 15, 2013, and in accordance with paragraph (1) in each year thereafter. A committee that terminates pursuant to Section 84214 prior to January 31, 2013, is not required to pay a fee pursuant to this paragraph.

(d)(1) A committee that fails to timely pay a fee required by this section is subject to a penalty equal to three times the amount of the fee.

(2) The Commission shall enforce the requirements of this section.

History: Added by Stats. 2012, Ch. 506.

*Section 84101.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84102. Statement of Organization; Contents.*

The statement of organization required by Section 84101 shall include all of the following:

(a) The name, street address, **email address**, and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. If a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address, and telephone number of each sponsor.

(c) The full name, street address, **email address**, and telephone number of the treasurer and any other principal officers.

(1) A committee with more than one principal officer shall identify its principal officers as follows:

(A) A committee with three or fewer principal officers shall identify all principal officers.

(B) A committee with more than three principal officers shall identify no fewer than three principal officers.

(2) If no individual other than the treasurer is a principal officer, the treasurer shall be identified as both the treasurer and the principal officer.

(d) (1) An acknowledgment by any person identified as a treasurer or assistant treasurer on the statement of organization of the following:

(A) By serving as treasurer or assistant treasurer, the person must comply with all applicable duties stated in this title and the regulations of the Commission.

(B) A violation of these duties could result in criminal, civil, or administrative penalties.

(2) A failure to complete the acknowledgment pursuant to paragraph (1) is not a violation of this title. However, the Secretary of State shall not accept a statement of organization unless the acknowledgment has been completed.

(3) This subdivision shall not become operative until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602.

(e) The full name and office sought by a candidate, and the title and ballot number, if any, of any measure, that the committee supports or opposes as its primary activity. A committee that does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics, such as a political party preference.

(f) A statement whether the committee is independent or controlled and, if it is controlled, the name of each candidate or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly. If a committee is controlled by a candidate for partisan or voter-nominated office, the controlled committee shall indicate the political party, if any, for which the candidate has disclosed a preference.

(g) For a committee that is a committee by virtue of subdivision (a) or (b) of Section 82013, the name and address of the financial institution in which the committee has established an account and the account number.

(h) Other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1977, Ch. 1095; amended by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats. 1990, Ch. 655; amended by Stats. 1992, Ch. 223; amended by Stats. 2000, Ch. 853; amended by Stats. 2012, Ch. 496; amended by Stats. 2013, Ch. 654.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402, 18402.1, 18404.1, 18410, 18419, 18421.8, 18430, 18503, 18521.5

Opinions: *In re Petris* (1975) 1 FPPC Ops. 20

*Section 84102 was amended by AB 909 (Stats. 2019, Ch. 313); subdivision (d) is not operative until the Secretary of State certifies an online filing and disclosure system under Section 84602 (b)(7). For more information, please refer to Appendix V.

§ 84103. Statement of Organization; Amendment.*

(a) If there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change. The committee shall file the original of the amendment online or electronically with the Secretary of State and shall also file a copy of the amendment with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(b) In addition to filing an amendment to a statement of organization as required by subdivision (a), a committee as defined in subdivision (a) of Section 82013 shall file an amendment to its statement of organization within 24 hours if the change requiring the amendment occurs within 16 days before the date of the election in connection with which the committee is required to file a preelection statement, and if any of the following information is changed:

(1) The name of the committee.

(2) The name of the treasurer or other principal officers.

(3) The name of any candidate or committee by which the committee is controlled or with which it acts jointly.

The amendment shall include the changed information, the date of the change, and the committee's name and identification number.

The committee shall file a the original of the amendment online or electronically with the Secretary of State and a copy with the local filing officer, if any, with whom the committee is required to file the original of its campaign reports, by email, fax, online transmission, guaranteed overnight delivery, or personal delivery.

(c)(1) If an amendment to a statement of organization identifies a new treasurer or assistant treasurer that person shall complete the acknowledgment required by subdivision (d) of Section 84102.

(2) A failure to complete the acknowledgment pursuant to paragraph (1) is not a violation of this title. However, the Secretary of State shall not accept an amendment to a statement of organization that identifies a new treasurer or assistant treasurer unless the acknowledgment has been completed.

(3) This subdivision shall not become operative until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602.

History: Amended by Stats. 1986, Ch. 544; amended by Stats. 1987, Ch. 479; amended by Stats. 2000, Ch. 853; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.1, 18404.1, 18410, 18503, 18521.5

*Section 84103 was amended by SB 1239 (Stats. 2018, Ch. 662) and AB 909 (Stats. 2019, Ch. 313); subdivision (c) is not operative until the Secretary of State certifies an online filing and disclosure system under Section 84602 (b)(7). For more information, please refer to Appendix V.

§ 84104. Recordkeeping.

It shall be the duty of each candidate, treasurer, principal officer, and elected officer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of this chapter. The detailed accounts, records, bills, and receipts shall be retained by the filer for a period specified by the Commission. However, the Commission shall not require retention of records for a period longer than the statute of limitations specified in Section 91000.5 or two years after the adoption of an audit report pursuant to Chapter 10 (commencing with Section 90000), whichever is less.

History: Added by Stats. 1979, Ch. 779; amended by Stats. 2004, Ch. 483; amended by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections **18360.1**, 18401, 18421.31, 18422.1, 18426.1, 18531.62

§ 84105. Notification to Contributors.

(a) A candidate or committee that receives contributions totaling five thousand dollars (\$5,000) or more from a person in a calendar year shall inform that contributor within two weeks of receipt that the contributor may be required to file campaign reports. The notice shall include a reference to the filing requirements for multipurpose organizations under Section 84222.

(b) A candidate or committee that receives a contribution of ten thousand dollars (\$10,000) or more from a person during a period in which late-contribution reports are required to be filed under Section 84203 shall provide the information in subdivision (a) of that section to the contributor within one week.

(c) The notifications required by this section need not be sent to a contributor who has an identification number assigned by the Secretary of State issued under Section 84101.

History: Added by Stats. 1984, Ch. 670; amended by Stats. 2014, Ch. 16, effective July 1, 2014; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18427.1

§ 84106. Sponsored Committee; Identification.

(a) Whenever identification of a sponsored committee is required by this title, the identification shall include the full name of the committee as required in its statement of organization.

(b) A sponsored committee shall use only one name in its statement of organization.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats. 2004, Ch. 484.

§ 84107. Ballot Measure Committee; Identification.

Within 30 days of the designation of the numerical order of propositions appearing on the ballot, any committee which is primarily formed to support or oppose a ballot measure, shall, if supporting the measure, include the statement, “a committee for Proposition ____,” or, if opposing the

measure, include the statement, “a committee against Proposition ____,” in any reference to the committee required by law.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18531.5

§ 84108. Slate Mailer Organization; Statement of Organization.*

(a) Every slate mailer organization shall comply with the requirements of Sections 84100, 84101, 84103, and 84104.

(b) The statement of organization of a slate mailer organization shall include:

(1) The name, street address, and telephone number of the organization. In the case of an individual or business entity that qualifies as a slate mailer organization, the name of the slate mailer organization shall include the name by which the individual or entity is identified for legal purposes. Whenever identification of a slate mailer organization is required by this title, the identification shall include the full name of the slate mailer organization as contained in its statement of organization.

(2) The full name, street address, and telephone number of the treasurer and other principal officers.

(3) The full name, street address, and telephone number of each person with final decisionmaking authority as to which candidates or measures will be supported or opposed in the organization’s slate mailers.

(c) The statement of organization shall be filed with the Secretary of State within 10 days after the slate mailer organization receives or is promised five hundred dollars (\$500) or more for producing one or more slate mailers. However, if an entity qualifies as a slate mailer organization before the date of an election in which it is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84218, the slate mailer organization shall file with the Secretary of State, by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a slate mailer organization, the information required to be reported in the statement of organization.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1996, Ch. 892; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18402.1

*Section 84108 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

**Article 2. Filing of Campaign Statements.
§ 84200 – 84225**

§ 84200. Semi-Annual Statements.....	29
§ 84200.5. Preelection Statements.....	29
§ 84200.8. Timing for Filing Preelection Statements.*	30

§ 84200.9. Time for Filing Preelection Statements for Candidates for the Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.	30
§ 84202.3. Campaign Statements; Ballot Measure Committees.	30
§ 84202.7. Time for Filing by Committees of Odd-Numbered Year Reports.	31
§ 84203. Late Contribution; Reports.*	31
§ 84203.3. Late In-Kind Contributions.	31
§ 84204. Late Independent Expenditures; Reports.*	31
§ 84204.5. Ballot Measure Contributions and Expenditures; Reports.*	32
§ 84205. Combination of Statements.	33
§ 84206. Candidates Who Receive or Spend Less Than \$2,000.	33
§ 84207. County Central Committee Candidates Who Receive or Spend Less Than \$2,000.	33
§ 84209. Consolidated Statements.	34
§ 84211. Contents of Campaign Statement.*	34
§ 84212. Forms; Loans.	35
§ 84213. Verification.*	36
§ 84214. Termination.	36
§ 84215. Campaign Statements; Where to File.*	36
§ 84216. Loans.	37
§ 84216.5. Loans Made by a Candidate or Committee.	37
§ 84217. Federal Office Candidates; Places Filed.*	37
§ 84218. Slate Mailer Organization; Campaign Statements.	37
§ 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.*	38
§ 84220. Slate Mailer Organization; Late Payments.	39
§ 84221. Slate Mailer Organization; Termination.	39
§ 84222. Multipurpose Organizations.	39
§ 84222.5. Publicly Funded Nonprofit Organizations.	41
§ 84223. Top Ten Contributor Lists.	41
§ 84224. Behested Payment Disclosure.*	42
§ 84225. Public Employees' Retirement Board and Teachers' Retirement Board Candidates.	42

§ 84200. Semi-Annual Statements.

(a) Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than two hundred dollars (\$200) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(A) The judge has not received any contributions.

(B) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other candidates or committees totaling less than one thousand dollars (\$1,000).

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures, including payments to a slate mailer organization, during the six-month period before the closing date of the statements.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing Campaign Statements in Connection with Elections Held at Times Other Than the State Direct Primary or the State General Election.") Amended by Stats. 1981, Ch. 78; amended by Stats. 1982, Ch. 1069; amended by Stats. 1983, Ch. 898; amended by Stats. 1984, Ch. 1368; repealed and reenacted as amended by Stats. 1985, Ch. 1456; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 581; amended by Stats. 1994, Ch. 1129; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18405, 18420, 18426

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10
In re Sampson (1975) 1 FPPC Ops. 183
In re Kelly, Masini (1975) 1 FPPC Ops. 162
In re Goodwin (1975) 1 FPPC Ops. 24

§ 84200.5. Preelection Statements.

(a) In addition to the semiannual campaign statements required by Section 84200, the following elected officers, candidates, and committees shall file preelection statements under **Section** 84200.8:

(1) All candidates appearing on the ballot at the next election, their controlled committees, and committees primarily formed to support or oppose an elected officer, candidate, or measure appearing on the ballot for the next election.

(2) All elected state officers and candidates for elective state office who are not appearing on the ballot at the next state primary or general election, and who, during the preelection reporting periods covered by Section 84200.8, make contributions or independent expenditures totaling five hundred dollars (\$500) or more to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at the next state primary or general election.

(3) A state or county general purpose committee formed pursuant to subdivision (a) of Section 82013, other than a political party committee as defined in Section 85205, that, during the preelection reporting periods covered by **Section** 84200.8, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at the next state primary or general election. However, a state or county general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the preelection statements specified in Section 84200.8.

(4) A political party committee as defined in Section 85205 that, during the preelection reporting periods covered

by Section 84200.8, receives contributions totaling one thousand dollars (\$1,000) or more, or makes contributions or independent expenditures totaling five hundred dollars (\$500) or more, to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at a state election.

(5) A city general purpose committee formed pursuant to subdivision (a) of Section 82013 that, during the preelection reporting periods covered by Section 84200.8, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to a city general purpose committee formed within the same jurisdiction, or to support or oppose a candidate or measure appearing on the ballot at the next city election. However, a city general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the preelection statements specified in Section 84200.8.

(b) During an election period for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board, the following candidates and committees shall file the preelection statements specified in Section 84200.9:

(1) All candidates for these boards, their controlled committees, and committees primarily formed to support or oppose the candidates.

(2) A state or county general purpose committee formed pursuant to subdivision (a) of Section 82013 that, during the preelection reporting periods covered by Section 84200.9, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to support or oppose a candidate for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board. However, a general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the statements specified in Section 84200.9.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1988, Ch. 1281 effective September 26, 1988; amended by Stats. 1991, Ch. 505; amended by Stats. 1991, Ch. 1077; amended by Stats. 1993, Ch. 769; amended by Stats. 1999, Ch. 158, effective July 23, 1999; amended by Stats. 1999, Ch. 855; amended by Stats. 2004, Ch. 623, effective September 21, 2004; amended by Stats. 2010, Ch. 633; repealed and adopted by Stats. 2015, Ch. 364, effective January 1, 2016; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18405

§ 84200.8. Timing for Filing Preelection Statements.*

Preelection statements shall be filed under this section as follows:

(a) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election.

(b) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or

oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(c) For runoff elections held within 60 days of the qualifying election, an additional preelection statement for the period ending 17 days before the runoff election shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or personal delivery.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 984.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18405

*Section 84200.8 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84200.9. Time for Filing Preelection Statements for Candidates for the Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.

Preelection statements for an election period for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board shall be filed as follows:

(a) For the period ending five days before the beginning of the ballot period, as determined by the relevant board, a statement shall be filed no later than two days before the beginning of the ballot period.

(b) For the period ending five days before the deadline to return ballots, as determined by the relevant board, a statement shall be filed no later than two days before the deadline to return ballots.

(c) In the case of a runoff election, for the period ending five days before the deadline to return runoff ballots, as determined by the relevant board, a statement shall be filed no later than two days before the deadline to return runoff ballots.

(d) All candidates being voted upon, their controlled committees, and committees primarily formed to support or oppose a candidate being voted upon in that election shall file the statements specified in subdivisions (b) and (c) by guaranteed overnight delivery service or by personal delivery.

History: Added by Stats. 2010, Ch. 633.

§ 84202.3. Campaign Statements; Ballot Measure Committees.

(a) In addition to the campaign statements required by Section 84200, committees pursuant to subdivision (a) of Section 82013 that are primarily formed to support or oppose the qualification, passage, or defeat of a measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification,

passage, or defeat of a state ballot measure, shall file campaign statements on the following dates:

(1) No later than April 30 for the period January 1 through March 31.

(2) No later than October 31 for the period July 1 through September 30.

(b) This section does not apply to a committee during any semiannual period in which the committee is required to file preelection statements pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 84200.5.

(c) This section does not apply to a committee following the election at which the measure is voted upon unless the committee makes contributions or expenditures to support or oppose the qualification or passage of another ballot measure.

History: Added by Stats. 1991, Ch. 696; amended by Stats. 1993, Ch. 769; amended by Stats. 2019, Ch. 102.

§ 84202.7. Time for Filing by Committees of Odd-Numbered Year Reports.

During an odd-numbered year, any committee by virtue of Section 82013 that makes contributions totaling ten thousand dollars (\$10,000) or more to elected state officers, their controlled committees, or committees primarily formed to support or oppose any elected state officer during a period specified below shall file campaign statements on the following dates:

(a) No later than April 30 for the period of January 1 through March 31.

(b) No later than October 31 for the period of July 1 through September 30.

History: Added by Stats. 1986, Ch. 984; amended by Stats. 1993, Ch. 218; amended by Stats. 2000, Ch. 130; amended by Stats. 2019, Ch. 315.

§ 84203. Late Contribution; Reports.*

(a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and

within 24 hours of the time it is received in the case of the recipient. If a late contribution is required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

(e) The report required pursuant to this section is not required to be filed by a candidate or committee that has disclosed the late contribution pursuant to subdivision (a) or (b) of Section 85309.

History: Amended and renumbered by Stats. 1977, Ch. 1193. (Formerly Section 84201.) (Former Section 84203, titled "Measure; Committee; Time for Filing Campaign Statement," repealed by Stats. 1977, Ch. 1193.) Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing When a Special, General or Runoff Election is Held Less than 60 Days Following the Primary Election.") Repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Committee Preelection Statement.") amended by Stats. 1992, Ch. 89; amended by Stats. 2002, Ch. 211; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18117, 18401, 18421.1, 18421.2, 18425, 18435

*Section 84203 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84203.3. Late In-Kind Contributions.

(a) Any candidate or committee that makes a late contribution that is an in-kind contribution shall notify the recipient in writing of the value of the in-kind contribution. The notice shall be received by the recipient within 24 hours of the time the contribution is made.

(b) Nothing in this section shall relieve a candidate or committee that makes a late in-kind contribution or the recipient of a late in-kind contribution from the requirement to file late contribution reports pursuant to Section 84203. However, a report filed by the recipient of a late in-kind contribution shall be deemed timely filed if it is received by the filing officer within 48 hours of the time the contribution is received.

History: Added by Stats. 1995, Ch. 77.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18421.1, 18425

§ 84204. Late Independent Expenditures; Reports.*

(a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made. If a late independent expenditure is

required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported with a late independent expenditure report by this subdivision is required to be reported on more than one late independent expenditure report.

(c) A committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

(e) Expenditures that have been disclosed by candidates and committees pursuant to Section 85500 are not required to be disclosed pursuant to this section.

History: Former Section 84204, titled "Support of Both Candidates and Measures; Filing Requirements," repealed by Stats. 1977, Ch. 1193; former Section 84202 amended by Stats. 1976, Ch. 1106; renumbered to 84204 by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing; Committees Supporting or Opposing the Qualification of a Measure and Proponents of State Measures"); repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Candidate Preelection Statement"); amended by Stats. 1992, Ch. 89; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections **18550.24**

*Section 84204 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84204.5. Ballot Measure Contributions and Expenditures; Reports.*

(a) In addition to any other report required by this title, a committee pursuant to subdivision (a) of Section 82013 that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State each time it makes contributions totaling five thousand dollars (\$5,000) or more or each time it makes independent expenditures totaling five thousand dollars (\$5,000) or more to support or oppose the qualification or passage of a single state ballot measure. The report shall be filed within 10 business days of making the contributions or independent expenditures and shall contain all of the following:

(1) The full name, street address, and identification number of the committee.

(2) The number or letter of the measure if the measure has qualified for the ballot and has been assigned a number or letter; the title of the measure if the measure has not been assigned a number or letter but has been issued a title by the Attorney General; or the subject of the measure if the measure has not been assigned a number or letter and has not been issued a title by the Attorney General.

(3) In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to whom the contribution was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the contribution requiring a report under this section, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the contribution requiring a report under this section. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(4) In the case of an independent expenditure, the date, amount, and a description of the goods or services for which the expenditure was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the expenditure. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(b) In addition to any other report required by this title, a committee pursuant to subdivision (a) of Section 82013 shall file a report each time it makes contributions totaling five thousand dollars (\$5,000) or more or independent expenditures aggregating five thousand dollars (\$5,000) or more to support or oppose the qualification of a single local initiative or referendum ballot measure. A committee that is required to file a report under this subdivision shall file the report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the local initiative or referendum ballot measure. The report shall be filed within 10 business days of reaching the aggregate dollar threshold and shall contain all of the following:

(1) The full name, street address, and identification number of the committee.

(2) The name or subject of the measure.

(3) In the case of an independent expenditure, the date, amount, and a description of the goods or services for which the expenditure was made. In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to which the contribution was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the contribution or expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the contribution or expenditure. The information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is not required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(c) Reports required by this section are not required to be filed by a committee primarily formed to support or oppose the qualification or passage of a state ballot measure or the qualification of a local initiative or referendum ballot measure for expenditures made on behalf of the ballot measure or measures for which it is formed.

(d) Independent expenditures that have been disclosed by a committee pursuant to Section 84204 or 85500 are not required to be disclosed pursuant to this section.

History: Added by Stats. 2006, Ch. 438; amended by Stats. 2017 Ch. 183.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18466

*Section 84204.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84205. Combination of Statements.

The Commission may by regulation or written advice permit candidates and committees to file campaign statements combining statements and reports required to be filed by this title.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Closing Dates"); amended by Stats. 1981, Ch. 78; repealed and reenacted by Stats. 1985, Ch. 1456. (Formerly titled "Candidates Who Receive or Spend Less than \$500.")

§ 84206. Candidates Who Receive or Spend Less Than \$2,000.

(a) The commission shall provide by regulation for a short form for filing reports required by this article for candidates or officeholders who receive contributions of less than two thousand dollars (\$2,000), and who make expenditures of less than two thousand dollars (\$2,000), in a calendar year.

(b) For the purposes of this section, in calculating whether two thousand dollars (\$2,000) in expenditures have been made, payments for a filing fee or for a statement of qualification shall not be included if these payments have been made from the candidate's personal funds.

(c) Every candidate or officeholder who has filed a short form pursuant to subdivision (a), and who thereafter receives contributions or makes expenditures totaling two thousand dollars (\$2,000) or more in a calendar year, shall send written notification to the Secretary of State, the local filing officer, and each candidate contending for the same office within 48 hours of receiving or expending a total of two thousand dollars (\$2,000). The written notification shall revoke the previously filed short form statement.

History: Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Semi-Annual Campaign Statements"); repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Late Contributions; Reports"); amended by Stats. 1987, Ch. 632; amended by Stats. 1993, Ch. 391; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18406

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10

§ 84207. County Central Committee Candidates Who Receive or Spend Less Than \$2,000.

(a) An elected member of, or a candidate for election to, a county central committee of a qualified political party who receives contributions of less than two thousand dollars (\$2,000) and who makes expenditures of less than two thousand dollars (\$2,000) in a calendar year shall not be required to file any campaign statements required by this title.

(b) Notwithstanding Sections 81009.5 and 81013, a local government agency shall not impose any filing requirements on an elected member of, or a candidate for election to, a county central committee of a qualified political party who receives contributions of less than two thousand dollars (\$2,000) and who makes expenditures of less than two thousand dollars (\$2,000) in a calendar year.

History: Amended by Stats. 1977, Ch. 1193, effective January 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidate for Reelection to Judicial Office"); repealed by Stats. 1985, Ch. 1456; reenacted as amended by Stats. 2012, Ch. 502. (Formerly titled "Late Independent Expenditures; Reports."); amended by Stats. 2015, Ch. 364, effective January 1, 2016.

§ 84209. Consolidated Statements.

A candidate or state measure proponent and any committee or committees which the candidate or a state measure proponent controls may file consolidated campaign statements under this chapter. Such consolidated statements shall be filed in each place each of the committees and the candidate or state measure proponent would be required to file campaign statements if separate statements were filed.

History: Added by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117

§ 84211. Contents of Campaign Statement.*

Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars (\$100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.

(6) The cumulative amount of contributions.

(g) If the cumulative amount of loans received from or made to a person is one hundred dollars (\$100) or more, and a loan has been received from or made to a person during the period covered by the campaign statement, or is outstanding during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The original date and amount of each loan.

(6) The due date and interest rate of the loan.

(7) The cumulative payment made or received to date at the end of the reporting period.

(8) The balance outstanding at the end of the reporting period.

(9) The cumulative amount of contributions.

(h) For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received or outstanding during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The amount of his or her maximum liability outstanding.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(k) For each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) The amount of each expenditure.

(4) A brief description of the consideration for which each expenditure was made.

(5) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which he or she seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon.

(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of five hundred dollars (\$500) or more during the period covered by the campaign statement.

For purposes of subdivisions (i), (j), and (k) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(l) In the case of a controlled committee, an official committee of a political party, or an organization formed or

existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(m) If a committee is listed pursuant to subdivision (f), (g), (h), (k), (l), or (q), the number assigned to the committee by the Secretary of State shall be listed, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(n) In a campaign statement filed by a candidate who is a candidate in both a state primary and general election, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name by which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether the committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (k) and 50 percent or more of the business entity is owned by a candidate or person controlling the committee, by an officer or employee of the committee, or by a spouse of any of these individuals, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(s) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (k), and a candidate or person controlling the committee, an officer or employee of the committee, or a spouse of any of these individuals is an officer, partner, consultant, or employee of the business entity, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that

person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(t) If the campaign statement is filed by a committee, as defined in subdivision (b) or (c) of Section 82013, information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or his or her principal place of business if the filer is self-employed, and a description of the business activity in which the filer or his or her employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents, including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents.

(4) If the filer is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

History: Amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1980, Ch. 289; (Formerly titled "Consideration of Cumulative Amount"); amended by Stats. 1982, Ch. 377; amended by Stats. 1985, Ch. 899; amended by Stats. 1988, Ch. 704; amended by Stats. 1989, Ch. 1452; amended by Stats. 1990, Ch. 581; amended by Stats. 1991, Ch. 674; amended by Stats. 1993, Ch. 1140; amended by Stats. 2000, Ch. 161; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18421, 18421.1, 18421.3, 18421.4, 18421.5, 18421.6, 18421.7, 18421.8, 18421.9, 18421.10, 18423, 18428, 18430, 18431, 18526, 18531.5, 18537

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Nielsen (1979) 5 FPPC Ops. 18
In re Buchanan (1979) 5 FPPC Ops. 14
In re Kahn (1976) 2 FPPC Ops. 151
In re Lumsdon (1976) 2 FPPC Ops. 140
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Hayes (1975) 1 FPPC Ops. 210
In re Cory (1975) 1 FPPC Ops. 137

*Section 84211 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84212. Forms; Loans.

The forms promulgated by the Commission for disclosure of the information required by this chapter shall provide for the reporting of loans and similar transactions in a manner that does not result in substantial overstatement or understatement of total contributions and expenditures.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidates Who Receive and Spend \$200 or Less."); amended by Stats. 1985, Ch. 1456.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18404.2

§ 84213. Verification.*

(a) A candidate and state measure proponent shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control. The verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004.

(b) If a committee is required to file a campaign statement or report disclosing an independent expenditure pursuant to this title, a principal officer of the committee or, in the case of a controlled committee, the candidate or state measure proponent or opponent who controls the committee shall sign a verification on a report prescribed by the Commission. Notwithstanding any other provision of this title, the report containing the verification required by this subdivision shall be filed only with the Commission. The verification shall read as follows:

I have not received any unreported contributions or reimbursements to make these independent expenditures. I have not coordinated any expenditure made during this reporting period with the candidate or the opponent of the candidate who is the subject of the expenditure, with the proponent or the opponent of the state measure that is the subject of the expenditure, or with the agents of the candidate or the opponent of the candidate or the state measure proponent or opponent.

History: Former Section 84213, titled "Consolidated Statements; Candidates and Committees," amended by Stats. 1976, Ch. 1106; repealed by Stats. 1980, Ch. 289. Former Section 84209 amended and renumbered Section 84216.5 by Stats. 1979; Section 84216.5 renumbered Section 84213 by Stats. 1980, Ch. 289; amended by Stats. 1983, Ch. 898; amended by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18427, 18465.1, 18570

*Section 84213 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84214. Termination.

Committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the Commission which insure that a committee or candidate will have no activity which must be disclosed pursuant to this chapter subsequent to the termination. Such regulations shall not require the filing of any campaign statements other than those required by this chapter. In no case shall a committee which qualifies solely under subdivision (b) or (c) of Section 82013 be required to file any notice of its termination.

History: Repealed and reenacted as amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Late Contributions; Reports.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18404, 18404.1, 18537.1

§ 84215. Campaign Statements; Where to File.*

All candidates and elected officers and their controlled committees, except as provided in subdivisions (d) and (e), shall file one copy of the campaign statements required by Section 84200 with the elections official of the county in which the candidate or elected official is domiciled, as defined in subdivision (b) of Section 349 of the Elections Code. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, including members of the State Board of Equalization; Members of the Legislature; Supreme Court justices, court of appeal justices, and superior court judges; candidates for those offices and their controlled committees; committees formed or existing primarily to support or oppose these candidates, elected officers, justices and judges, or statewide measures, or the qualification of state ballot measures; and all state general purpose committees and filers not specified in subdivisions (b) to (e), inclusive, shall file a campaign statement by online or electronic means, as specified in Section 84605, and shall file the original and one copy of the campaign statement in paper format with the Secretary of State.

(b) Elected officers in jurisdictions other than legislative districts, State Board of Equalization districts, or appellate court districts that contain parts of two or more counties, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the elections official of the county with the largest number of registered voters in the jurisdiction.

(c) County elected officers, candidates for these offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (d), and county general purpose committees shall file the original and one copy with the elections official of the county.

(d) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city and are not required to file with the local elections official of the county in which they are domiciled.

(e) Elected members of the Board of Administration of the Public Employees' Retirement System, elected members of the Teachers' Retirement Board, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose these candidates or elected members shall file the original and one copy with the Secretary of State, and a copy shall be filed at the relevant board's office in Sacramento. These elected officers, candidates, and committees need not file with the elections official of the county in which they are domiciled.

(f) Notwithstanding any other provision of this section, a committee, candidate, or elected officer is not required to file more than the original and one copy, or one copy, of a campaign statement with any one county elections official or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (a) to (d), inclusive, it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

History: Added by Stats. 1978, Ch. 1408, effective October 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Combination of Pre-election and Semiannual Statements"); amended by Stats. 1982, Ch. 1060; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 490; amended by Stats. 1990, Ch. 581; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2007, Ch. 54; amended by Stats. 2010, Ch. 18, amended by Stats. 2010, Ch. 633; Amended by Stats. 2017, Ch. 111.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18227, 18404.1, 18405, 18451

*Section 84215 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84216. Loans.

(a) Notwithstanding Section 82015, a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes.

(b) A loan, whether or not there is a written contract for the loan, shall be reported as provided in Section 84211 when any of the following apply:

- (1) The loan is a contribution.
- (2) The loan is received by a committee.
- (3) The loan is received by a candidate and is used for political purposes.

History: Added by Stats. 1977, Ch. 1119; amended by Stats. 1980, Ch. 289; amended by Stats. 1982, Ch. 29; repealed and reenacted as amended by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

§ 84216.5. Loans Made by a Candidate or Committee.

A loan of campaign funds, whether or not there is a written contract for the loan, made by a candidate or committee shall be reported as provided in Section 84211.

History: Former Section 84216.5 renumbered 84213 by Stats. 1980, Ch. 289; new section added by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

§ 84217. Federal Office Candidates; Places Filed.*

When the Secretary of State receives any campaign statement filed pursuant to the federal Election Campaign Act, (2 U.S.C.A. Section 431 et seq.) the Secretary of State shall send a copy of the statement to the following officers:

(a) Statements of candidates for President, Vice President or United States Senator and committees supporting such candidates - one copy with the Registrar-Recorder of

Los Angeles County and one copy with the Registrar of Voters of the City and County of San Francisco;

(b) Statements of candidates for United States Representative in Congress and committees supporting such candidates - one copy with the clerk of the county which contains the largest percentage of the registered voters in the election district which the candidate or any of the candidates seek nomination or election and one copy with the clerk of the county within which the candidate resides or in which the committee is domiciled, provided that if the committee is not domiciled in California the statement shall be sent to the Registrar-Recorder of Los Angeles County. No more than one copy of each statement need be filed with the clerk of any county.

History: Amended by Stats. 1977, Ch. 1095; amended and renumbered Section 84226 by Stats. 1979, Ch. 779. (Formerly Section 84208); amended and renumbered by Stats. 1980, Ch. 289. (Formerly Section 84226.)

*Section 84217 was repealed by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84218. Slate Mailer Organization; Campaign Statements.

(a) A slate mailer organization shall file semiannual campaign statements no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(b) In addition to the semiannual statements required by subdivision (a), a slate mailer organization which produces a slate mailer supporting or opposing candidates or measures being voted on in an election shall file the statements specified in Section 84200.8 if, during the period covered by the preelection statement, the slate mailer organization receives payments totaling five hundred dollars (\$500) or more from any person for the support of or opposition to candidates or ballot measures in one or more slate mailers, or expends five hundred dollars (\$500) or more to produce one or more slate mailers.

(c) A slate mailer organization shall file two copies of its campaign reports with the clerk of the county in which it is domiciled. A slate mailer organization is domiciled at the address listed on its statement of organization unless it is domiciled outside California, in which case its domicile shall be deemed to be Los Angeles County for purposes of this section.

In addition, slate mailer organizations shall file campaign reports as follows:

(1) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in a state election, or in more than one county, shall file campaign reports in the same manner as state general purpose committees pursuant to subdivision (a) of Section 84215.

(2) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in only one county, or in more than one jurisdiction within one county, shall file campaign reports in

the same manner as county general purpose committees pursuant to subdivision (c) of Section 84215.

(3) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in only one city shall file campaign reports in the same manner as city general purpose committees pursuant to subdivision (d) of Section 84215.

(4) Notwithstanding the above, no slate mailer organization shall be required to file more than the original and one copy, or two copies, of a campaign report with any one county or city clerk or with the Secretary of State.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 2010, Ch. 18; amended by Stats. 2010, Ch. 77; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401.1

§ 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.*

Whenever a slate mailer organization is required to file campaign reports pursuant to Section 84218, the campaign report shall include the following information:

(a) The total amount of receipts during the period covered by the campaign statement and the total cumulative amount of receipts. For purposes of this section only, "receipts" means payments received by a slate mailer organization for production and distribution of slate mailers.

(b) The total amount of disbursements made during the period covered by the campaign statement and the total cumulative amount of disbursements. For purposes of this section only, "disbursements" means payment made by a slate mailer organization for the production or distribution of slate mailers.

(c) For each candidate or committee that is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) The name of the candidate or committee, identification of the jurisdiction and the office sought or ballot measure number or letter, and if the source is a committee, the committee's identification number, street address, and the name of the candidate or measure on whose behalf or in opposition to which the payment is made.

(2) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(3) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(d) For each person other than a candidate or committee who is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) Identification of the jurisdiction, office or ballot measure, and name of the candidate or measure on whose behalf or in opposition to which the payment was made.

(2) Full name, street address, name of employer, or, if self-employed, name of business of the source of receipts.

(3) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(4) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(e) For each candidate or ballot measure not reported pursuant to subdivision (c) or (d), but who was supported or opposed in a slate mailer sent by the slate mailer organization during the period covered by the report, identification of jurisdiction, office or ballot measure, and name of the candidate or measure who was supported or opposed.

(f) The total amount of disbursements made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(g) The total amount of disbursements made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(h) For each person to whom a disbursement of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement:

(1) His or her full name.

(2) His or her street address.

(3) The amount of each disbursement.

(4) A brief description of the consideration for which each disbursement was made.

(5) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for a disbursement of five hundred dollars (\$500) or more during the period covered by the campaign statement.

(i) Cumulative disbursements, totaling one thousand dollars (\$1,000) or more, made directly or indirectly to any person listed in the slate mailer organization's statement of organization. For purposes of this subdivision, a disbursement is made indirectly to a person if it is intended for the benefit of or use by that person or a member of the person's immediate family, or if it is made to a business entity in which the person or member of the person's immediate family is a partner, shareholder, owner, director, trustee, officer, employee, consultant, or holds any position of management or in which the person or member of the person's immediate family has an investment of one thousand dollars (\$1,000) or more. This subdivision shall not apply to any disbursement made to a business entity whose securities are publicly traded.

(j) The full name, street address, and telephone number of the slate mailer organization and of the treasurer.

(k) Whenever a slate mailer organization also qualifies as a general purpose committee pursuant to Section 82027.5, the campaign report shall include, in addition to the information required by this section, the information required by Section 84211.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18401.1

*Section 84219 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84220. Slate Mailer Organization; Late Payments.

If a slate mailer organization receives a payment of two thousand five hundred dollars (\$2,500) or more for purposes of supporting or opposing any candidate or ballot measure in a slate mailer, and the payment is received at a time when, if the payment were a contribution it would be considered a late contribution, then the slate mailer organization shall report the payment in the manner set forth in Section 84203 for candidates and committees when reporting late contributions received. The slate mailer organization shall, in addition to reporting the information required by Section 84203, identify the candidates or measures whose support or opposition is being paid for, in whole or in part, by each late payment.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401.1

§ 84221. Slate Mailer Organization; Termination.

Slate mailer organizations shall terminate their filing obligations in the same manner as applies to committees qualifying under subdivision (a) of Section 82013.

History: Added by Stats. 1987, Ch. 905.

§ 84222. Multipurpose Organizations.

(a) For purposes of this title, “multipurpose organization” means an organization described in Sections 501(c)(3) to 501(c)(10), inclusive, of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code, a federal or out-of-state political organization, a trade association, a professional association, a civic organization, a religious organization, a fraternal society, an educational institution, or any other association or group of persons acting in concert, that is operating for purposes other than making contributions or expenditures. “Multipurpose organization” does not include a business entity, an individual, or a federal candidate’s authorized committee, as defined in Section 431 of Title 2 of the United States Code, that is registered and filing reports pursuant to the Federal Election Campaign Act of 1971 (Public Law 92-225).

(b) A multipurpose organization that makes expenditures or contributions and does not qualify as a committee pursuant to subdivision (c) may qualify as an independent expenditure committee or major donor committee if the multipurpose organization satisfies subdivision (b) or (c) of Section 82013.

(c) Except as provided in subparagraph (A) of paragraph (5), a multipurpose organization is a recipient committee within the meaning of subdivision (a) of Section 82013 only under one or more of the following circumstances:

(1) The multipurpose organization is a political committee registered with the Federal Election Commission, except as provided in subdivision (a) of this section, or a political committee registered with another state, and the multipurpose organization makes contributions or expenditures in

this state in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013.

(2) The multipurpose organization solicits and receives payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 for the purpose of making contributions or expenditures.

(3) The multipurpose organization accepts payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 subject to a condition, agreement, or understanding with the donor that all or a portion of the payments may be used for making contributions or expenditures.

(4) The multipurpose organization has existing funds from a donor and a subsequent agreement or understanding is reached with the donor that all or a portion of the funds may be used for making contributions or expenditures in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013. The date of the subsequent agreement or understanding is deemed to be the date of receipt of the payment.

(5) The multipurpose organization makes contributions or expenditures totaling more than fifty thousand dollars (\$50,000) in a period of 12 months or more than one hundred thousand dollars (\$100,000) in a period of four consecutive calendar years.

(A) A multipurpose organization shall not qualify as a committee within the meaning of subdivision (a) of Section 82013 pursuant to this paragraph if the multipurpose organization makes contributions or expenditures using only available nondonor funds. A multipurpose organization that makes contributions or expenditures with nondonor funds shall briefly describe the source of the funds used on its major donor or independent expenditure report.

(B) For purposes of this paragraph, “nondonor funds” means investment income, including capital gains, or income earned from providing goods, services, or facilities, whether related or unrelated to the multipurpose organization’s program, sale of assets, or other receipts that are not donations.

(d) A multipurpose organization that is a committee pursuant to paragraph (1) of subdivision (c) shall comply with the registration and reporting requirements of this chapter, subject to the following:

(1) The multipurpose organization is not required to comply with subdivision (k) of Section 84211 for contributions and expenditures made to influence federal or out-of-state elections, which shall instead be reported as a single expenditure and be described as such on the campaign statement.

(2) A multipurpose organization registered with the Federal Election Commission is not subject to subdivisions (d) and (f) of Section 84211 but shall disclose the total amount of contributions received pursuant to subdivision (a) of Section 84211, and shall disclose the multipurpose organization’s name and identification number registered with the Federal Election Commission on the campaign statement.

(e)(1) A multipurpose organization that is a committee pursuant to paragraph (2), (3), (4), or (5) of subdivision

(c) shall comply with the registration and reporting requirements of this chapter, subject to the following, except that if the multipurpose organization is the sponsor of a committee as described in subdivision (f) it may report required information on its sponsored committee statement pursuant to subdivision (f):

(A) The multipurpose organization shall register in the calendar year in which it satisfies any of the criteria in subdivision (c). The statement of organization filed pursuant to Section 84101 shall indicate that the organization is filing pursuant to this section as a multipurpose organization and state the organization's nonprofit tax exempt status, if any. The statement of organization shall also describe the organization's mission or most significant activities, and describe the organization's political activities. A multipurpose organization may comply with the requirement to describe the mission or significant activities and political activities by referencing where the organization's Internal Revenue Service Return of Organization Exempt From Income Tax form may be accessed.

(B) Except as provided in this subparagraph, the registration of a multipurpose organization that meets the criteria of paragraph (5) of subdivision (c) shall terminate automatically on December 31 of the calendar year in which the multipurpose organization is registered. The multipurpose organization shall not be required to file a semiannual statement pursuant to subdivision (b) of Section 84200, unless the multipurpose organization has undisclosed contributions or expenditures to report, in which case termination shall occur automatically upon filing the semiannual statement that is due no later than January 31. After the multipurpose organization's registration has terminated, the multipurpose organization's reporting obligations are complete, unless the organization qualifies as a committee for purposes of subdivision (a) of Section 82013 again in the following calendar year pursuant to subdivision (c) of this section. Notwithstanding this subdivision, a multipurpose organization may elect to remain registered as a committee by submitting written notification to the Secretary of State prior to the end of the calendar year.

(C) A multipurpose organization shall report all contributions received that satisfy the criteria of paragraph (2), (3), or (4) of subdivision (c) of this section in the manner required by subdivision (f) of Section 84211, and for the balance of its contributions or expenditures shall further report contributors based on a last in, first out accounting method.

(2) A multipurpose organization reporting pursuant to this subdivision shall disclose total contributions received in an amount equal to the multipurpose organization's total contributions and expenditures made in the reporting period. When a multipurpose organization reports donors based on the last in, first out accounting method, it shall attribute to and include the information required by subdivision (f) of Section 84211 for any donor who donates one thousand dollars (\$1,000) or more in a calendar year, except for the following:

(A) A donor who designates or restricts the donation for purposes other than contributions or expenditures.

(B) A donor who prohibits the multipurpose organization's use of its donation for contributions or expenditures.

(C) A private foundation, as defined by subdivision (a) of Section 509 of the Internal Revenue Code, that provides a grant that does not constitute a taxable expenditure for purposes of paragraph (1) or (2) of subdivision (d) of Section 4945 of the Internal Revenue Code.

(3) A multipurpose organization that qualifies as a committee pursuant to paragraph (5) of subdivision (c) shall not be required to include contributions or expenditures made in a prior calendar year on the reports filed for the calendar year in which the multipurpose organization qualifies as a committee.

(4) If a multipurpose organization qualifies as a committee solely pursuant to paragraph (5) of subdivision (c) and the committee is required to report donors based on a last in, first out accounting method pursuant to paragraph (1), the multipurpose organization shall not be required to disclose donor information for a donation received by the multipurpose organization prior to July 1, 2014. This paragraph shall not apply with respect to a donation made by a donor who knew that the multipurpose organization would use the donation to support or oppose a candidate or ballot measure in the state by requesting that the donation be used for that purpose or by making the donation in response to a message or solicitation indicating the multipurpose organization's intent to use the donation for that purpose.

(5) A contributor identified and reported in the manner provided in subparagraph (C) of paragraph (1) that is a multipurpose organization and receives contributions that satisfy the criteria in subdivision (c) shall be subject to the requirements of this subdivision.

(6) The commission shall adopt regulations establishing notice requirements and reasonable filing deadlines for donors reported as contributors based on the last in, first out accounting method.

(f) A multipurpose organization that is the sponsor of a committee as defined in Section 82048.7, that is a membership organization, that makes all of its contributions and expenditures from funds derived from dues, assessments, fees, and similar payments that do not exceed ten thousand dollars (\$10,000) per calendar year from a single source, and that elects to report its contributions and expenditures on its sponsored committee's campaign statement pursuant to paragraph (1) of subdivision (e) shall report as follows:

(1) The sponsored committee shall report all contributions and expenditures made from the sponsor's treasury funds on statements and reports filed by the committee. The sponsor shall use a last in, first out accounting method and disclose the information required by subdivision (f) of Section 84211 for any person who pays dues, assessments, fees, or similar payments of one thousand dollars (\$1,000) or more to the sponsor's treasury funds in a calendar year and shall disclose all contributions and expenditures made, as required by subdivision (k) of Section 84211, on the sponsored committee's campaign statements.

(2) The sponsored committee shall report all other contributions and expenditures in support of the committee by the sponsor, its intermediate units, and the members of those

entities. A sponsoring organization makes contributions and expenditures in support of its sponsored committee when it provides the committee with money from its treasury funds, with the exception of establishment or administrative costs. With respect to dues, assessments, fees, and similar payments channeled through the sponsor or an intermediate unit to a sponsored committee, the original source of the dues, assessments, fees, and similar payments is the contributor.

(3) A responsible officer of the sponsor, as well as the treasurer of the sponsored committee, shall verify the committee's campaign statement pursuant to Section 81004.

(g) For purposes of this section, "last in, first out accounting method" means an accounting method by which contributions and expenditures are attributed to the multipurpose organization's contributors in reverse chronological order beginning with the most recent of its contributors or, if there are any prior contributions or expenditures, beginning with the most recent contributor for which unattributed contributions remain.

History: Added by Stats of 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18422, 18422.1, 18427.1

§ 84222.5. Publicly Funded Nonprofit Organizations.

(a) A publicly funded nonprofit organization that makes contributions or expenditures, either directly or through the control of another entity, shall establish and deposit into a separate bank account all funds that will be used to make contributions and expenditures, and those contributions and expenditures shall come from that separate bank account.

(b) In addition to subdivisions (b) and (c) of Section 84222, a publicly funded nonprofit organization is a recipient committee within the meaning of subdivision (a) of Section 82013 if any of the following occur:

(1) It makes contributions or expenditures totaling fifty thousand dollars (\$50,000) or more related to statewide candidates or ballot measures or makes contributions or expenditures totaling two thousand five hundred dollars (\$2,500) or more related to local candidates or ballot measures, either directly or through the control of another entity, during the prior quarter.

(2) By January 31 of each odd-numbered year, it makes contributions or expenditures totaling one hundred thousand dollars (\$100,000) or more related to statewide candidates or ballot measures or makes contributions or expenditures totaling ten thousand dollars (\$10,000) or more related to local candidates or ballot measures, either directly or through the control of another entity, during the previous two years.

(c) If a publicly funded nonprofit organization qualifies as a recipient committee pursuant to subdivision (b), it shall comply with the registration and reporting requirements of Section 84222.

(d) Each publicly funded nonprofit organization that makes contributions or expenditures, either directly or through the control of another entity, shall provide to the

Commission, and display on the organization's Internet Web site, the information it is required to disclose under this section. The information shall be clearly described and identified on a separate Internet Web page that is linked from the homepage of the organization's Internet Web site. The link to this Internet Web page from the homepage shall be as visible as all similar links.

(e) The Commission may require an audit of a publicly funded nonprofit organization that is required to provide records to the Commission pursuant to this section. The Commission shall require an audit of any publicly funded nonprofit organization that makes contributions or expenditures in excess of five hundred thousand dollars (\$500,000) in a calendar year. The publicly funded nonprofit organization shall provide records to the Commission to substantiate the information required to be disclosed by this section.

(f) If the Commission determines at the conclusion of an audit that a publicly funded nonprofit organization has violated this section, the Commission, the Attorney General, or the district attorney for the county in which the organization is domiciled may impose a civil fine upon the organization in an amount up to ten thousand dollars (\$10,000) for each violation.

(g) The definitions in subdivision (b) of Section 54964.5 apply to this section.

History: Added by Stats. 2016, Ch. 825.

§ 84223. Top Ten Contributor Lists.

(a) A committee primarily formed to support or oppose a state ballot measure or state candidate that raises one million dollars (\$1,000,000) or more for an election shall maintain an accurate list of the committee's top 10 contributors, as specified by Commission regulations. A current list of the top 10 contributors shall be provided to the Commission for disclosure on the Commission's internet website, as provided in subdivision (c).

(b)(1) Except as provided in paragraph (4), the list of top 10 contributors shall identify the names of the 10 persons who have made the largest cumulative contributions to the committee, the total amount of each person's contributions, the city and state of the person, the person's committee identification number, if any, and any other information deemed necessary by the Commission. If any of the top 10 contributors identified on the list are committees pursuant to subdivision (a) of Section 82013, the Commission may require, by regulation, that the list also identify the top 10 contributors to those contributing committees.

(2)(A) A committee primarily formed to support or oppose a state ballot measure shall count the cumulative amount of contributions received by the committee from a person for the period beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending with the current date.

(B) A committee primarily formed to support or oppose a state candidate shall count the cumulative amount of contributions received by the committee from a person for the primary and general elections combined.

(3) The aggregation rules of Section 82015.5 and any implementing regulations adopted by the Commission shall apply in identifying the persons who have made the top 10 cumulative contributions to a committee.

(4) A person who makes contributions to a committee in a cumulative amount of less than ten thousand dollars (\$10,000) shall not be identified or disclosed as a top 10 contributor to a committee pursuant to this section.

(c)(1) The Commission shall adopt regulations to govern the manner in which the Commission shall display top 10 contributor lists provided by a committee that is subject to this section, and the Commission shall post the top 10 contributor lists on its internet website in the manner prescribed by those regulations. The Commission shall provide the top 10 contributor lists to the Secretary of State, upon the request of the Secretary of State, for the purpose of additionally posting the contributor lists on the Secretary of State's internet website.

(2) A committee shall provide an updated top 10 contributor list to the Commission when any of the following occurs:

(A) A new person qualifies as a top 10 contributor to the committee.

(B) A person who is an existing top 10 contributor makes additional contributions of five thousand dollars (\$5,000) or more in the aggregate to the committee.

(C) A change occurs that alters the relative ranking order of the top 10 contributors.

(3) The 10 persons who have made the largest cumulative contributions to a committee shall be listed in order from largest contribution amount to smallest amount. If two or more contributors of identical amounts meet the threshold for inclusion in the list of top 10 contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.

(4) The Commission shall post or update a top 10 contributor list within five business days or, during the 16 days before the election, within 48 hours of a contributor qualifying for the list or of any change to the list.

(d) In listing the top 10 contributors, a committee shall use reasonable efforts to identify and state the actual individuals or corporations that are the true sources of the contributions made to the committee from other persons or committees.

(e) In addition to any other lists that the Commission is required to post on its internet website, the Commission shall compile, maintain, and display on its internet website a current list of the top 10 contributors supporting and opposing each state ballot measure, as prescribed by Commission regulations.

(f) This section shall remain in effect only until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602 of the Government Code, and as of that date is repealed.

History: Added by Stats. of 2014, Ch. 16, effective July 1, 2014; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18422.5

§ 84224. Behested Payment Disclosure.*

(a) A behested payment described in subdivision (b) shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the behesting officer or member of the Public Utilities Commission with the officer's or member's agency and is a public record subject to inspection and copying pursuant to Section 81008. The report shall contain all of the following information: name of payor; address of payor; amount of the payment or payments; date or dates the payment or payments were made; the name and address of the payee; a brief description of the goods or services provided or purchased, if any; and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies, including the Public Utilities Commission, shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(b) The reporting requirement imposed by this section applies to a behested payment that satisfies each of the following:

(1) The payment is made at the behest of an elected officer or member of the Public Utilities Commission.

(2) The behesting elected officer or member of the Public Utilities Commission does not provide full and adequate consideration in exchange for the payment.

(3) The payment is made principally for a legislative, governmental, or charitable purpose.

(4) If made principally for a legislative or governmental purpose, the payment is made by a person other than a state, local, or federal governmental agency.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.3, 18225.7

*Section 84224 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84225. Public Employees' Retirement Board and Teachers' Retirement Board Candidates.

The provisions of this title apply to candidates for election to the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board, and to committees formed or existing primarily to support or oppose those candidates. The Commission may adopt regulations to tailor the reporting and disclosure requirements for

these candidates and committees consistent with the purposes and provisions of this title.

History: Added by Stats. 1998, Ch. 923; amended by Stats. 2010; Ch.18, repealed and added by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18451

**Article 2.5. LAFCO Proposal Requirements.
§ 84250 – 84252**

§ 84250.	Applicability to LAFCO Proposals.....	43
§ 84251.	Payment for Political Purposes.	43
§ 84252.	Campaign Reporting.	43

§ 84250. Applicability to LAFCO Proposals.

All requirements of this title applicable to a measure, as defined in Section 82043, also apply to a LAFCO proposal, as defined in Section 82035.5, except as set forth in Section 84252.

History: Added by Stats. 2008, Ch. 192.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

§ 84251. Payment for Political Purposes.

A payment made for “political purposes,” as that term is used in Sections 82015 and 82025, includes a payment made for the purpose of influencing or attempting to influence the actions of voters or a local agency formation commission for or against the qualification, adoption, or passage of a LAFCO proposal.

History: Added by Stats. 2008, Ch. 192.

§ 84252. Campaign Reporting.

A committee primarily formed to support or oppose a LAFCO proposal shall file all statements required under this chapter except that, in lieu of the statements required by Sections 84200 and 84202.3, the committee shall file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot or, if a measure is not placed on the ballot, until the committee is terminated pursuant to Section 84214. The committee shall file an original and one copy of each statement on the 15th day of each calendar month, covering the prior calendar month, with the clerk of the county in which the measure may be voted on. If the petition results in a measure that is placed on the ballot, the committee thereafter shall file campaign statements required by this chapter.

History: Added by Stats. 2008, Ch. 192; amended by Stats. 2019, Ch. 315.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

**Article 3. Prohibitions.
§ 84300 – 84310**

§ 84300.	Cash and In-Kind Contributions; Cash Expenditures.	43
§ 84301.	Contributions Made Under Legal Name.	43
§ 84302.	Contributions by Intermediary or Agent.	44
§ 84303.	Expenditure by Agent or Independent Contractor.	44
§ 84304.	Anonymous Contributions; Prohibition.	44
§ 84305.	Requirements for Mass Mailing.....	44
§ 84305.5.	Slate Mailer Identification and Disclosure Requirements.	45
§ 84305.7.	Slate Mailer Requirements; Use of Logos or “Public Safety” Names.	46
§ 84306.	Contributions Received by Agents of Candidates or Committees.	46
§ 84307.	Commingleing with Personal Funds.....	47
§ 84307.5.	Payments Made to a Spouse or Domestic Partner.....	47
§ 84308.	Contributions to Officers; Disqualification.....	47
§ 84309.	Transmittal of Campaign Contributions in State Office Buildings; Prohibition.....	48
§ 84310.	Identification Requirements for Telephone Calls.....	48

§ 84300. Cash and In-Kind Contributions; Cash Expenditures.

(a) No contribution of one hundred dollars (\$100) or more shall be made or received in cash.

A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

(b) No expenditure of one hundred dollars (\$100) or more shall be made in cash.

(c) No contribution of one hundred dollars (\$100) or more other than an in-kind contribution shall be made unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Section 84302.

(d) The value of all in-kind contributions of one hundred dollars (\$100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1979, Ch. 779; amended by Stats. 1980, Ch. 759; amended by Stats. 1996, Ch. 898.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.4

§ 84301. Contributions Made Under Legal Name.

No contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

§ 84302. Contributions by Intermediary or Agent.

No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402.2, 18432.5

§ 84303. Expenditure by Agent or Independent Contractor.

(a) An expenditure of five hundred dollars (\$500) or more shall not be made, other than for overhead or normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of or for the benefit of a candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee.

(b) A subagent or subcontractor who provides goods or services to or for the benefit of a candidate or committee shall make known to the agent or independent contractor all of the information required to be reported by this section, and the agent or independent contractor shall then make known to the candidate or committee all of the information required to be reported by this section no later than three working days prior to the time the campaign statement reporting the expenditure is required to be filed, except that an expenditure that is required to be reported by Section 84203 or 84204 shall be reported to the candidate or committee within 24 hours of the time that it is made.

History: Amended by Stats. 1984, Ch. 161; amended by Stats. 2000, Ch. 853; amended by Stats. 2013, Ch. 9, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.5, 18421.7, 18421.8, 18421.9, 18431

§ 84304. Anonymous Contributions; Prohibition.

No person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling one hundred dollars (\$100) or more in a calendar year. An anonymous contribution of one hundred dollars (\$100) or more shall not be kept by the intended recipient but instead shall be promptly paid to the Secretary of State for deposit in the General Fund of the state.

History: Amended by Stats. 1978, Ch. 650.

§ 84305. Requirements for Mass Mailing.

(a)(1) Except as provided in subdivision (b), a candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party

committee shall not send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the candidate's, candidate controlled committee established for an elective office for the controlling candidate's, or political party committee's address is a matter of public record with the Secretary of State.

(2) Except as provided in subdivision (b), a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass mailing that is not required to include a disclosure pursuant to Section 84504.2 unless the name, street address, and city of the committee is shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the committee's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c)(1) A candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass electronic mailing unless the name of the candidate or committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(2) A committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass electronic mailing that is not required to include a disclosure pursuant to Section 84502 or 84504.3 unless the name of the committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(d) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a) or (c).

(e) For purposes of this section, the following terms have the following meanings:

(1) "Mass electronic mailing" means sending more than 200 substantially similar pieces of electronic mail within a calendar month. "Mass electronic mailing" does not include a communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization.

(2) "Sender" means the candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee who pays

for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable pursuant to Sections 84200 to 84216.5, inclusive.

(3) To “pay for” a share of the cost of a mass mailing means to make, to promise to make, or to incur an obligation to make, any payment: (A) to any person for the design, printing, postage, materials, or other costs of the mailing, including salaries, fees, or commissions, or (B) as a fee or other consideration for an endorsement or, in the case of a ballot measure, support or opposition, in the mailing.

(f) This section does not apply to a mass mailing or mass electronic mailing that is paid for by an independent expenditure.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1976, Ch. 1106; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1978, Ch. 1408, effective October 1, 1978; amended by Stats. 1984, Ch. 1368; amended by Stats. 1989, Ch. 764; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 315; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18435

Opinions: **In re Kaufman (2018) FPPC Ops. No. O-18-001**
In re Juvinal, Stull, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 84305.5. Slate Mailer Identification and Disclosure Requirements.

(a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State’s Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), **NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION.** Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

(3) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an *. Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by an *.

The * required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * designation applies except that in no case shall the * be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to appear, requiring the * designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1991, Ch. 403; amended by Stats. 1992, Ch. 1143; amended by Stats. 1993, Ch. 472; amended by Stats. 1994, Ch. 923; amended by Stats. 1996, Ch. 893; amended by Proposition 208 of the November 1996 Statewide General Election; Proposition 208 version preliminarily enjoined January 6, 1998;

Proposition 208 version permanently enjoined March 1, 2001; pre-Proposition 208 version revived by operation of law; On September 20, 2002, the Federal District Court for the Eastern District of California issued a preliminary injunction prohibiting the FPPC from enforcing this subdivision against the slate mail organizations which had sought the injunction; repealed and new section added by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18401.1, 18435.5

§ 84305.7. Slate Mailer Requirements; Use of Logos or “Public Safety” Names.

(a) If a slate mailer organization sends a slate mailer or other mass mailing that displays a logo, insignia, emblem, or trademark that is identical or substantially similar to the logo, insignia, emblem, or trademark of a governmental agency, and that would reasonably be understood to imply the participation or endorsement of that governmental agency, the slate mailer organization shall obtain express written consent from the governmental agency associated with the logo, insignia, emblem, or trademark prior to using the logo, insignia, emblem, or trademark in the slate mailer or other mass mailing.

(b) If a slate mailer organization sends a slate mailer or other mass mailing that displays a logo, insignia, emblem, or trademark that is identical or substantially similar to the logo, insignia, emblem, or trademark of a nongovernmental organization that represents law enforcement, firefighting, emergency medical, or other public safety personnel, and that would reasonably be understood to imply the participation or endorsement of that nongovernmental organization, the slate mailer organization shall obtain express written consent from the nongovernmental organization associated with the logo, insignia, emblem, or trademark prior to using the logo, insignia, emblem, or trademark in the slate mailer or other mass mailing.

(c) If a slate mailer organization sends a slate mailer or other mass mailing that identifies itself or its source material as representing a nongovernmental organization with a name that includes the term “peace officer,” “reserve officer,” “deputy,” “deputy sheriff,” “sheriff,” “police,” “highway patrol,” “California Highway Patrol,” “law enforcement,” “firefighter,” “fire marshal,” “paramedic,” “emergency medical technician,” “public safety,” or any other term that would reasonably be understood to imply that the nongovernmental organization is composed of, represents, or is affiliated with, law enforcement, firefighting, emergency medical, or other public safety personnel, the slate mailer or mass mailing shall disclose the total number of law enforcement, firefighting, emergency medical, or other public safety members in the nongovernmental organization identified in the slate mailer or mass mailing, as provided in paragraph (1) of subdivision (d). If the slate mailer organization is not composed of or does not represent any members who are law enforcement, firefighting, emergency medical, or other public safety personnel, the slate mailer or mass mailing shall disclose that the slate mailer organization does not represent

public safety personnel, as provided in paragraph (2) of subdivision (d).

(d) A disclosure pursuant to subdivision (c) shall include one of the following statements:

(1) If the slate mailer organization represents public safety personnel members: “This organization represents _____ public safety personnel.” The slate mailer organization shall fill in the blank part of the statement with the number of public safety personnel members it represents.

(2) If the slate mailer organization does not represent public safety personnel members: “This organization does not represent any public safety personnel.”

(e) A disclosure pursuant to subdivision (d) shall be in a format that satisfies all of the following:

(1) Printed in roman type that is no less than 14-point font.

(2) Located on the outside of the slate mailer or mass mailing within one-half of an inch of the recipient’s name and address.

(3) Contained in a box with an outline that has a line weight of at least 3.25 pt. The background color of the box shall be in a contrasting color to the background of the slate mailer or mass mailing. The outline of the box shall be in a contrasting color to both the background color of the mailing and the background color of the box. The color of the text of the disclosure shall be in a contrasting color to the background color of the box.

(f)(1) For purposes of subdivision (c), “member” means any of the following:

(A) A person who, pursuant to a specific provision of an organization’s articles or bylaws, may vote directly or indirectly for the election of a director or officer or for the disposition of all or substantially all of the assets of the organization in a merger or dissolution.

(B) A person designated as a member in the articles or bylaws of an organization that is tax exempt under Section 501(c) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)) and who has the right to vote to change the organization’s articles or bylaws or has paid dues to the organization.

(C) Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

History: Added by Stats. 2012, Ch. 865; Amended by Stats. 2017, Ch. 855.

§ 84306. Contributions Received by Agents of Candidates or Committees.

All contributions received by a person acting as an agent of a candidate shall be reported promptly to the candidate or any of his or her designated agents. All contributions received by a person acting as an agent of a committee shall be reported promptly to the committee’s treasurer or any of his or her designated agents. “Promptly” as used in this section means not later than the closing date of any campaign statement the committee or candidate for whom the contribution is intended is required to file.

History: Added by Stats. 1979, Ch. 779.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.1, 18421.3, 18421.31

§ 84307. Commingling with Personal Funds.

No contribution shall be commingled with the personal funds of the recipient or any other person.

History: Added by Stats. 1979, Ch. 779.

§ 84307.5. Payments Made to a Spouse or Domestic Partner.

A spouse or domestic partner of an elected officer or a candidate for elective office shall not receive, in exchange for services rendered, compensation from campaign funds held by a controlled committee of the elected officer or candidate for elective office.

History: Added by Stats. 2009, Ch. 360; amended by Stats. 2014, Ch. 902.

§ 84308. Contributions to Officers; Disqualification.

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before

the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

(d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

(e) Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported.

History: Added by Stats. 1982, Ch. 1049; amended by Stats. 1984, Ch. 1681, effective September 30, 1984; amended by Stats. 1989, Ch. 764.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18438.1, 18438.2,
18438.3, 18438.4, 18438.5, 18438.6, 18438.7, 18438.8

Opinions: *In re Curiel* (1983) 8 FPPC Ops. 1

**§ 84309. Transmittal of Campaign Contributions in
State Office Buildings; Prohibition.**

(a) No person shall receive or personally deliver or attempt to deliver a contribution in the State Capitol, in any state office building, or in any office for which the state pays the majority of the rent other than a legislative district office.

(b) For purposes of this section:

(1) “Personally deliver” means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary.

(2) “Receive” includes the receipt of a campaign contribution delivered in person.

History: Added by Stats. 1982, Ch. 920.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18439

**§ 84310. Identification Requirements for Telephone
Calls.**

(a) A candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization shall not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that authorized or paid for the call is disclosed to the recipient of the call. Unless the organization that authorized the call and in whose name it is placed has filing obligations under this title, and the name announced in the call either is the full name by which the organization or individual is identified in any statement or report required to be filed under this title or is the name by which the organization or individual is commonly known, the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that paid for the call shall be disclosed. This section does not apply to telephone calls made by the candidate, the campaign manager, or individuals who are volunteers.

(b) Campaign and ballot measure committees are prohibited from contracting with any phone bank vendor that does not disclose the information required to be disclosed by subdivision (a).

(c) A candidate, committee, or slate mailer organization that pays for telephone calls as described in subdivision (a) shall maintain a record of the script of the call for the period of time set forth in Section 84104. If any of the calls qualifying under subdivision (a) were recorded messages, a copy of the recording shall be maintained for that period.

(d) This section does not apply to a telephone call that is paid for by an independent expenditure.

History: Added by Stats. 2006, Ch. 439; amended by stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18440

**Article 4. Exemptions.
§ 84400**

§ 84400. Exemptions.

Notwithstanding any other provision of the law, the Commission shall have no power to exempt any person, including any candidate or committee, from any of the requirements imposed by the provisions of this chapter.

History: Added by Stats. 1977, Ch. 403.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401

**Article 5. Disclosure in Advertisements.
§ 84501 – 84511**

§ 84501.	Advertisement.....	48
§ 84501.1.	Prohibition on Commission Interpretation on Thresholds and Amounts.	49
§ 84502.	Disclosure; Committee Name.	49
§ 84503.	Top Contributor Disclosure.	50
§ 84504.	Disclosure; Radio and Telephone Ads.....	50
§ 84504.1.	Disclosure; Video and Television Ads.....	50
§ 84504.2.	Disclosure; Print Ads.*	51
§ 84504.3.	Disclosure; Electronic Media Ads.	51
§ 84504.4.	Disclosure; Radio and Television Ads; Political Parties and Candidates.	52
§ 84504.5.	Disclosure; Independent Expenditure Ads; Political Parties and Candidates.	52
§ 84504.6.	Disclosure; Online Platform	53
§ 84504.7.	Disclosure; Text Messages.	54
§ 84505.	Avoidance of Disclosure.....	55
§ 84506.5.	Disclosure; Independent Expenditure Ads; Not Authorized by Candidate.	55
§ 84509.	Amended Disclosures.	55
§ 84510.	Remedies for Article Violations; Civil Action; Fines.	56
§ 84511.	Ballot Measure Ads; Paid Spokesperson Disclosure.	56

§ 84501. Advertisement.

For purposes of this article, the following definitions apply:

(a)(1) “Advertisement” means any general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures.

(2) Advertisement” does not include any of the following:

(A) A communication from an organization, other than a political party, to its members.

(B) An electronic media communication addressed to recipients, such as email messages or text messages, from an

organization to persons who have opted in or asked to receive messages from the organization. This subparagraph does not apply to a customer who has opted in to receive communications from a provider of goods or services, unless the customer has provided express approval to receive political messages from that provider of goods or services.

(C) Any communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization, or responses to an electronic message sent by the recipient to the same mobile number or email address.

(D) A campaign button smaller than 10 inches in diameter; a bumper sticker smaller than 60 square inches; or a small tangible promotional item, such as a pen, pin, or key chain, upon which the disclosure required cannot be conveniently printed or displayed.

(E) Wearing apparel.

(F) Sky writing.

(G) Any other type of communication, as determined by regulations of the Commission, for which inclusion of the disclosures required by Sections 84502 to 84509, inclusive, is impracticable or would severely interfere with the committee's ability to convey the intended message due to the nature of the technology used to make the communication.

(b) "Cumulative contributions" means the cumulative amount of contributions received by a committee beginning 12 months before the date of the expenditure and ending seven days before the time the advertisement is sent to the printer or broadcaster.

(c)(1) "Top contributors" means the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of fifty thousand dollars (\$50,000) or more.

(2) A tie between two or more contributors qualifying as top contributors shall be resolved by determining the contributor who made the most recent contribution to the committee, in which case the most recent contributor shall be listed before any other contributor of the same amount.

(3) If a committee primarily formed to support or oppose a state candidate or ballot measure contributes funds to another committee primarily formed to support or oppose the same state candidate or ballot measure and the funds used for the contribution were earmarked to support or oppose that candidate or ballot measure, the committee receiving the earmarked contribution shall disclose the contributors who earmarked their funds as the top contributor or contributors on the advertisement if the definition of top contributor provided for in paragraph (1) is otherwise met. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee primarily formed to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds. The new committee shall disclose the contributor on the new committee's advertisements if the definition of top contributor provided for in paragraph (1) is otherwise met.

(A) The primarily formed committee making the earmarked contribution shall provide the primarily formed committee receiving the earmarked contribution with the name, address, occupation, and employer, if any, or principal place of business, if self-employed, of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time the contribution is made. If the committee making the contribution received earmarked contributions that exceed the amount contributed or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which top contributors to identify pursuant to this subparagraph, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(B) The committee receiving the earmarked contribution may rely on the information provided pursuant to subparagraph (A) for purposes of complying with the disclosure required by Section 84503 and shall be considered in compliance with Section 84503 if the information provided pursuant to subparagraph (A) is disclosed as otherwise required.

(C) For purposes of this paragraph, funds are considered "earmarked" if any of the circumstances described in subdivision (b) of Section 85704 apply.

(4) If an advertisement paid for by a committee supports or opposes a candidate, the determination of top contributors pursuant to paragraphs (1) and (2) shall not include any nonprofit organization exempt from federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code or any person who has prohibited in writing the use of that person's contributions to support or oppose candidates if the committee does not use such contributions to support or oppose candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; Amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18450.2, 18450.3, 18450.11

§ 84501.1. Prohibition on Commission Interpretation on Thresholds and Amounts.

The Commission shall not, by regulation, policy, opinion, or advice letter, construe or interpret any of Sections 82025, 84305, 84310, 84501 through 84511, inclusive, or Section 85704 as allowing the Commission to establish or maintain any thresholds in quantity or amount that are not specified in those sections. Unless otherwise specified in this title, those sections apply regardless of quantity or amount.

History: Added by Stats. 2018, Ch. 777.

§ 84502. Disclosure; Committee Name.

(a)(1) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled commit-

tee established for an elective office of the controlling candidate, shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(2) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (a) of Section 82013 that is a political party committee or a candidate controlled committee established for an elective office of the controlling candidate shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 if the advertisement is any of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(C) A radio or television advertisement.

(D) A text message advertisement that is required to include a disclosure pursuant to Section 84504.7.

(b) Any advertisement **not described in subdivision (b) of Section 84504.3 that is** paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words “Ad paid for by” followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, internet website, or email message, the text described in subdivisions (a) and (b) may include the words “Paid for by” instead of “Ad paid for by.”

(d) Notwithstanding subdivisions (a) and (b), if an advertisement is a text message, the text described in subdivisions (a) and (b) may include the words “Paid for by” or “With,” instead of “Ad paid for by.”

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2004, Ch. 478, effective September 10, 2004, repealed and added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2019, Ch. 555.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.2

§ 84503. Top Contributor Disclosure.

(a) Any advertisement not described in subdivision (b) of Section 84504.3 that is paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words “committee major funding from” followed by the names of the top contributors to the committee paying for the advertisement. If fewer than three contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this section. If there are no contributors that qualify as top contributors, this disclosure is not required.

(b) The disclosure of a top contributor pursuant to this section need not include terms such as “incorporated,” “committee,” “political action committee,” or “corporation,” or abbreviations of these terms, unless the term is part of the contributor’s name in common usage or parlance.

(c) If this article requires the disclosure of the name of a top contributor that is a committee pursuant to subdivision (a) of Section 82013 and is a sponsored committee pursuant to Section 82048.7 with a single sponsor, only the name of the single sponsoring organization shall be disclosed.

(d) This section does not apply to a committee as defined by subdivision (b) or (c) of Section 82013.

History: Added by Proposition 208 of the November 1996 Statewide General Election; preliminarily enjoined January 6, 1998; permanently enjoined March 1, 2001, as applied to slate mailers only; repealed and added by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402, **18450.1**, 18450.3, **18450.5**

§ 84504. Disclosure; Radio and Telephone Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated over the radio or by telephonic means shall include the disclosures required by Sections 84502, 84503, and 84506.5 at the beginning or end of the advertisement, read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) Notwithstanding the definition of “top contributors” in paragraph (1) of subdivision (c) of Section 84501, radio and prerecorded telephonic advertisements shall disclose only the top two contributors of fifty thousand dollars (\$50,000) or more unless the advertisement lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor of fifty thousand dollars (\$50,000) or more shall be disclosed.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.5, 18521.5

§ 84504.1. Disclosure; Video and Television Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated as a video, including advertisements on television and videos disseminated over the Internet, shall include the disclosures required by Sections 84502 and 84503 at the beginning or end of the advertisement.

(b) The disclosure required by subdivision (a) shall be written and displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(1) The written disclosure required by subdivision (a) shall appear on a solid black background on the entire bottom one-third of the television or video display screen, or bottom one-fourth of the screen if the committee does not have or is otherwise not required to list top contributors, and shall be in a contrasting color in Arial equivalent type, and the type size for the smallest letters in the written disclosure

shall be 4 percent of the height of the television or video display screen. The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. All disclosure text shall be centered horizontally in the disclosure area. If there are any top contributors, the written disclosures shall be underlined in a manner clearly visible to the average viewer, except for the names of the top contributors, if any.

(2) The name of the top contributor shall not have its type condensed or have the spacing between characters reduced to be narrower than a normal non-condensed Arial equivalent type, unless doing so is necessary to keep the name of the top contributor from exceeding the width of the screen.

(c) An advertisement that is an independent expenditure supporting or opposing a candidate shall include the appropriate statement from Section 84506.5 in the solid black background described in paragraph (1) of subdivision (b) below all other text required to appear in that area in a contrasting color and in Arial equivalent type no less than 2.5 percent of the height of the television or video display screen. If including this statement causes the disclosures to exceed one-third of the television or video display screen, then it may instead be printed immediately above the background with sufficient contrast that is easily readable by the average viewer.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777. References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1, 18450.4

§ 84504.2. Disclosure; Print Ads.*

(a) A print advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color and centered horizontally in the disclosure area.

(2) The text shall be in an Arial equivalent type with a type size of at least 10-point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(3) The top of the disclosure area shall include the disclosure required by Sections 84502 and 84503. The text of the disclosure shall be underlined if there are any top contributors.

(4) The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered

horizontally in the disclosure area and shall not be underlined. The names of the top contributors shall not be printed in a type that is condensed to be narrower than a normal non-condensed Arial equivalent type.

(5) A committee subject to Section 84506.5 shall include the disclosure required by Section 84506.5, which shall be underlined and on a separate line below any of the top contributors.

(6) A committee subject to Section 84223 shall next include the text “Funding Details At [insert Commission Internet Website],” which shall be underlined and printed on a line separate from any other text.

(b) Notwithstanding paragraphs (2) and (4) of subdivision (a), the disclosures required by Sections 84502, 84503, and 84506.5 on a printed advertisement that is larger than those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall be in Arial equivalent type with a total height of at least 5 percent of the height of the advertisement, and printed on a solid background with sufficient contrast that is easily readable by the average viewer. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

(c) Notwithstanding the definition of “top contributors” in paragraph (1) of subdivision (c) of Section 84501, newspaper, magazine, or other public print advertisements that are 20 square inches or less shall be required to disclose only the single top contributor of fifty thousand dollars (\$50,000) or more.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92, amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

*Section 84504.2 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84504.3. Disclosure; Electronic Media Ads.

(a) This section applies to an electronic media advertisement if either of the following is true:

(1) The advertisement is paid for by a committee other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate.

(2) The advertisement is paid for by a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, and is either of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(b) An electronic media advertisement that is a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an internet website paid for by a committee shall comply with both of the following:

(1) Include the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by” in a contrasting color and a font size that is easily readable by the average viewer for the duration of the advertisement.

(2) The text shall be included or displayed as a hyperlink, icon, button, or tab to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(c) Notwithstanding subdivision (b), the text required by paragraph (1) of subdivision (b) is not required if including the language in an 8-point font would take up more than one-third of the graphic or image. In those circumstances, the advertisement need only include a hyperlink to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5.

(d) Notwithstanding subdivisions (b) and (c), an email message or internet website paid for by a committee shall include the disclosures required by Sections 84502, 84503, and 84506.5 printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email message, or at the top or bottom of every publicly accessible page of the internet website, as applicable.

(e) An internet website that is linked as provided for in paragraph (2) of subdivision (b) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(f) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclosures in subdivision (b) shall comply with the disclosure requirements for radio advertisements in Section 84504.

(g) An electronic media advertisement that is disseminated as a video shall comply with the disclosure requirements of Sections 84504.1 and 84504.5, depending on the type of committee that paid for it. If the video is longer than 30 seconds, the disclosures required by Sections 84504.1 and 84504.5 shall be made at the beginning of the advertisement.

(h)(1) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee’s profile, landing page, or similar location and shall not be required to include the disclosure required by subdivision (b) on each individual post, comment, or other similar communication. The disclosures specified in this subdivision shall be fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media, including, but not limited to, a computer screen, laptop, tablet, or smart phone.

(2) Notwithstanding paragraph (1), if making the disclosures specified in paragraph (1) fully visible on a commonly used electronic device would be impracticable, the

cover or header photo of the profile, landing page, or similar location need only include a hyperlink, icon, button, or tab to an internet website containing the disclosures specified in paragraph (1).

(i) The disclosures required by this section do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92; amended by Stats. 2018, Ch. 754; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.4. Disclosure; Radio and Television Ads; Political Parties and Candidates.

(a) A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(1) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(2) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

(b) An advertisement that is made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 in accordance with subdivision (h) of Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 754.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1, 18450.4

§ 84504.5. Disclosure; Independent Expenditure Ads; Political Parties and Candidates.

An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or opposes a ballot measure and is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the dis-

closure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds of a broadcast of 30 seconds or less or for less than 10 seconds of a broadcast that lasts longer than 30 seconds.

(c)(1) A print advertisement shall include the required disclosures in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), each line of the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than 5 percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1, 18450.4

§ 84504.6. Disclosure; Online Platform

(a) For purposes of this article, the following terms have the following meanings:

(1) "Online platform" means a public-facing internet website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements directly to advertisers. A public-facing internet website, web application, or digital application is not an online platform for purposes of this article to the extent that it displays advertisements that are sold directly to advertisers through another online platform.

(2)(A) "Online platform disclosed advertisement" means either of the following:

(i) A paid electronic media advertisement on an online platform made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform, unless all advertisements on the platform are video advertisements that can comply with Section 84504.1. Individual posts, comments, or other similar communications are not considered online platform disclosed advertisements if they are posted without payment to the online platform.

(ii) A paid electronic media advertisement on an online platform that is not any of the following:

(I) A graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to hyperlink to an internet website containing required disclosures, as described in subdivision (b) of Section 84504.3.

(II) Video, audio, or email.

(B) Electronic media advertisements that are not online platform disclosed advertisements as defined in subparagraph (A) shall follow disclosure requirements for electronic media advertisements under Section 84504.3.

(b) A committee that disseminates an online platform disclosed advertisement shall do all of the following:

(1) Upon requesting the dissemination, expressly notify the online platform through which the advertisement would be disseminated, using the online platform's chosen notification method, that the advertisement is an advertisement as defined in Section 84501.

(2)(A) Provide the online platform with the disclosure name of the committee.

(B) For purposes of this section, "disclosure name" means the text required by Section 84503, followed by a colon, followed by, surrounded in quotation marks, the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211. If no disclosure text is required by Section 84503, "disclosure name" means the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(C) If the disclosure name changes due to a change in the top contributors or the name of the committee, the committee shall provide the online platform with an updated disclosure name within five business days.

(3) Provide the online platform with the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(4) Provide the online platform with the name and identification number of the committee that paid for the advertisement.

(c) An online platform that disseminates a committee's online platform disclosed advertisement shall do one of the following:

(1) Display "Paid for by" or "Ad Paid for by" followed by the disclosure name provided by the committee, easily readable to the average viewer, located adjacent to any text stating that the advertisement is an advertisement or is promoted or sponsored. The online platform may display only one hundred or more characters of the disclosure name if it is followed by a "..." that is clearly clickable and that links to a page as described in paragraph (3).

(2) The online platform may instead display a hyperlink, icon, button, or tab with the text "Who funded this ad?," "Paid for by," or "Ad Paid for by" that is clearly clickable in

the same or similar font and in at least the same font size as the online platform's text, and easily readable to the average viewer, stating that the advertisement is an advertisement or is promoted or sponsored, that links to a page as described in paragraph (3).

(3) Hyperlinks, icons, buttons, or tabs used for the purposes described in paragraphs (1) and (2) shall be linked to the profile or landing page of the committee that paid for the advertisement; to another page to which the average viewer would normally navigate to view additional information about a committee containing the disclosure name in a manner that is easily seen and readable by the average viewer; or to an internet website containing the disclosure required by subdivision (d) of Section 84504.3.

(d) An online platform that disseminates committees' online platform disclosed advertisements shall meet all of the following requirements:

(1) Maintain, and make available for online public inspection in a machine readable format, a record of any advertisement disseminated on the online platform by a committee that purchased five hundred dollars (\$500) or more in advertisements on the online platform during the preceding 12 months. Each record shall contain all of the following:

(A) A digital copy of the advertisement.

(B) The approximate number of views generated from the advertisement and the date and time that the advertisement was first displayed and last displayed.

(C) Information regarding the range charged or the total amount spent on the advertisement.

(D) The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(E) The name and identification number of the committee that paid for the advertisement, if the committee is assigned an identification number.

(2) The information required under this subdivision shall be made available as soon as practicable and shall be retained by the online platform for no less than four years.

(3)(A) Display a prominent button, icon, tab, or hyperlink with the text "View Ads" or similar text in one of the following locations: (i) near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a position that the average viewer will readily see it upon viewing that page; (ii) on a page that displays the committee's profile information or biographical information; (iii) or on a page on which the average viewer would normally navigate to view additional information about a committee.

(B) The button, icon, tab, or hyperlink shall link to a page clearly showing all of the advertisement records required by paragraph (1).

(e) An online platform that creates a mechanism for a committee requesting dissemination of an online platform disclosed advertisement to expressly notify the online platform whether the advertisement is an advertisement as defined in Section 84501 and to provide all information necessary for the online platform to comply with the requirements

of this section may rely in good faith on the information provided by the committee to the online platform to satisfy the online platform's obligations under subdivisions (c) and (d). History: Added by Stats. 2018, Ch. 754; amended by Stats. 2019, Ch. 558.

§ 84504.7. Disclosure; Text Messages.

(a) A candidate or committee shall not authorize or pay for an advertisement that is a text message, unless the disclosures described in subdivision (b) are made, if the text message meets one of the following conditions:

(1) The text message supports or opposes a candidate.

(2) The text message supports or opposes a ballot measure.

(b)(1) A committee, other than a candidate controlled committee established for an elective office of the controlling candidate, subject to subdivision (a) shall include the text "Paid for by" or "With" followed by either the name of the committee, or a hyperlink or Uniform Resource Locator (URL) for an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5. The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than eight-point font. If the word "With" is used, the individual sending the text shall identify themselves in the following manner: "(Name of individual) with (name of committee or hyperlink or URL)." A disclosure using the word "With" may appear anywhere in the text message, including in conversational content, and need not appear as a separate statement apart from the other content of the message.

(2) A candidate controlled committee established for an elective office of the controlling candidate subject to subdivision (a) shall include the text "Paid for by" or "With" followed by the name of the candidate, followed by the word "For," and followed by the name of the elective office sought. If the word "With" is used, the individual sending the text shall identify themselves in the following manner: "(Name of individual) with (name of candidate) for (name of elective office)." A disclosure using the word "With" may appear anywhere in the text message, including in conversational content, and need not appear as a separate statement apart from the other content of the message.

(3) A committee subject to subdivision (a) that has top contributors, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with the following:

(A) Immediately following the name of the committee or the hyperlink or URL required by paragraph (1), the text message shall also include the text "Top funders:" followed by the names of the top two contributors of fifty thousand dollars (\$50,000) or more to the committee paying for the advertisement, separated by "&" or "and."

(B) The names of the top two contributors may be spelled using acronyms, abbreviations, or other shorthand in common usage or parlance. If a top contributor is an individual, their first and last name shall both be used.

(C) Notwithstanding subparagraph (A), if the disclosures required by paragraph (1) and this paragraph would exceed 35 characters, the text message shall disclose only the single top contributor of fifty thousand dollars (\$50,000) or more to the committee paying for the advertisement.

(D) Notwithstanding subparagraph (A), if the text message includes the name of the committee paying for the advertisement in accordance with paragraph (1), and the committee's name includes the name of one of the top two contributors of fifty thousand dollars (\$50,000) or more to the committee paying for the advertisement, the text message is not required to include the name of that contributor after the text "Top funders:".

(4) The text required to be included in a text message sent pursuant to this subdivision shall be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.

(c)(1) This section does not apply to a text message that is individually sent without the assistance of mass distribution technology, including a text messaging platform.

(2) If a committee, other than a political party committee or a candidate controlled committee established for an elected office of the controlling candidate, subject to subdivision (a) that has top contributors uses individuals who are unpaid volunteers to send text messages with the assistance of mass distribution technology, including a text message platform, the text messages sent by individuals who are unpaid volunteers are not required to disclose the top two contributors pursuant to paragraph (3) of subdivision (b). Text messages sent by unpaid volunteers shall include a disclosure stating that the text message is being sent by a volunteer. For purposes of this paragraph, receiving payments for food, transportation, or lodging in connection with campaign activity shall not disqualify a person from being classified as an unpaid volunteer.

(d) An internet website that is hyperlinked as provided for in this section shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted on.

(e)(1) If an exchange consists of a sequence of multiple text messages sent on the same day, a candidate or committee shall be deemed in compliance with this section if the candidate or committee sends the disclosures required by subdivision (b) with the first text message in the sequence that meets one of the conditions of subdivision (a).

(2) A committee shall be deemed in compliance with this section if the disclosures required by subdivision (b) are included in the text message in the form the committee intended it to be sent, regardless of the form the carrier relayed it to the recipient.

(3) If a committee includes a hyperlink or URL in the text message sent pursuant to subdivision (b), the committee shall be deemed to be in compliance with subdivision (b) even if the recipient's device is incapable of accessing the corresponding internet website.

History: Added by Stats. 2019, Ch. 555.

§ 84505. Avoidance of Disclosure.

(a) In addition to the requirements of Sections 84502, 84503, and 84506.5, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a top contributor.

(b) Written disclosures required by Sections 84503 and 84506.5 shall not appear in all capital letters, except that capital letters shall be permitted for the beginning of a sentence, the beginning of a proper name or location, or as otherwise required by conventions of the English language.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2007, Ch. 495; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1

§ 84506.5. Disclosure; Independent Expenditure Ads; Not Authorized by Candidate.

An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that "This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."

History: Added by Stats. 2007, Ch. 495; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1

§ 84509. Amended Disclosures.

If the order of top contributors required to be disclosed pursuant to this article changes or a new contributor qualifies as a top contributor, the disclosure in the advertisement shall be updated as follows:

(a) A television, radio, telephone, electronic billboard, or other electronic media advertisement shall be updated to reflect the new top contributors within five business days. A committee shall be deemed to have complied with this subdivision if the amended advertisement is delivered, containing a request that the advertisement immediately be replaced, to all affected broadcast stations or other locations where the advertisement is placed no later than the fifth business day.

(b) A print media advertisement, including nonelectronic billboards, shall be updated to reflect the new top contributors before placing a new or modified order for additional printing of the advertisement.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.5

§ 84510. Remedies for Article Violations; Civil Action; Fines.

(a)(1) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000), a person who violates Section 84503 or 84506.5 is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(2) Notwithstanding paragraph (1), a person who intentionally violates a provision of Sections 84504 to 84504.3, inclusive, or Section 84504.5 or 84504.6, for the purpose of avoiding disclosure is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any of the sections described in paragraph (1) or (2) of subdivision (a) or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 754.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1

§ 84511. Ballot Measure Ads; Paid Spokesperson Disclosure.

(a) This section applies to a committee that does either of the following:

(1) Makes an expenditure of five thousand dollars (\$5,000) or more to an individual for the individual's appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure.

(2) Makes an expenditure of any amount to an individual for the individual's appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized, documented training as a prerequisite to engage in that occupation.

(b) A committee described in subdivision (a) shall file, within 10 days of the expenditure, a report that includes all of the following:

(1) An identification of the measure that is the subject of the advertisement.

(2) The date of the expenditure.

(3) The amount of the expenditure.

(4) The name of the recipient of the expenditure.

(5) For a committee described in paragraph (2) of subdivision (a), the occupation of the recipient of the expenditure.

(c) An advertisement paid for by a committee described in paragraph (1) of subdivision (a) shall include a disclosure statement stating "(spokesperson's name) is being paid by this campaign or its donors" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message. If the advertisement is a television or video advertisement, the statement shall be shown continuously, except when the disclosure statement required by Section 84504.1 is being shown.

(d)(1) An advertisement paid for by a committee described in paragraph (2) of subdivision (a) shall include a disclosure statement stating "Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message. If the advertisement is a television or video advertisement, the statement shall be shown continuously, except when the disclosure statement required by Section 84504.1 is being shown.

(2) A committee may omit the disclosure statement required by this subdivision if all of the following are satisfied with respect to each individual identified in the report filed pursuant to subdivision (b) for that advertisement:

(A) The occupation identified in the report is substantially similar to the occupation portrayed in the advertisement.

(B) The committee maintains credible documentation of the appropriate license, certification, or other training as evidence that the individual may engage in the occupation identified in the report and portrayed in the advertisement and makes that documentation immediately available to the Commission upon request.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2014, Ch. 868; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.11

Chapter 4.6. Online Disclosure Act of 1997.**§ 84600 – 84616**

§ 84600.	Online Disclosure.....	57
§ 84601.	Public Access.....	57
§ 84602.	Secretary of State's Duties.*	57
§ 84602.1.	Secretary of State's Duties; Implementation and Reporting.....	59
§ 84602.3.	Secretary of State's Duties; Disclosure of Local Campaign Finance Information.....	59
§ 84602.5.	Online Index of Identification Numbers.....	59
§ 84603.	Acceptance of Reports.....	60
§ 84605.	Who Shall File Online.*.....	60
§ 84606.	Operation of Online System.*.....	61
§ 84607.	Prohibition Against Political or Campaign Use.....	61
§ 84612.	Rejection of Electronic Filing; Procedures.* ..	61
§ 84613.	Political Disclosure, Accountability, Transparency, and Access Fund.....	61
§ 84615.	Campaign Reports and Statements – Electronic Filing for Local Agencies.*	61
§ 84616.	Electronic Retention for Local Government Agency Filings.....	62

§ 84600. Online Disclosure.

This chapter may be known and may be cited as the Online Disclosure Act.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 2001, Ch. 917, effective October 14, 2001.

§ 84601. Public Access.

The Legislature finds and declares as follows:

(a) The people of California enacted one of the nation's most comprehensive campaign and lobbying financial disclosure laws when they voted for Proposition 9, the Political Reform Act of 1974, an initiative statute.

(b) Public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate.

(c) Advances in technology have made it necessary for the State of California to develop a new, data-driven online filing and disclosure system that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format.

(d) Members of the public, including voters, journalists, and researchers, should be able to access campaign finance and lobbying information in a robust and flexible manner, including through searches and visual displays such as graphs and maps.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 2016, Ch. 845.

§ 84602. Secretary of State's Duties.*

(a) To implement the Legislature's intent, the Secretary of State, in consultation with the Commission, notwithstanding any other provision of this code, shall do all of the following:

(1) Develop online and electronic filing processes for use by persons and entities specified in Section 84605 that are required to file statements and reports with the Secretary

of State's office pursuant to Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100). Those processes shall each enable a user to comply with all of the disclosure requirements of this title and shall include, at a minimum, both of the following:

(A) A means or method whereby filers subject to this chapter may submit required filings free of charge. Any means or method developed pursuant to this subparagraph shall not provide any additional or enhanced functions or services that exceed the minimum requirements necessary to fulfill the disclosure provisions of this title.

(B) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in Section 84605 and that conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings before development of the record format or formats as a means to ensure that affected entities have an opportunity to provide input into the development process.

(2) Accept test files from software vendors and others wishing to file reports electronically, for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to paragraph (1) and is compatible with the Secretary of State's system for receiving the data. A list of the software and service providers who have submitted acceptable test files shall be published by the Secretary of State and made available to the public. Acceptably formatted files shall be submitted by a filer in order to meet the requirements of this chapter.

(3) Develop a system that provides for the online or electronic transfer of the data specified in this section using telecommunications technology that ensures the integrity of the data transmitted and that creates safeguards against efforts to tamper with or subvert the data.

(4) Make all the data filed available on the internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available on the internet within 24 hours of receipt. The data made available on the internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title.

(5) Develop a procedure for filers to comply with the requirement that they sign under penalty of perjury pursuant to Section 81004.

(6) Maintain all filed data online for 10 years after the date it is filed, and then archive the information in a secure format.

(7) Provide assistance to those seeking public access to the information.

(8) Implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(9) Provide the Commission with necessary information to enable it to assist agencies, public officials, and

others with the compliance with, and administration of, this title.

(b)(1) To implement the Legislature's intent, as described in Section 84601, the Secretary of State, in consultation with the Commission, shall develop an online filing and disclosure system for use by persons and entities specified in Section 84605 that are required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100). The system shall enable a user to comply with all of the disclosure requirements of this title and shall include, at minimum, all of the following:

(A) A data-driven means or method that allows filers subject to this chapter to submit required filings free of charge in a manner that facilitates public searches of the data and does all of the following:

(i) Enables a filer to comply with all of the disclosure requirements of this title, including by entering or uploading requisite data or by indicating that the filer had no reportable activity during a particular reporting period.

(ii) Retains previously submitted data so that a filer can access that data to amend disclosures or prepare future disclosures. The system shall permit a filer to enter a contribution or independent expenditure transaction once and have the transaction appear on both a transactional report required by Section 84203, 84204, 84204.5, 84309, or 85500 and a periodic campaign statement required by this title.

(iii) Ensures the security of data entered and stored in the system.

(iv) To the extent feasible, is compatible with potential future capability to accept statements from filers specified in subdivisions (b) to (e), inclusive, of Section 84215.

(B) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in Section 84605 and that conforms with the disclosure requirements of this title.

(2) The Secretary of State shall do all of the following with respect to the online filing and disclosure system developed pursuant to this subdivision:

(A) Accept test files from software vendors and others wishing to file reports electronically for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to this subdivision and is compatible with the Secretary of State's system for receiving the data. The Secretary of State shall publish and make available to the public a list of the software and service providers who have submitted acceptable test files. A filer shall submit acceptably formatted files in order to meet the requirements of this chapter.

(B) Make the data filed available on the internet as follows:

(i) In a user-friendly, easily understandable format that provides the greatest public access, including online searches and machine-readable downloads of all data contained in the system, except as specified in clause (iii).

(ii) Free of charge and as soon as possible after receipt, or, in the case of late contribution, late in-kind contribution,

and late independent expenditure reports, as defined by Sections 84203, 84203.3, and 84204, respectively, within 24 hours of receipt.

(iii) Not containing the street name or building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title, except that a nonresidential address of a committee under Section 82013 may be made available on the internet.

(iv) In a manner that allows the public to track and aggregate contributions from the same contributor across filers using a permanent unique identifier assigned by the Secretary of State for this purpose. The Secretary of State shall assign this identifier to, at minimum, each contributor who makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees that file electronically with the Secretary of State pursuant to subdivision (a) of Section 84215 or who files with the Secretary of State as a major donor committee under subdivision (c) of Section 82013.

(C) Develop a procedure for filers to comply electronically with the requirement to sign under penalty of perjury pursuant to Section 81004.

The electronic signature procedure shall allow the filer to file with the Secretary of State and shall not require an original signature to be filed.

(D) Maintain all filed data online for at least 20 years after the date it is filed, and then archive the information in a secure format.

(E) Provide assistance to those seeking public access to the information.

(F) Implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(G) Provide the Commission with necessary information to enable it to assist agencies, public officials, and others in complying with and administering this title.

(3) The Secretary of State shall do all of the following with respect to developing the online filing and disclosure system and record format pursuant to this subdivision:

(A) Consult with the Assembly Committee on Elections and Redistricting, the Senate Committee on Elections and Constitutional Amendments, the Commission, users, filers, and other stakeholders, as appropriate, about functions of the online filing and disclosure system.

(B) In consultation with the Commission, and no later than July 31, 2017, hold at least one public hearing to receive input about developing the online filing and disclosure system and record format.

(C) No later than December 31, 2017, submit a report to the Assembly Committee on Elections and Redistricting and the Senate Committee on Elections and Constitutional Amendments that includes a plan for the online filing and disclosure system, describes how members of the public will be able to query and retrieve data from the system, and includes a plan for integrating statements as specified in clause (iv) of subparagraph (A) of paragraph (1).

(4) The Secretary of State shall make the online filing and disclosure system developed pursuant to this subdivision available for use no later than February 2021.

(5) The Secretary of State may accept any funds, services, equipment, or grants to further this subdivision, provided that the Secretary of State shall notify the Assembly Committee on Elections and Redistricting and the Senate Committee on Elections and Constitutional Amendments upon accepting any amount valued at one hundred thousand dollars (\$100,000) or more.

(6) Because the provisions of this chapter need to be implemented as expeditiously as possible, the information technology procurement requirements described in Chapter 5.6 (commencing with Section 11545) of Part 1 of Division 3 of Title 2 of this code, and in Section 12100 of the Public Contract Code, do not apply to development of the online filing and disclosure system pursuant to this subdivision. The Secretary of State shall consult with the Department of Technology, as appropriate, in developing the online filing and disclosure system, in order to maximize project success, minimize life-cycle costs, and ensure the security of the system and its data.

(7)(A) Before making the system developed pursuant to this subdivision available for public use, the Secretary of State, in consultation with the Commission, shall test the system to ensure its functionality and then certify that the system meets all the requirements of this subdivision. The Secretary of State may consult with the Department of Technology as needed to fulfill the secretary's duties under this paragraph.

(B) After the system developed pursuant to this subdivision is certified, the system described in subdivision (a) shall no longer accept reports and filings, unless otherwise directed by the Secretary of State and the Commission. The system described in subdivision (a) shall continue to allow public access to past disclosures unless the Secretary of State migrates that data into the system described in this subdivision. To facilitate data conversion during migration, the Secretary of State may make minor technical modifications or corrections to the migrated data.

(c) On or before December 31, 2017, and on or before every April 15, July 15, October 15, and January 15 thereafter, the Secretary of State shall submit to the chairs of the Joint Legislative Budget Committee and the fiscal committees of the Legislature a quarterly report on the progress of the Cal-Access Project. Specifically, the Secretary of State shall certify whether the secretary (1) anticipates making or has made any changes to the project's scope, schedule, or budget and (2) considers any problems to be a risk to the project's completion according to the approved project schedule and budget. This reporting requirement shall end upon the completion or termination of the Cal-Access Project.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2000, Ch. 319; amended by Stats. 2001, Ch. 917, effective October 14, 2001; amended by Stats. 2004, Ch. 816; amended by Stats. 2005, Ch. 22; amended by Stats. 2012, Ch. 503; amended by Stats. 2016, Ch. 845; amended by Stats. 2018, Ch. 662; amended by Stats. 2019, Ch. 30; amended by Stats. 2019, Ch. 315.

*Section 84602 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying

an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84602.1. Secretary of State's Duties; Implementation and Reporting.

(a) The Secretary of State shall, on or before June 30, 2007, fully implement this chapter as specified in Section 84602, including completing online lobbying registration forms so that all forms can be filed online as specified in Section 84602.

(b) On or before February 1, 2007, the Secretary of State shall report to the Legislature on all of the following:

(1) The implementation and development of the online and electronic filing and disclosure requirements of this chapter, with specific emphasis on the status of the development of a means or method described in paragraph (1) of subdivision (a) of Section 84602.

(2) Whether and to what extent any means or method has been deployed that allows filers to submit required filings free of charge, with an emphasis on the types of filers who are not yet able to complete all required online or electronic filings free of charge, what aspects of the filings are missing that prevent those filers from being able to complete all required online or electronic filings free of charge, the costs to those filers, and, if applicable, why a means or method has not yet been deployed and when one is likely to be deployed.

(3) What resources are necessary to complete efforts to allow filers to submit required filings free of charge, when completion is expected, and an explanation of why the original full allocation of requested funding did not provide the statutorily required free filing system.

(c) Additional reports to the Legislature pursuant to subdivision (b) shall be due on July 1, and December 1, of each year, until a means or method has been deployed that allows all filers who are required to file reports online or electronically to file those reports free of charge.

History: Added by Stats. 2006, Ch. 69, Sec. 19. Effective July 12, 2006.

§ 84602.3. Secretary of State's Duties; Disclosure of Local Campaign Finance Information.

The Secretary of State shall conspicuously post on his or her Internet Web site hyperlinks to the Internet Web site of any local government agency that contains publicly-disclosed campaign finance information. The Secretary of State shall update these hyperlinks no later than December 31 of each year.

History: Added by Stats. 2017, Ch. 624; Stats. 2018, Ch. 92.

§ 84602.5. Online Index of Identification Numbers.

The Secretary of State shall disclose online pursuant to this chapter an index of the identification numbers, as assigned pursuant to subdivision (a) of Section 84101, of every person, entity, or committee that is obligated to make a disclosure pursuant to Chapter 4. This index shall be updated monthly except for the six-week period preceding any

statewide regular or special election, during which period the index shall be updated weekly.

History: Added by Stats. 1999, Ch. 208.

§ 84603. Acceptance of Reports.

The Secretary of State, once all state-mandated development, procurement, and oversight requirements have been met, shall make public their availability to accept reports online or electronically. Any filer may then commence voluntarily filing online or electronically any required report or statement that is otherwise required to be filed with the Secretary of State pursuant to Chapter 4 (commencing with Section 84100) or Chapter 6 (commencing with Section 86100) of this title.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999.

§ 84605. Who Shall File Online.*

(a) The following persons shall file online or electronically with the Secretary of State:

(1) Any candidate, including superior court, appellate court, and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is twenty-five thousand dollars (\$25,000) or more. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, shall be included. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that is first subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title. A committee, as defined in subdivision (c) of Section 82013, shall file online or electronically if it makes contributions of twenty-five thousand dollars (\$25,000) or more in a calendar year.

(2) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling twenty-five thousand dollars (\$25,000) or more to support or oppose candidates for any elective state office or state measure. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title.

(3) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of twenty-five thousand dollars (\$25,000) or more. For a slate mailer organization subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a slate mailer organization that first is subject to this title on or after

January 1, 2000, the beginning date for calculating cumulative totals is the date the organization is first subject to this title.

(4) Any lobbyist, lobbying firm, lobbyist employer, or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is two thousand five hundred dollars (\$2,500) or more in a calendar quarter.

(b) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204, respectively, not covered by paragraph (1), (2), or (3) of subdivision (a) or any other provision of law.

(c) Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

(d) Once a person or entity is required to file online or electronically, subject to subdivision (a) or (c), the person or entity shall be required to file all subsequent reports online or electronically.

(e) It shall be presumed that online or electronic filers file under penalty of perjury.

(f) Persons filing online or electronically shall also continue to file required disclosure statements and reports in paper format. The paper copy shall continue to be the official filing for audit and other legal purposes until the Secretary of State, pursuant to Section 84606, determines the system is operating securely and effectively.

(g) The Secretary of State shall maintain at all times a secured, official version of all original online and electronically filed statements and reports required by this chapter. Upon determination by the Secretary of State, pursuant to Section 84606, that the system is operating securely and effectively, this online or electronic version shall be the official version for audit and other legal purposes.

(h) Except for statements related to a local elective office or a local ballot measure filed by a candidate for local elective office who is also a candidate for elective state office, a copy of a statement, report, or other document filed by online or electronic means with the Secretary of State shall not be filed with a local filing officer.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2007, Ch. 348; amended by Stats. 2010, Ch. 18; Amended by Stats. 2017, Ch. 111

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.11, 18451, 18465, 18465.1

*Section 84605 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84606. Operation of Online System.*

The Secretary of State shall determine and publicly disclose when the online and electronic disclosure systems are operating effectively. In making this determination, the Secretary of State shall consult with the Commission, the Department of Information Technology, and any other appropriate public or private entity. The online or electronic disclosure system shall not become operative until the Department of Information Technology approves the system. Upon this determination, filers required by this chapter to file online or electronically will no longer be required to file a paper copy or with local filing officers. Furthermore, the date that a filer transmits an online or electronic report shall be the date the filed report is received by the Secretary of State.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; Amended by Stats. 2017, Ch. 111.

*Section 84606 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84607. Prohibition Against Political or Campaign Use.

Pursuant to Section 8314, no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced by the requirements of this chapter.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997.

§ 84612. Rejection of Electronic Filing; Procedures.*

If the Secretary of State rejects a filing made under this chapter, the Secretary of State shall immediately notify the filer, by electronic mail, of the reason or reasons for rejection using plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The notice shall be written or displayed so that the meaning will be easily understood by those persons directly affected by it.

History: Added by Stats. 2001, Ch. 79.

*Section 84101 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84613. Political Disclosure, Accountability, Transparency, and Access Fund.

(a) The Political Disclosure, Accountability, Transparency, and Access Fund is hereby established in the State Treasury. Moneys collected pursuant to Section 84101.5 and one-half of the moneys collected pursuant to Section 86102 shall be deposited in the Political Disclosure, Accountability, Transparency, and Access Fund.

(b)(1) Moneys deposited in the Political Disclosure, Accountability, Transparency, and Access Fund are subject to appropriation by the Legislature and shall be expended for

the maintenance, repair, and improvement of the online or electronic disclosure program implemented by the Secretary of State pursuant to this chapter.

(2) In addition to paragraph (1), the Secretary of State may also use moneys deposited in the Political Disclosure, Accountability, Transparency, and Access Fund for purposes of implementing the act that added this section.

(c) Any expenditure of moneys from the Political Disclosure, Accountability, Transparency, and Access Fund for the purposes described in paragraph (1) of subdivision (b) is subject to the project approval and oversight process established by the California Technology Agency pursuant to Section 11546.

History: Added by Stats. 2012, Ch. 506.

§ 84615. Campaign Reports and Statements – Electronic Filing for Local Agencies.*

A local government agency may require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than one thousand dollars (\$1,000), and makes expenditures totaling less than one thousand dollars (\$1,000), in a calendar year, to file those statements, reports, or other documents online or electronically with a local filing officer. A local government agency that requires online or electronic filing pursuant to this section shall comply with all of the following:

(a) The legislative body for the local government agency shall adopt an ordinance approving the use of online or electronic filing, which shall include a legislative finding that the online or electronic filing system will operate securely and effectively and would not unduly burden filers. The ordinance adopted by the legislative body for the local government agency may, at the discretion of that legislative body, specify that the electronic or online filing requirements apply only to specifically identified types of filings or are triggered only by identified monetary thresholds. In any instance in which the original statement, report, or other document is required to be filed with the Secretary of State and a copy of that statement, report, or other document is required to be filed with the local government agency, the ordinance may permit, but shall not require, that the copy be filed online or electronically.

(b) The online or electronic filing system shall only accept a filing in the standardized record format that is developed by the Secretary of State pursuant to paragraph (2) of subdivision (a) of Section 84602 and that is compatible with the Secretary of State's system for receiving an online or electronic filing.

(c) The online or electronic filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.

(d)(1) The local filing officer shall issue to a person who files a statement, report, or other document online or electronically an electronic confirmation that notifies the

filer that the statement, report, or other document was received. The confirmation shall include the date and the time that the statement, report, or other document was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(2) A copy retained by the filer of a statement, report, or other document that was filed online or electronically and the confirmation issued pursuant to paragraph (1) that shows the filer timely filed the statement, report, or other document shall create a rebuttable presumption that the filer timely filed the statement, report, or other document.

(e) The date of filing for a statement, report, or other document that is filed online or electronically shall be the day that it is received by the local filing officer.

(f) The local filing officer shall make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The local filing officer shall make a complete, unredacted copy of any statement, report, or other document filed pursuant to this section, including any street names, building numbers, and bank account numbers disclosed by the filer, available to any person upon request.

(g) The online or electronic filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury pursuant to Section 81004.

(h) The local government agency shall enable filers to complete and submit filings free of charge.

(i) The local filing officer shall maintain, for a period of at least 10 years commencing from the date filed, a secured, official version of each online or electronic statement, report, or other document filed pursuant to this section, which shall serve as the official version of that record for purpose of audits and any other legal purpose. Data that has been maintained for at least 10 years may then be archived in a secure format.

(j) Notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this section shall not be required to be filed with the local filing officer in paper format.

History: Added by Stats. 2012, Ch. 126.

*Section 84615 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84616. Electronic Retention for Local Government Agency Filings.

(a) Within 72 hours of each applicable filing deadline, a local government agency shall post on its internet website a copy of any statement, report, or other document required by Chapter 4 (commencing with Section 84100) that is filed with that agency in paper format. If the final day of the 72-

hour period is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday. Before posting, the local filing officer shall redact the street name and building number of the persons or entity representatives listed on any statement, report, or document, or any bank account number required to be disclosed by the filer. Providing a link on the agency's internet website to the statement, report, or other document satisfies this subdivision.

(b) A statement, report, or other document posted pursuant to this section shall be made available for four years from the date of the election associated with the filing.

History: Added by Stats. 2020, Ch. 214.

Chapter 5. Limitations on Contributions. **§ 85100 – 85802**

Article 1. Title of Chapter. § 85100	62
Article 2. Candidacy. § 85200 – 85201	62
Article 2.5. Applicability of the Political Reform Act of 1974. § 85202 – 85206	64
Article 3. Contribution Limitations. § 85300 – 85321	64
Article 4. Voluntary Expenditure Ceilings. § 85400 – 85403	70
Article 5. Independent Expenditures. § 85500-85505	71
Article 6. Ballot Pamphlet. § 85600-85601	72
Article 7. Additional Contribution Requirements. § 85700- 85704	73
Article 8. Appropriation. § 85802	75

Article 1. Title of Chapter. § 85100

§ 85100. Chapter Title.

This chapter shall be known as the “Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974.”

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Article 2. Candidacy. § 85200 – 85201

§ 85200. Statement of Intention to be a Candidate.*	62
§ 85201. Campaign Bank Account.	63

§ 85200. Statement of Intention to be a Candidate.*

Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective state office, as that term is defined by Section 82024, shall file with the Secretary of State an original statement, signed under penalty of perjury, of intention to be a candidate for a specific office.

An individual who intends to be a candidate for any other elective office shall file the statement of intention with

the same filing officer and in the same location as the individual would file an original campaign statement pursuant to subdivisions (b), (c), and (d) of Section 84215.

For purposes of this section, “contribution” and “loan” do not include any payments from the candidate’s personal funds for a candidate filing fee or a candidate statement of qualifications fee.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394; amended by Stats. 2000, Ch. 853; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18520, 18521, 18531.5, 18536, 18537.1, 18542

*Section 85200 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 85201. Campaign Bank Account.

(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) As required by subdivision (f) of Section 84102, a candidate who raises contributions of two thousand dollars (\$2,000) or more in a calendar year shall set forth the name and address of the financial institution where the candidate has established a campaign contribution account and the account number on the committee statement of organization filed pursuant to Sections 84101 and 84103.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate’s controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

(f) Subdivisions (d) and (e) do not apply to a candidate’s payment for a filing fee and statement of qualifications from his or her personal funds.

(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than two thousand dollars (\$2,000) in a calendar year to support his or her candidacy. For purposes of this section, a candidate’s payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made.

(h) An individual who raises contributions from others for his or her campaign, but who raises or spends less than two thousand dollars (\$2,000) in a calendar year, and does not qualify as a committee under Section 82013, shall establish a campaign contribution account pursuant to subdivision (a), but is not required to file a committee statement of organization pursuant to Section 84101 or other statement of bank account information.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1990, Ch. 387; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394;

amended by Stats. 2000, Ch. 853; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.4, 18421.3, 18520, 18521, 18521.5, 18523, 18523.1, 18524, 18525, 18526, 18531.6, 18531.61, 18537.1

Article 2.5. Applicability of the Political Reform Act of 1974.

§ 85202 – 85206

§ 85202.	Interpretation of Chapter 5.....	64
§ 85203.	Small Contributor Committee.....	64
§ 85204.	Election Cycle for 24-Hour Reports.	64
§ 85204.5.	Special Election Cycle and Special Runoff Election Cycle.....	64
§ 85205.	Political Party Committee.	64
§ 85206.	Public Moneys.	64

§ 85202. Interpretation of Chapter 5.

Unless specifically superseded by the act that adds this section, the definitions and provisions of this title shall govern the interpretation of this chapter.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1989, Ch. 303. (Formerly titled “Contributions to Candidates; Trust for Specific Office”); repealed by Stats. 1990, Ch. 84. Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Applicability of the Political Reform Act”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 85203. Small Contributor Committee.

“Small contributor committee” means any committee that meets all of the following criteria:

- (a) The committee has been in existence for at least six months.
- (b) The committee receives contributions from 100 or more persons.
- (c) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year.
- (d) The committee makes contributions to five or more candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18503

§ 85204. Election Cycle for 24-Hour Reports.

“Election cycle,” for purposes of Sections 85309 and 85500, means the period of time commencing 90 days prior to an election and ending on the date of the election. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Two-Year Period”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18425, 18550

§ 85204.5. Special Election Cycle and Special Runoff Election Cycle.

With respect to special elections, the following terms have the following meanings:

(a) “Special election cycle” means the day on which the office becomes vacant until the day of the special election.

(b) “Special runoff election cycle” means the day after the special election until the day of the special runoff election.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 85205. Political Party Committee.

“Political party committee” means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 or 5151 of the Elections Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2013, Ch. 511.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18530.3

§ 85206. Public Moneys.

“Public moneys” has the same meaning as defined in Section 426 of the Penal Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Article 3. Contribution Limitations.

§ 85300 – 85321

§ 85300.	Use of Public Funds for Seeking Elective Office.*	65
§ 85301.	Limits on Contributions from Persons.	65
§ 85302.	Limits on Contributions from Small Contributor Committees.	65
§ 85303.	Limits on Contributions to Committees and Political Parties.	65
§ 85304.	Legal Defense Fund.	66
§ 85304.5.	Legal Defense Fund; Local Candidates and Elected Officeholders.	66
§ 85305.	Restrictions on Contributions by Candidates. .	67
§ 85306.	Transfers Between a Candidate’s Own Committees; Use of Funds Raised Prior to Effective Date.	67
§ 85307.	Loans.	67
§ 85308.	Family Contributions.	67
§ 85309.	Online Disclosure of Contributions.	67
§ 85310.	Communications Identifying State Candidates. 68	
§ 85312.	Communications to Members of an Organization.	68
§ 85314.	Special Elections and Special Runoff Elections as Separate Elections.	68
§ 85315.	Elected State Officer Recall Committees.	69
§ 85316.	Post-Election Fundraising Restrictions; State Officeholder Accounts.	69
§ 85317.	Carry Over of Contributions.	69
§ 85318.	Contributions Received for Primary and General Elections.	70
§ 85319.	Returning Contributions.....	70

§ 85320. Foreign Entities.....	70
§ 85321. Post-Election Fundraising; Elections Held Prior to January 1, 2001.....	70

§ 85300. Use of Public Funds for Seeking Elective Office.*

(a) Except as provided in subdivision (b), a public officer shall not expend, and a candidate shall not accept, any public moneys for the purpose of seeking elective office.

(b) A public officer or candidate may expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter, and both of the following are true:

(1) Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference.

(2) The state or local governmental entity has established criteria for determining a candidate's qualification by statute, ordinance, resolution, or charter.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 2016, Ch. 837.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18530

* Please note that the Commission is enjoined from enforcing the provisions of Statutes 2016, Chapter 837. (See *Howard Jarvis Taxpayers Assn. v. Newsom* (2019) 39 Cal.App.5th 158.)

§ 85301. Limits on Contributions from Persons.

(a) A person, other than a small contributor committee or political party committee, shall not make to a candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office shall not accept from a person, a contribution totaling more than three thousand dollars (\$3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, shall not make to a candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office shall not accept from a person other than a small contributor committee or a political party committee, a contribution totaling more than five thousand dollars (\$5,000) per election.

(c) A person, other than a small contributor committee or political party committee, shall not make to a candidate for Governor, and a candidate for Governor shall not accept from any person other than a small contributor committee or political party committee, a contribution totaling more than twenty thousand dollars (\$20,000) per election.

(d)(1) A person shall not make to a candidate for elective county or city office, and a candidate for elective county or city office shall not accept from a person, a contribution totaling more than the amount set forth in subdivision (a) per election, as that amount is adjusted by the Commission pursuant to Section 83124. This subdivision does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(2) This subdivision shall become operative on January 1, 2021.

(e) The provisions of this section do not apply to a candidate's contributions of the candidate's personal funds to the candidates own campaign.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18503, 18521, 18521.5, 18523, 18523.1, 18530.4, 18531, 18531.5, 18531.6, 18531.61, 18533, 18535, 18537, 18544, 18545

§ 85302. Limits on Contributions from Small Contributor Committees.

(a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office, other than a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than six thousand dollars (\$6,000) per election.

(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate for statewide elective office and except for a candidate for Governor, a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than ten thousand dollars (\$10,000) per election.

(c) A small contributor committee may not make to any candidate for Governor, and a candidate for governor may not accept from a small contributor committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Committees"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18503, 18521, 18521.5, 18523, 18523.1, 18531, 18531.5, 18531.6, 18531.61, 18544, 18545

§ 85303. Limits on Contributions to Committees and Political Parties.

(a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five thousand dollars (\$5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars (\$25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective

state office. Notwithstanding Section 85312, this limit applies to contributions made to a political party used for the purpose of making expenditures at the behest of a candidate for elective state office for communications to party members related to the candidate's candidacy for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Committees to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18521.5, 18530.3, 18531, 18531.7, 18533, 18534, 18544, 18545

§ 85304. Legal Defense Fund.

(a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(d)(1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e)(1) For purposes of this section and Section 85304.5, "attorney's fees and other related legal costs" includes only the following:

(A) Attorney's fees and other legal costs related to the defense of the candidate or officer.

(B) Administrative costs directly related to compliance with the requirements of this title.

(2) "Attorney's fees and other related legal costs" does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or, except as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Prohibition on Transfers"); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Limitations on Contributions from Political Parties"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18530.45, 18538.2

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85304.5. Legal Defense Fund; Local Candidates and Elected Officeholders.

(a) A candidate for elective office other than an elective state office or an elected officer other than an elected state officer may establish a separate account pursuant to subdivision (a) of Section 85304 and may use these funds only to defray attorney's fees and other related legal costs.

(b) A candidate for an elective office other than an elective state office may receive contributions to the separate account subject to any limitations provided by local ordinance. However, all contributions to these separate accounts shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate or elected officer shall dispose of any funds remaining in the separate accounts after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(d)(1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate

or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, “sexual assault” and “sexual abuse” have the same meaning as in Section 11165.1 of the Penal Code and “sexual harassment” has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e) For purposes of this section, “attorney’s fees and other related legal costs” has the same meaning as in Section 85304.

History: Added by Stats. 2007, Ch. 283; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18530.45

§ 85305. Restrictions on Contributions by Candidates.

(a) A candidate for elective state, county, or city office or committee controlled by that candidate shall not make a contribution to any other candidate for elective state, county, or city office in excess of the limits set forth in subdivision (a) of Section 85301. This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Contribution Limitations During Special or Special Runoff Election Cycles”); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Restrictions on When Contributions Can be Received”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended, **repealed, and added** by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18535, 18536

Opinion: *In re Rios* (2017) FPPC Ops. No. O-17-001

§ 85306. Transfers Between a Candidate’s Own Committees; Use of Funds Raised Prior to Effective Date.

(a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state, county, or city office of the same candidate. Contributions transferred shall be attributed to specific contributors using a “last in, first out” or “first in, first out” accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor shall not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(d) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(e) This section shall become operative on January 1, 2021.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Use of Campaign Funds; Effective Date”); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Transfers”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended, **repealed, and added** by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18530.2, 18530.4, 18531.6, 18531.61, 18536, 18537.1

§ 85307. Loans.

(a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender’s regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state, county, or city office shall not personally loan to the candidate’s campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate shall not charge interest on any loan the candidate made to the candidate’s campaign. This subdivision does not apply to a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Loans; Contributions”); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 815, effective September 27, 2004; amended, **repealed, and added** by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18530.7, 18530.8

§ 85308. Family Contributions.

(a) Contributions made by a husband and wife may not be aggregated.

(b) A contribution made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85309. Online Disclosure of Contributions.

(a) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of

Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other report required by this title, any committee primarily formed to support or oppose one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(c) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

(d) In addition to any other report required by this title, a committee primarily formed to support or oppose a state ballot measure that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions from Non-individuals"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18425

§ 85310. Communications Identifying State Candidates.

(a) Any person who makes a payment or a promise of payment totaling fifty thousand dollars (\$50,000) or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast, or otherwise published within 45 days of an election, shall file online or electronically with the Secretary of State a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.

(b)(1) Except as provided in paragraph (2), if any person has received a payment or a promise of a payment from other persons totaling five thousand dollars (\$5,000) or more for the purpose of making a communication described in subdivision (a), the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

(2) A person who receives or is promised a payment that is otherwise reportable under paragraph (1) is not required to report the payment if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services.

(c) Any payment received by a person who makes a communication described in subdivision (a) is subject to the limits specified in subdivision (b) of Section 85303 if the communication is made at the behest of the clearly identified candidate.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions to All State Candidates"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18225.7, 18531.10, 18539.2

§ 85312. Communications to Members of an Organization.

For purposes of this title, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. However, payments made by a political party for communications to a member who is registered as expressing a preference for that party on his or her affidavit of registration pursuant to Sections 2150, 2151, and 2152 of the Elections Code that would otherwise qualify as contributions or expenditures shall be reported in accordance with Article 2 (commencing with Section 84200) of Chapter 4, and Chapter 4.6 (commencing with Section 84600), of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Communications Within an Organization"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2012, Ch. 3, effective February 10, 2012.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215, 18215.2, 18531.7

Opinions: *In re Olson* (2001) 15 FPPC Ops. 13

§ 85314. Special Elections and Special Runoff Elections as Separate Elections.

The contribution limits of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and voluntary expenditure limits set forth in this chapter.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4

§ 85315. Elected State Officer Recall Committees.

(a) Notwithstanding any other provision of this chapter, an elected state, county, or city officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state, county, or city officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state, county, or city officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contribution limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state, county, or city officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.5, 18535

Opinion: *In re Rios* (2017) FPPC Ops. No. O-17-001

§ 85316. Post-Election Fundraising Restrictions; State Officeholder Accounts.

(a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state, county, or city office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) A person shall not make, and an elected state officer shall not receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) An elected state officer shall not receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that the candidate may seek during the term of office to which the candidate is currently elected, including, but not limited to, reelection to the office the candidate currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. The expenditures made by elected state officers pursuant to this subdivision shall not be subject to the voluntary expenditure limitations in Section 85400.

(4) The Commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(c) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(d) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2006, Ch. 624, effective September 29, 2006; amended by Stats. 2007, Ch. 130; amended, repealed, and added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18531.6, 18531.61, 18531.62, 18537.1, 18544, 18545

§ 85317. Carry Over of Contributions.

(a) Notwithstanding subdivision (a) of Section 85306, a candidate for elective state, county, or city office may carry over contributions raised in connection with one election for elective state, county, or city office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state, county, or city office. This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(b) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended, **repealed, and added** by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.6, 18531.61, 18537.1

§ 85318. Contributions Received for Primary and General Elections.

(a) A candidate for elective state, county, or city office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective state, county, or city office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state, county, or city office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state, county, or city office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(b) This section does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(c) This section shall become operative on January 1, 2021.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended, **repealed, and added** by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521, 18531.2, 18531.6, 18531.61, 18536, 18537.1

§ 85319. Returning Contributions.

A candidate for state elective office may return all or part of any contribution to the donor who made the contribution at any time, whether or not other contributions are returned, except a contribution that the candidate made for state elective office to his or her own controlled committee.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2002, Ch. 212.

§ 85320. Foreign Entities.

(a) No foreign government or foreign principal shall make, directly or through any other person, any contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(b) No person and no committee shall solicit or accept a contribution from a foreign government or foreign principal in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(c) For the purposes of this section, a “foreign principal” includes the following:

(1) A foreign political party.

(2) A person outside the United States, unless either of the following is established:

(A) The person is an individual and a citizen of the United States.

(B) The person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States.

(3) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(4) A domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the foreign corporation who is neither a citizen of the United States nor a lawfully admitted permanent resident of the United States.

(d) This section shall not prohibit a contribution, expenditure, or independent expenditure made by a lawfully admitted permanent resident.

(e) Any person who violates this section shall be guilty of a misdemeanor and shall be fined an amount equal to the amount contributed or expended.

History: Added by Stats. 1997, Ch. 67; amended by Stats. 2000, Ch. 349.

§ 85321. Post-Election Fundraising; Elections Held Prior to January 1, 2001.

Notwithstanding any other provision of this chapter, if a candidate for elective state office or the candidate’s controlled committee had net debts resulting from an election held prior to January 1, 2001, contributions to that candidate or committee for that election are not subject to the limits of Sections 85301 and 85302.

History: Added by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.6, 18531.61, 18537

Article 4. Voluntary Expenditure Ceilings.

§ 85400 – 85403

§ 85400.	Voluntary Expenditure Ceilings.....	70
§ 85401.	Candidate Acceptance or Rejection of Expenditure Ceilings.....	71
§ 85402.	Lifting Expenditure Limits; Opponent’s Use of Personal Funds.....	71
§ 85403.	Violations of Voluntary Expenditure Limits...	71

§ 85400. Voluntary Expenditure Ceilings.

(a) A candidate for elective state office, other than the Board of Administration of the Public Employees’ Retirement System, who voluntarily accepts expenditure limits shall not make campaign expenditures in excess of the following:

(1) For an Assembly candidate, four hundred thousand dollars (\$400,000) in the primary or special primary election and seven hundred thousand dollars (\$700,000) in the general or special general election.

(2) For a Senate candidate, six hundred thousand dollars (\$600,000) in the primary or special primary election and nine hundred thousand dollars (\$900,000) in the general or special general election.

(3) For a candidate for the State Board of Equalization, one million dollars (\$1,000,000) in the primary election and one million five hundred thousand dollars (\$1,500,000) in the general election.

(4) For a statewide candidate other than a candidate for Governor or the State Board of Equalization, four million dollars (\$4,000,000) in the primary election and six million dollars (\$6,000,000) in the general election.

(5) For a candidate for Governor, six million dollars (\$6,000,000) in the primary election and ten million dollars (\$10,000,000) in the general election.

(b) For purposes of this section, “campaign expenditures” has the same meaning as “election-related activities” as defined in Section 82022.5.

(c) A campaign expenditure made by a political party on behalf of a candidate shall not be attributed to the limitations on campaign expenditures set forth in this section.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Limitations on Gifts and Honoraria”); repealed by Stats. 1990, Ch. 84; added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18540, 18542, 18543, 18544, 18545

§ 85401. Candidate Acceptance or Rejection of Expenditure Ceilings.

(a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time he or she files the statement of intention specified in Section 85200.

(b) A candidate may, until the deadline for filing nomination papers set forth in Section 8020 of the Elections Code, change his or her statement of acceptance or rejection of voluntary expenditure limits provided he or she has not exceeded the voluntary expenditure limits. A candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits more than twice after the candidate’s initial filing of the statement of intention for that election and office.

(c) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

(d) Notwithstanding Section 81004.5 or any other provision of this title, a candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits other than as provided for by this section and Section 85402.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 9, effective January 22, 2004; amended by Stats. 2004, Ch. 207.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18542

§ 85402. Lifting Expenditure Limits; Opponent’s Use of Personal Funds.

(a) Any candidate for elective state office who has filed a statement accepting the voluntary expenditure limits is not bound by those limits if an opposing candidate contributes personal funds to his or her own campaign in excess of the limits set forth in Section 85400.

(b) The commission shall require by regulation timely notification by candidates for elective state office who make personal contributions to their own campaign.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Contribution Limits for Candidates Accepting Expenditure Ceilings”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18540, 18542, 18543

§ 85403. Violations of Voluntary Expenditure Limits.

Any candidate who files a statement of acceptance pursuant to Section 85401 and makes campaign expenditures in excess of the limits shall be subject to the remedies in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000).

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Time Periods for Expenditures”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.4

Article 5. Independent Expenditures.

§ 85500-85505

§ 85500.	Independent Expenditures; 24-Hour Disclosure; Coordination.	71
§ 85501.	Prohibition on Independent Expenditures by Candidate or Officeholder Controlled Committees.	72
§ 85505.	Internet Display of Independent Expenditures; 24-Hour Disclosure Report.	72

§ 85500. Independent Expenditures; 24-Hour Disclosure; Coordination.

(a) In addition to any other report required by this title, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent expenditures of one thousand dollars

(\$1,000) or more during an election cycle in connection with a candidate for elective state office or state ballot measure, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

(b) An expenditure may not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Independent Expenditures"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18117, 18225.7, 18550

§ 85501. Prohibition on Independent Expenditures by Candidate or Officeholder Controlled Committees.

A controlled committee of a candidate may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures to support or oppose other candidates.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Opinions: In re St. Croix (2005) 18 FPPC Ops. 1

* Please note that the Commission is enjoined from enforcing Section 85501. (See Reed v. FPPC, Super. Ct. Sacramento County, 2013, No. 34-2013-80001709.)

§ 85505. Internet Display of Independent Expenditures; 24-Hour Disclosure Report.

(a) The Secretary of State shall include on the Internet Web site of the Secretary of State's office, as part of the campaign finance activity that is publicly disclosed, any independent expenditure, as defined in Section 82031, that is reported pursuant to Section 85500 with respect to a candidate for elective state office and a statewide ballot measure. This information shall be linked to the part of the Web site that the Secretary of State maintains concerning that candidate or ballot measure.

(b) It is the intent of the Legislature that all forms created for the purpose of filing the online or electronic report required pursuant to Section 85500 include a separate field for the filer to input the legislative district number and the number or letter of a statewide ballot measure.

History: Added by Stats. 2002, Ch. 511.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18550, 18225.7

Article 6. Ballot Pamphlet. § 85600-85601

§ 85600.	Ballot Pamphlet Designation.	72
§ 85601.	Candidate Access to Ballot Pamphlet Statement.	72

§ 85600. Ballot Pamphlet Designation.

The Secretary of State shall designate in the state ballot pamphlet those candidates for statewide elective office, as defined in Section 82053, who have voluntarily agreed to the expenditure limitations set forth in Section 85400. Local elections officers shall designate in the voter information portion of the sample ballot those candidates for State Senate and Assembly who have voluntarily agreed to the expenditure limitations set forth in Section 85400.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to State Ballot Pamphlet"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

§ 85601. Candidate Access to Ballot Pamphlet Statement.

(a) A candidate for statewide elective office, as defined in Section 82053, who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets.

(b) Notwithstanding subdivision (e) of Section 88001 of this code or subdivision (e) of Section 9084 of the Elections Code, on and after November 6, 2002, the Secretary of State may not include in the state ballot pamphlet a statement from a candidate who has not voluntarily agreed to the expenditure limitations set forth in Section 85400.

(c) A candidate for State Senate or Assembly who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the voter information portion of the sample ballot that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with the timeframes and procedures set forth in the Elections Code for the preparation of the voter information portion of the sample ballot.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to Local Sample Ballot Materials"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

**Article 7. Additional Contribution Requirements.
§ 85700-85704**

§ 85700. Donor Information Requirements; Return of Contributions.	73
§ 85701. Laundered Contributions.....	73
§ 85702. Contributions from Lobbyists.	73
§ 85702.5. Default Contribution Limits for City and County Jurisdictions	73
§ 85703. Local Jurisdictions.	73
§ 85704. Prohibition on Earmarking.....	74

§ 85700. Donor Information Requirements; Return of Contributions.

(a) A candidate or committee shall return not later than 60 days of receipt by the candidate or committee any contribution of one hundred dollars (\$100) or more for which the candidate or committee does not have on file in the records of the candidate or committee the name, address, occupation, and employer of the contributor.

(b) A candidate or committee may return a contribution pursuant to subdivision (a) after the date that the candidate or committee has reported the contribution under any provision of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Disclosure of Occupation and Employer"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, **18421.10**, 18570
Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85701. Laundered Contributions.

Any candidate or committee that receives a contribution in violation of Section 84301 shall pay to the General Fund of the state the amount of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Receipt of Laundered Contributions"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85702. Contributions from Lobbyists.

An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Bundling of Contributions"); repealed and

added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18572

§ 85702.5. Default Contribution Limits for City and County Jurisdictions

(a) A county or city may, by ordinance or resolution, impose a limit on contributions to a candidate for elective county or city office that is different from the limit set forth in subdivision (d) of Section 85301. The limitation may also be imposed by means of a county or city initiative measure.

(b) A county or city that establishes a contribution limit pursuant to subdivision (a) may adopt enforcement standards for a violation of that limit, which may include administrative, civil, or criminal penalties.

(c) The Commission is not responsible for the administration or enforcement of a contribution limit adopted pursuant to subdivision (a).

(d) This section shall become operative on January 1, 2021. A county or city's limit on contributions to a candidate for elective county or city office that is in effect on the operative date of this section shall be deemed to be a limit imposed pursuant to subdivision (a).

History: Added by Stats. 2019, Ch. 556.

§ 85703. Local Jurisdictions.

(a) Nothing in this act shall nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions may not conflict with Section 85312. However, a local jurisdiction shall not impose any contribution limitations or prohibitions on an elected member of, or a candidate for election to, a county central committee of a qualified political party, or on a committee primarily formed to support or oppose a person seeking election to a county central committee of a qualified political party.

(b) Limitations and prohibitions imposed by a local jurisdiction on payments for a member communication, as defined in subdivision (c), that conflict with Section 85312 and which are thereby prohibited by subdivision (a) include, but are not limited to, any of the following:

(1) Source restrictions on payments for member communications that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(2) Limitations on payments to a political party committee for a member communication that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(3) Limitations on the scope of payments considered directly related to the making of a member communication, including costs associated with the formulation, design, production, and distribution of the communication such as surveys, list acquisition, and consulting fees that are not expressly made applicable to member communications by a

state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(c) For purposes of this section, “member communication” means a communication, within the meaning of Section 85312, to members, employees, shareholders, or families of members, employees, or shareholders of an organization, including a communication by a political party to a member who is registered as expressing a preference for that party on his or her affidavit of registration pursuant to Sections 2150, 2151, and 2152 of the Elections Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Earmarking of Contributions Prohibited”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2007, Ch. 708; amended by Stats. 2012, Ch. 3, effective February 10, 2012; amended by Stats. 2012, Ch. 502.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.7

§ 85704. Prohibition on Earmarking.

(a) A person shall not make any contribution to a committee or candidate that is earmarked for a contribution to any other particular committee ballot measure, or candidate unless the contribution is fully disclosed pursuant to Section 84302.

(b) For purposes of subdivision (a), a contribution is earmarked if the contribution is made under any of the following circumstances:

(1) The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.

(2) The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(3) After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(c) Notwithstanding subdivisions (a) and (b), dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars (\$500) per calendar year from a single source for the purpose of making contributions or expenditures shall not be considered earmarked.

(d) The committee making the earmarked contribution shall provide the committee receiving the earmarked contribution with the name, address, occupation, and employer, if any, or principal place of business, if self-employed, of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time it makes the contribution. If the committee making the contribution received earmarked contributions

that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify pursuant to this subdivision, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(e) Earmarked contributions shall be disclosed on reports required by Chapter 4 (commencing with Section 84100) as follows:

(1) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee but earmarks the funds to another specifically identified committee pursuant to paragraph (1) or (2) of subdivision (b) shall disclose the specifically identified committee as the recipient of the contribution and the other committee as an intermediary at the time the earmarked contribution is made. The specifically identified committee shall disclose the contributor and intermediary at the time the funds are received from the intermediary. The intermediary committee shall disclose receipt of the funds as a miscellaneous increase to cash at the time the funds are received and shall disclose the expenditure as the transfer of an earmarked contribution from the contributor to the specifically identified committee at the time the funds are transferred to the specifically identified committee.

(2) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee and subsequently earmarks the funds pursuant to paragraph (3) of subdivision (b) shall include a notation on the contributor’s next statement that the original contribution was subsequently earmarked, including the name of the specifically identified committee, ballot measure, or candidate supported or opposed. The committee that previously received the funds shall also include a notation on its next statement that the original contribution was subsequently earmarked and shall disclose the original contributor to any new committee to which it transfers the earmarked funds. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(3) A contributor who qualifies as a committee pursuant to Section 82013 and who earmarks a contribution to a specifically identified ballot measure or candidate shall disclose a contribution to the committee that received the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate. Compliance with this paragraph satisfies the contributor’s disclosure obligations under this title. The committee receiving the earmarked contribution shall disclose the contributor with a notation that the contribution was earmarked to the specific ballot measure or candidate when the contribution is received. The committee receiving the funds is solely responsible for disclosing the ultimate use of the earmarked contribution, whether by contribution or expenditure, at the time the funds are used. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose

the true source of the contribution to the new committee receiving the earmarked funds for disclosure on the new committee's campaign report. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(f) A violation of this section shall not be based solely on the timing of contributions made or received.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contributions from Lobbyists"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401

Article 8. Appropriation. § 85802

§ 85802. Appropriation to the Fair Political Practices Commission.

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) annually above and beyond the appropriations established for the Commission in the fiscal year immediately prior to the effective date of this act, adjusted for cost-of-living changes, for expenditures to support the operations of the Commission pursuant to this act. If any provision of this act is successfully challenged, any attorney's fees and costs shall be paid from the General Fund and the Commission's budget shall not be reduced accordingly.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

Chapter 6. Lobbyists. § 86100-86300

Article 1. Registration and Reporting. § 86100-86118.....	75
Article 2. Prohibitions. § 86200 – 86206.....	81
Article 3. Exemptions. § 86300.....	82

Article 1. Registration and Reporting. § 86100-86118

§ 86100. Registration.....	75
§ 86101. Registration; Time.	75
§ 86102. Registration Fees.....	76
§ 86103. Lobbyist Certification; Requirements.*	76
§ 86104. Lobbying Firm; Registration Requirements.*. 76	
§ 86105. Lobbyist Employer, Lobbying Coalition; Registration Requirements.....	77
§ 86106. Renewal of Registration.....	77
§ 86107. Registration Statement; Amendment; Termination.*	77
§ 86108. Registration Statement; Publication.*	78
§ 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.*	78
§ 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.*	78

§ 86110. Recordkeeping.	78
§ 86111. Activity Expense; Agency Official.	78
§ 86112. Activity Expenses; Reporting.	78
§ 86112.3. Invitations.	79
§ 86112.5. Notification to Beneficiary of a Gift.	79
§ 86113. Periodic Reports; Lobbyists; Contents.	79
§ 86114. Periodic Reports; Lobbying Firms; Contents.*79	
§ 86115. Periodic Reports; Employers and Others.	80
§ 86116. Periodic Reports; Employers and Others; Contents.*	80
§ 86116.5. Periodic Reports; State and Local Government Agencies.	81
§ 86117. Periodic Reports; Filing; Time.....	81
§ 86118. Periodic Reports; Where to File.*	81

§ 86100. Registration.

(a) The following persons shall register with the Secretary of State:

- (1) Lobbying firms.
- (2) Lobbyist employers under subdivision (a) of Section 82039.5 who employ one or more in-house lobbyists.
- (3) Lobbying coalitions who employ at least one in-house lobbyist.

(b) Each individual lobbyist shall submit a lobbyist certification under Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee, or as part of the registration of the lobbyist employer that employs the lobbyist.

(c) Lobbyist employers under subdivision (b) of Section 82039.5 who contract only for a lobbying firm's services, lobbying coalitions who contract for a lobbying firm's services and do not employ an in-house lobbyist, and persons described in subdivision (b) of Section 86115, are not required to register with the Secretary of State, but shall maintain records and file quarterly reports under this chapter.

(d) (1) Except as provided in paragraph (2), a registration statement shall be filed both by online or electronic means and physically, submitting the original statement and one copy, in paper format.

(2) Upon certification by the Secretary of State of an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602, a registration statement shall be filed by online or electronic means.

History: Amended by Stats. 1983, Chapter 209; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration with Secretary of State.") Amended by Stats 2010, Ch. 18; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18249, **18600** 18601, 18616.4

§ 86101. Registration; Time.

Every lobbying firm and lobbyist employer who is required to file a registration statement under this chapter shall register with the Secretary of State no later than 10 days after qualifying as a lobbying firm or lobbyist employer.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Requirement of Registration.")

§ 86102. Registration Fees.

(a) The Secretary of State shall charge each lobbying firm and lobbyist employer required to file a registration statement under this chapter a fee of fifty dollars (\$50) per year for each lobbyist required to be listed on its registration statement.

(b) One-half of the moneys collected pursuant to this section shall be deposited in the Political Disclosure, Accountability, Transparency, and Access Fund, and the other one-half of the moneys shall be deposited in the General Fund.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985 (Formerly titled "Renewal of Registration."); amended by Stats. 2012, Ch. 506.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18601

§ 86103. Lobbyist Certification; Requirements.*

A lobbyist certification shall include all of the following:

(a) A recent photograph of the lobbyist, the size of which shall be prescribed by the Secretary of State.

(b) The full name, business address, and telephone number of the lobbyist.

(c) A statement that the lobbyist has read and understands the prohibitions contained in Sections 86203 and 86205.

(d)(1) In the case of a lobbyist who filed a completed lobbyist certification in connection with the last regular session of the Legislature, a statement that the lobbyist has completed, within the previous 12 months or will complete no later than June 30 of the following year, the course described in subdivision (b) of Section 8956. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year, the certification shall be accepted on a conditional basis. Thereafter, if the lobbyist completes the course no later than June 30 of the following year, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating that he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

(2) If, in the case of a new lobbyist certification, the lobbyist has not completed the course within the previous 12 months, the lobbyist certification shall include a statement that the lobbyist will complete a scheduled course within 12 months, and the lobbyist certification shall be accepted on a conditional basis. Following the lobbyist's completion of the ethics course, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the new

lobbyist certification states that the lobbyist will complete the course within 12 months and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

(e) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Amendment; Termination"); amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 391; amended by Stats. 1995, Ch. 346; amended by Stats. 1997, Ch. 574.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18601, 18603.1

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54

*Section 86103 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86104. Lobbying Firm; Registration Requirements.*

The registration of a lobbying firm shall include:

(a) The full name, business address, and telephone number of the lobbying firm.

(b) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.

(c) The lobbyist certification of each lobbyist in the lobbying firm.

(d) For each person with whom the lobbying firm contracts to provide the following lobbying services.

(1) The full name, business address, and telephone number of the person.

(2) A written authorization signed by the person.

(3) The time period of the contract.

(4) Information sufficient to identify the nature and interests of the person including:

(A) If the person is an individual, the name and address of his or her employer, if any, or his or her principal place of business if the person is self-employed, and a description of the business activity in which the person or his or her employer is engaged.

(B) If the person is a business entity, a description of the business activity in which it is engaged.

(C) If the person is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents and, if the association has not more than 50 members, the names of the members.

(D) If the person is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of

any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

(5) The lobbying interests of the person.

(6) A list of the state agencies whose legislative or administrative actions the lobbying firm will attempt to influence for the person.

(e) The name and title of a partner, owner, or officer of the lobbying firm who is responsible for filing statements and reports and keeping records required by this chapter on behalf of the lobbying firm, and a statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in Sections 86203 and 86205.

(f) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1976, Ch. 415, effective July 10, 1976; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Publication."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459.

*Section 86104 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86105. Lobbyist Employer, Lobbying Coalition; Registration Requirements.

The registration for a lobbyist employer that employs lobbyists or a lobbying coalition shall include:

(a) The following information regarding the lobbyist employer or coalition:

(1) The filer's full name, business address, email address, and telephone number.

(2) Information sufficient to identify the nature and interests of the filer, including:

(A) For an individual, the name and address of the filer's employer, if any, or if self-employed, the filer's principal place of business, and a description of the business activity in which the filer or the filer's employer is engaged.

(B) For a business entity, a description of the business activity in which it is engaged.

(C) For an industry, trade, or professional association, a description of the industry, trade, or profession it represents including a specific description of any part or faction of the industry, trade, or profession that the association exclusively or primarily represents and, if the association has 50 or fewer members, the names of the members.

(D) For other persons, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest that the person principally represents or from which its membership or financial support is principally derived.

(3) The lobbying employer's or coalition's lobbying interests.

(4) A list of the state agencies whose legislative or administrative actions the lobbyist employer or coalition will attempt to influence.

(b) The lobbyist employer or coalition shall provide:

(1) A list of the lobbyists who are employed by the lobbyist employer or coalition.

(2) The lobbyist certification of each lobbyist employed.

(c) Any other information required by the Commission consistent with this chapter's purposes and provisions.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Accounts; Designation by Name; Deposits."); amended by Stats. 1987, Ch. 459; repealed and reenacted as amended by Stats. 2019, Ch. 312.

§ 86106. Renewal of Registration.

Each registered lobbying firm and lobbyist employer which will be conducting activities which require registration shall renew its registration by filing photographs of its lobbyists, authorizations, and a registration statement between November 1 and December 31, of each even-numbered year. Each lobbyist shall renew his or her lobbyist certification in connection with the renewal of registration by the lobbyist's lobbying firm or employer.

History: Repealed by Stats. 1979, Ch. 592; (Formerly titled "Accounts; Payment of Expenses; Petty Cash"); added by Stats. 1985, Ch. 1183 effective September 29, 1985; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 574.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18603, 18603.1

§ 86107. Registration Statement; Amendment; Termination.*

(a) If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed both by online or electronic means and physically, submitting the original one copy of the amendment, in paper format, with the Secretary of State within 20 days after the change. However, if the change includes the name of a person by whom a lobbying firm is retained, the registration statement of the lobbying firm shall be amended and filed to show that change prior to the lobbying firm's attempting to influence any legislative or administrative action on behalf of that person. Lobbying firms and lobbyist employers that, during a regular session of the Legislature, cease all activity that required registration shall file a notice of termination within 20 days after the cessation. Lobbying firms and lobbyist employers that, at the close of a regular session of the Legislature, cease all activity that required registration are not required to file a notice of termination.

(b) If any change occurs in any of the information contained in a lobbyist certification or if a lobbyist terminates all activity that required the certification, the lobbyist shall submit an amended certification or notice of termination to his or her lobbying firm or lobbyist employer for filing with the Secretary of State within the time limits specified in subdivision (a). A lobbyist who, at the close of a regular session of the Legislature, ceases all activity that required certification is not required to file a notice of termination.

(c) Lobbyists and lobbying firms are subject to Section 86203 for the earlier of six months after filing a notice of

termination or six months after the close of a regular session of the Legislature at the close of which the lobbyist or lobbying firm ceased all activity that required certification or registration.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Contents of Periodic Reports."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 936; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18603

*Section 86107 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86108. Registration Statement; Publication.*

All information listed on any registration statement and on any amendment, renewal, or notice of termination shall be printed by the Secretary of State and made public within 30 days after filing.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others.")

*Section 86108 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.*

Within 140 days after the commencement of each regular session of the Legislature, the Secretary of State shall publish a directory of registered individual lobbyists, lobbying firms, and lobbyist employers. The Secretary of State shall publish, from time to time, such supplements to the directory as may be necessary.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others; Contents."); amended by Stats. 1991, Ch. 391.

*Section 86109 was repealed by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.*

(a) The Secretary of State shall establish and maintain on the Internet an online version of the Directory of **Lobbyists**, **Lobbying Firms**, and **Lobbyist Employers**. The Secretary of State shall update the directory weekly.

(b) The Secretary of State shall also display on the Internet a list of the specific changes made to the Directory of **Lobbyist**, **Lobbying Firms**, and **Lobbying Employers**, including new registrations and listings, additions, deletions, and other revisions, during the seven days preceding the update required by subdivision (a).

(c) This section may not be implemented until July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99.

(d) Notwithstanding any other provision of this title, the lobbying data made available on the Internet shall include the street name and building number of the persons or entity representatives listed on all the documents submitted to the Secretary of State pursuant to Chapter 6 (commencing with Section 86100).

History: Added by Stats. 1999, Ch. 855.

*Section 86109.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86110. Recordkeeping.

Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments or incur expenses or expect to receive payments, make payments or incur expenses in connection with activities which are reportable pursuant to this chapter shall keep detailed accounts, records, bills, and receipts as shall be required by regulations adopted by the Commission to expedite the performance of all obligations imposed by this chapter.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Filing; Time.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18610, 18612, 18615

§ 86111. Activity Expense; Agency Official.

(a) "Activity expense" as used in this chapter means any expense incurred or payment made by a lobbyist, lobbying firm, lobbyist employer or a person described in subdivision (b) of Section 86115, or arranged by a lobbyist or lobbying firm, which benefits in whole or in part any elective state official, legislative official, agency official, state candidate, or a member of the immediate family of one of these individuals. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation but do not include campaign contributions.

(b) "Agency official" as used in this chapter means any official of a state agency whose administrative actions the lobbyist, lobbying firm, lobbyist employer, or person described in subdivision (b) of Section 86115 has attempted or is attempting to influence.

History: Added by Stats. 1979, Ch. 592; amended by Stats. 1976, Ch. 415, effective July 10, 1976, repealed former Section 86111 titled "Periodic Reports; Publication"; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Lobbying Reports and Statements; Where to File.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections **18417**, 18229.1, 18945, 18950

§ 86112. Activity Expenses; Reporting.

When a person is required to report activity expenses pursuant to this article, the following information shall be provided:

(a) The date and amount of each activity expense.

(b) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of benefit.

(c) The full name of the payee of each expense if other than the beneficiary.

(d) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18623, 18640

§ 86112.3. Invitations.

(a) Each person filing a report pursuant to this article who sends any written or printed invitation to an elected state officer, candidate for elective state office, legislative official or agency official, shall include on the invitation or on a letter attached to the invitation the following typed, printed, or handwritten statement that is at least as large and readable as 8-point Roman boldface type, in a color or print that contrasts with the background so as to be easily legible:

Attendance at this event by a public official will constitute acceptance of a reportable gift.

(b) The notice specified in subdivision (a) shall not be required to appear on any invitation wherein attendance at the event described in the invitation will not constitute acceptance of a reportable gift by an elected state officer, candidate for elective state office, legislative official or agency official, pursuant to paragraph (1) of subdivision (a) of Section 87207.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1993, Ch. 1140.

§ 86112.5. Notification to Beneficiary of a Gift.

(a) Each person filing a report pursuant to this article shall provide each beneficiary of a gift listed within the report the following information:

(1) The date and amount of each gift reportable by the beneficiary.

(2) A description of the goods or services provided to the beneficiary.

(b) The information required to be disclosed pursuant to subdivision (a) shall be provided to the beneficiary within 30 days following the end of each calendar quarter in which the gift was provided. For the purposes of meeting the disclosure requirements of this section, a lobbyist firm or lobbyist employer may provide the beneficiary a copy of the activity expense section of the report submitted to the Secretary of State pursuant to this article.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1991, Ch. 322.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18640

§ 86113. Periodic Reports; Lobbyists; Contents.

(a) A lobbyist shall complete and verify a periodic report which contains:

(1) A report of all activity expenses by the lobbyist during the reporting period; and

(2) A report of all contributions of one hundred dollars (\$100) or more made or delivered by the lobbyist to any elected state officer or state candidate during the reporting period.

(b) A lobbyist shall provide the original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18611, 18623, 18942

Opinions: *In re Nida* (1976) 2 FPPC Ops 1

In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147

In re Witt (1975) 1 FPPC Ops. 145

In re Horn (1975) 1 FPPC Ops. 126

In re Morrissey (1975) 1 FPPC Ops. 104

In re Spellman (1975) 1 FPPC Ops. 16

§ 86114. Periodic Reports; Lobbying Firms; Contents.*

(a) Lobbying firms shall file periodic reports containing all of the following:

(1) The full name, address, and telephone number of the lobbying firm.

(2) The full name, business address, and telephone number of each person who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement of expenses, received from the person for lobbying services during the reporting period.

(3) The total amount of payments received for lobbying services during the period.

(4) A periodic report completed and verified by each lobbyist in the lobbying firm pursuant to Section 86113.

(5) Each activity expense incurred by the lobbying firm including those reimbursed by a person who contracts with the lobbying firm for lobbying services. A total of all activity expenses of the lobbying firm and all of its lobbyists shall be included.

(6) If the lobbying firm subcontracts with another lobbying firm for lobbying services:

(A) The full name, address, and telephone number of the subcontractor.

(B) The name of the person for whom the subcontractor was retained to lobby.

(C) The total amount of all payments made to the subcontractor.

(7) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support such

officers or candidates. If this contribution is reported by the lobbying firm or by a committee sponsored by the lobbying firm in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee and the identification number of the committee.

(8) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

(b) In addition to the information required by subdivision (a), lobbying firms which qualify pursuant to paragraph (2) of subdivision (a) of Section 82038.5 shall also report the name and title of each partner, owner, officer, and employee of the lobbying firm who, on at least five separate occasions during the reporting period, engaged in direct communication with any elective state official, legislative official, or agency official, for the purpose of influencing legislative or administrative action on behalf of a person who contracts with the lobbying firm for lobbying services. This does not include individuals whose actions were purely clerical.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18613, 18614, 18616.4, 18623

*Section 86114 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86115. Periodic Reports; Employers and Others.

Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86116:

(a) Any lobbyist employer; and

(b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter, unless all of the payments are of the type described in subdivision (c) of Section 82045.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18616, 18616.4, 18623

Opinions: *In re Kovall* (1978) 4 FPPC Ops. 95
In re Evans (1978) 4 FPPC Ops. 54
In re Sloan (1976) 2 FPPC Ops. 105
In re Gillies (1975) 1 FPPC Ops. 165
In re Stern (1975) 1 FPPC Ops. 59
In re Witt (1975) 1 FPPC Ops. 1

§ 86116. Periodic Reports; Employers and Others; Contents.*

Every person described in Section 86115 shall file periodic reports containing the following information:

(a) The name, business address, and telephone number of the lobbyist employer or other person filing the report.

(b) The total amount of payments to each lobbying firm.

(c) The total amount of all payments to lobbyists employed by the filer.

(d) A description of the specific lobbying interests of the filer.

(e) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113.

(f) Each activity expense of the filer. A total of all activity expenses of the filer shall be included.

(g) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support the officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee, and the identification number of the committee.

(h) (1) Except as set forth in paragraph (2), the total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

(2) A filer that makes payments to influence a ratemaking or quasi-legislative proceeding before the Public Utilities Commission, as defined in subdivision (b) or (c), respectively, of Section 82002, may, in lieu of reporting those payments pursuant to paragraph (1), report only the portion of those payments made to or for the filer's attorneys for time spent appearing as counsel and preparing to appear as counsel, or to or for the filer's witnesses for time spent testifying and preparing to testify, in this type of Public Utilities Commission proceeding. This alternative reporting of these payments made during a calendar month is not required to include payments made to an attorney or witness who is an employee of the filer if less than 10 percent of his or her compensated time in that month was spent in appearing, testifying, or preparing to appear or testify before the Public Utilities Commission in a ratemaking or quasi-legislative proceeding. For the purposes of this paragraph, time spent preparing to appear or preparing to testify does not include time spent preparing written testimony.

(i) Any other information required by the commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459; amended by Stats. 2001, Ch. 921.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18614, 18616, 18616.4, 18623

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Herr (1977) 3 FPPC Ops. 11
In re Sloan (1976) 2 FPPC Ops. 105
In re Nida (1976) 2 FPPC Ops. 1
In re Grunsky (1975) 1 FPPC Ops. 158
In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147
In re Witt (1975) 1 FPPC Ops. 145
In re Morrissey (1975) 1 FPPC Ops. 130
In re Carothers (1975) 1 FPPC Ops. 122
In re Wallace (1975) 1 FPPC Ops. 118

In re Gillies (1975) 1 FPPC Ops. 110
In re League of California Milk Producers (1975) 1
FPPC Ops. 13
In re Witt (1975) 1 FPPC Ops. 1

*Section 86116 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86116.5. Periodic Reports; State and Local Government Agencies.

(a) In addition to the information required pursuant to Section 86116, all state and local agencies that file reports pursuant to Sections 86115 and 86116 shall disclose, except for overhead expenses, all payments of two hundred fifty dollars (\$250) or more made in a reporting period, including, but not limited to, all of the following:

(1) Goods and services used by a lobbyist or used to support or assist a lobbyist in connection with his or her activities as a lobbyist.

(2) Payments of any other expenses which would not have been incurred but for the filer's activities to influence or attempt to influence legislative or administrative action.

(3) Dues or similar payments made to any organization, including a federation, confederation, or trade, labor, or membership organization, that makes expenditures equal to 10 percent of its total expenditures, or fifteen thousand dollars (\$15,000), or more, during any calendar quarter, to influence legislative or administrative action.

(b) Reports required pursuant to this section may be disclosed on a separate schedule and shall include all of the following information:

(1) The name and the address of the payee.

(2) The total payments made during the reporting period.

(3) The cumulative amount paid during the calendar year.

(c) All statements required by this section shall be filed as specified by Sections 86117 and 86118.

History: Added by Stats. 1992, Ch. 214.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18616

§ 86117. Periodic Reports; Filing; Time.

(a) Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. The period covered shall be from the first day of January of each new biennial legislative session through the last day of the calendar quarter prior to the month during which the report is filed, except as specified in subdivision (b), and except that the period covered shall not include any information reported in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire legislative session to date.

(b) The period covered by the first report a person is required to file pursuant to Sections 86114 and 86116 shall begin with the first day of the calendar quarter in which the filer first registered or qualified. On the first report a person

is required to file, the total amount shall be stated for the entire calendar quarter covered by the first report.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1994, Ch. 1139.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18617

§ 86118. Periodic Reports; Where to File.*

The original and one copy of each report required by Sections 86114 and 86116 shall be filed with the Secretary of State, unless filing in paper format is no longer required by Sections 84605 and 84606.

History: Added by Stats. 1986, Ch. 905; amended by Stats. 2010, Ch. 18.

*Section 86118 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

Article 2. Prohibitions.

§ 86201 – 86206

§ 86201.	Gift.....	81
§ 86203.	Unlawful Gifts.....	81
§ 86204.	Receipt of Unlawful Gift.....	82
§ 86205.	Acts Prohibited.....	82
§ 86206.	Placement Agent Fees.....	82

§ 86201. Gift.

“Gift” as used in this article means a gift made directly or indirectly to any state candidate, elected state officer, or legislative official, or to an agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18623, 18945, 18946.2

Opinions: *In re Goddard* (1978) 4 FPPC Ops. 1

In re Olson (1975) 1 FPPC Ops. 107

In re Smithers (1975) 1 FPPC Ops. 42

§ 86203. Unlawful Gifts.

It shall be unlawful for a lobbyist, or lobbying firm, to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18600, 18624, 18942, 18945, 18946.2

Opinions: *In re Institute for Governmental Advocates* (1982) 7 FPPC Ops. 1

In re Goddard (1978) 4 FPPC Ops. 1

In re Reinhardt (1977) 3 FPPC Ops. 83

In re Zenz (1975) 1 FPPC Ops. 195

In re Horn (1975) 1 FPPC Ops. 126

In re Olson (1975) 1 FPPC Ops. 107

In re Gilchrist (1975) 1 FPPC Ops. 82

In re Smithers (1975) 1 FPPC Ops. 42

In re Blenkle (1975) 1 FPPC Ops. 37

§ 86204. Receipt of Unlawful Gift.

It shall be unlawful for any person knowingly to receive any gift which is made unlawful by Section 86203.

History: Amended by Stats. 1984, Ch. 161.

§ 86205. Acts Prohibited.

No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action.

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or to cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18625

Opinions: *In re Reinhardt* (1977) 3 FPPC Ops. 83

§ 86206. Placement Agent Fees.

Nothing in this article prohibits the payment of fees for contractual services provided to an investment manager by a placement agent, as defined in Section 82047.3, who is registered with the Securities and Exchange Commission and regulated by the Financial Industry Regulatory Authority, except as provided in subdivision (f) of Section 86205.

History: Added by Stats. 2010, Ch. 668

Article 3. Exemptions.
§ 86300

§ 86300. Exemptions.

The provisions of this chapter are not applicable to:

(a) Any elected public official acting in his official capacity, or any employee of the State of California acting within the scope of his employment; provided that, an employee of the State of California, other than a legislative official, who attempts to influence legislative action and who

would be required to register as a lobbyist except for the provisions of this subdivision shall not make gifts of more than ten dollars (\$10) in a calendar month to an elected state officer or legislative official.

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisement, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television station or individual, engages in no further or other activities in connection with urging legislative or administrative action other than to appear before a committee of the Legislature or before a state agency in support of or in opposition to such action; or

(c) A person when representing a bona fide church or religious society solely for the purpose of protecting the public right to practice the doctrines of such church.

History: Amended by Stats. 1975, Ch. 1079.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18249

Opinions: *In re Herr* (1977) 3 FPPC Ops. 11

In re Morgan (1975) 1 FPPC Ops. 177

Chapter 7. Conflicts of Interests.

§ 87100-87505

Article 1. General Prohibitions. § 87100-87105.....	82
Article 2. Disclosure. § 87200 – 87210.....	86
Article 3. Conflict of Interest Codes. § 87300 – 87314.....	89
Article 3.5. Multiagency Filers. § 87350.....	93
Article 4. Disqualification of Former Officers and Employees. § 87400 – 87410.....	93
Article 4.5. Disqualification of State Officers and Employees. § 87450	96
Article 4.6. Loans to Public Officials. § 87460-87462.....	97
Article 5. Filing. § 87500-87505.....	98

Article 1. General Prohibitions.
§ 87100-87105

§ 87100. Public Officials; State and Local.	83
§ 87100.1. Professional Engineers and Surveyors as Consultants.	83
§ 87101. Legally Required Participation in Governmental Decision.	83
§ 87102. Applicability of Enforcement Provisions; Additional Requirements.	83
§ 87102.5. Legislature; Use of Position to Influence Decisions.	83
§ 87102.6. Nongeneral Legislation; Definitions.	84
§ 87102.8. Elected State Officer; Use of Position to Influence Decisions.....	84
§ 87103. Financial Interest.	85
§ 87103.5. Income from Retail Sales.....	85
§ 87103.6. Source of Income; Payments to Government Agencies.	86
§ 87104. Prohibitions on Public Officials.....	86

§ 87105. Manner of Disqualification. 86

§ 87100. Public Officials; State and Local.

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18360.1, 18700, 18700.1, 18700.2, 18700.3, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18703.3, 18704, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706, 18706.1, 18707, 18709, 18730.1, 18940, 18941, 18942, 18944, 18945, 18950.1

Opinions: *In re Hanko* (2002) 16 FPPC Ops. 1
In re Galligan (2000) 14 FPPC Ops. 1

§ 87100.1. Professional Engineers and Surveyors as Consultants.

(a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which he or she is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decisionmaking authority as a contract city or county engineer or surveyor.

(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.

(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:

(1) The engineer has received income of two hundred fifty dollars (\$250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district.

(2) The district includes other parcels in addition to those parcels for which the engineer received the income.

The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

History: Added by Stats. 1991, Ch. 887.

§ 87101. Legally Required Participation in Governmental Decision.

Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that an official's

vote is needed to break a tie does not make his participation legally required for purposes of this section.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18704, 18705, 18707, 18708

Opinions: *In re Tobias* (1999) 5 FPPC Ops. 5
In re Brown (1978) 4 FPPC Ops. 19
In re Hudson (1978) 4 FPPC Ops. 13
In re Hopkins (1977) 3 FPPC Ops. 107
In re Maloney (1977) 3 FPPC Ops. 69

§ 87102. Applicability of Enforcement Provisions; Additional Requirements.

The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. Except as provided in Section 87102.5, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

History: Amended by Stats. 1980, Ch. 1029; amended by Stats. 1990, Ch. 84.

§ 87102.5. Legislature; Use of Position to Influence Decisions.

(a) The remedies provided in Chapter 3 (commencing with Section 83100) shall apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use his or her official position to influence any of the following governmental decisions in which he or she knows or has reason to know that he or she has a financial interest:

(1) Any state governmental decision, other than any action or decision before the Legislature, made in the course of his or her duties as a member.

(2) Approval, modification, or cancellation of any contract to which either house or a committee of the Legislature is a party.

(3) Introduction as a lead author of any legislation that the member knows or has reason to know is nongeneral legislation.

(4) Any vote in a legislative committee or subcommittee on what the member knows or has reason to know is nongeneral legislation.

(5) Any rollcall vote on the Senate or Assembly floor on an item which the member knows is nongeneral legislation.

(6) Any action or decision before the Legislature in which all of the following occur:

(A) The member has received any salary, wages, commissions, or similar earned income within the preceding 12 months from a lobbyist employer.

(B) The member knows or has reason to know the action or decision will have a direct and significant financial impact on the lobbyist employer.

(C) The action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(7) Any action or decision before the Legislature on legislation that the member knows or has reason to know will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the member has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(b) For purposes of this section, all of the following apply:

(1) "Any action or decision before the Legislature" means any vote in a committee or subcommittee, or any roll-call vote on the floor of the Senate or Assembly.

(2) "Financial interest" means an interest as defined in Section 87103.

(3) "Legislation" means a bill, resolution, or constitutional amendment.

(4) "Nongeneral legislation" means legislation that is described in Section 87102.6 and is not of a general nature pursuant to Section 16 of Article IV of the Constitution.

(5) A Member of the Legislature has reason to know that an action or decision will have a direct and significant financial impact on a person with respect to which disqualification may be required pursuant to subdivision (a) if either of the following apply:

(A) With the knowledge of the member, the person has attempted to influence the vote of the member with respect to the action or decision.

(B) Facts have been brought to the member's personal attention indicating that the action or decision will have a direct and significant impact on the person.

(6) The prohibitions specified in subdivision (a) do not apply to a vote on the Budget Bill as a whole, or to a vote on a consent calendar, a motion for reconsideration, a waiver of any legislative rule, or any purely procedural matter.

(7) A Member of the Legislature has reason to know that legislation is nongeneral legislation if facts have been brought to his or her personal attention indicating that it is nongeneral legislation.

(8) Written advice given to a Member of the Legislature regarding his or her duties under this section by the Legislative Counsel shall have the same effect as advice given by the Commission pursuant to subdivision (b) of Section 83114 if both of the following apply:

(A) The member has made the same written request based on the same material facts to the Commission for advice pursuant to Section 83114 as to his or her duties under this section, as the written request and facts presented to the Legislative Counsel.

(B) The Commission has not provided written advice pursuant to the member's request prior to the time the member acts in good faith reliance on the advice of the Legislative Counsel.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075.
References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3,

18702.4, 18702.5, 18703, 18703.3, 18703.4, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706.1

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87102.6. Nongeneral Legislation; Definitions.

(a) "Nongeneral legislation" means legislation as to which both of the following apply:

(1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.

(2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

(1) "Legislation" means a bill, resolution, or constitutional amendment.

(2) "Public generally" includes an industry, trade, or profession.

(3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.

(4) A legislative district, county, city, or special district constitutes a significant segment of the public.

(5) More than a small number of persons or pieces of real property is a significant segment of the public.

(6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.

(7) The Budget Bill as a whole is not nongeneral legislation.

(8) Legislation that contains at least one provision that constitutes nongeneral legislation is nongeneral legislation, even if the legislation also contains other provisions that are general and do not constitute nongeneral legislation.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2006, Ch. 538.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18703.3, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706.1

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87102.8. Elected State Officer; Use of Position to Influence Decisions.

(a) No elected state officer, as defined in subdivision (f) of Section 14 of Article V of the California Constitution, shall make or participate in the making of, or use his or her official position to influence, any governmental decision before the agency in which the elected state officer serves, where he or she knows or has reason to know that he or she has a financial interest.

(b) An elected state officer knows or has reason to know that he or she has a financial interest in any action by, or a decision before the agency in which he or she serves where either of the following occur:

(1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of “public generally” and “significant segment of the public” contained in Section 87102.6 shall apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) shall apply to violations of this section.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 674.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.5, 18703, 18703.3, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706.1

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87103. Financial Interest.

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time

when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the Commission to equal the same amount determined by the Commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official’s agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

History: Amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch. 931; amended by Stats. 1985, Ch. 611; amended by Stats. 1994, Ch. 386; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18232, 18700, 18700.1, 18700.2, 18702.5, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18703, 18703.3, 18705.1, 18705.2, 18705.3, 18705.4, 18705.5, 18706, 18706.1, 18707, 18709, 18730, 18730.1, 18940, 18940.2, 18941, 18942, 18942.1, 18944, 18945, 18946.2, 18950.1

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Hanco (2002) 16 FPPC Ops. 1
In re Galligan (2000) 14 FPPC Ops. 1
In re Legan (1985) 9 FPPC Ops. 1
In re Nord (1983) 8 FPPC Ops. 6
In re Ferraro (1978) 4 FPPC Ops. 62
In re Callanan, Sands and Hill (1978) 4 FPPC Ops. 33
In re Brown (1978) 4 FPPC Ops. 19
In re Hopkins (1977) 3 FPPC Ops. 107
In re Gillmor (1977) 3 FPPC Ops. 38
In re Moore (1977) 3 FPPC Ops. 33
In re Thomas (1977) 3 FPPC Ops. 30
In re Sherwood (1976) 2 FPPC Ops. 168
In re Sankey (1976) 2 FPPC Ops. 157
In re Owen (1976) 2 FPPC Ops. 77
In re Thorner (1975) 1 FPPC Ops. 198
In re Biondo (1975) 1 FPPC Ops. 54
In re Presley (1975) 1 FPPC Ops. 39

§ 87103.5. Income from Retail Sales.

(a) Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

(b) Notwithstanding subdivision (c) of Section 87103, in a jurisdiction with a population of 10,000 or less which is located in a county with 350 or fewer retail businesses, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official of that jurisdiction who owns a 10-percent or greater interest in the entity, if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer does not exceed one percent of the gross sales revenues that the business entity

earned during the 12 months prior to the time the decision is made.

(c) For the purposes of subdivision (b):

(1) Population in a jurisdiction shall be established by the United States Census.

(2) The number of retail businesses in a county shall be established by the previous quarter's Covered Employment and Wages Report (ES-202) of the Labor Market Information Division of the California Employment Development Department.

History: Added by Stats. 1984, Ch. 931; amended by Stats. 2002, Ch. 654.

§ 87103.6. Source of Income; Payments to Government Agencies.

Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

History: Added by Stats. 1991, Ch. 887.

§ 87104. Prohibitions on Public Officials.

(a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member, officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing his or her employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

History: Added by Stats. 1994, Ch. 414; amended by Stats. 1997, Ch. 145.

§ 87105. Manner of Disqualification.

(a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.

History: Added by Stats. 2002, Ch. 233.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18707

Article 2. Disclosure.

§ 87200 – 87210

§ 87200.	Applicability.	86
§ 87201.	Candidates.	87
§ 87202.	Officials - Elected, Appointed and Hold Over.	87
§ 87203.	Officeholders; Annual Statements.	87
§ 87204.	Leaving Office.	87
§ 87205.	Persons Completing and Beginning Term of Office on the Same Day.	87
§ 87206.	Disclosure of Investment or Interest in Real Property.	87
§ 87206.5.	Disclosure of Leasehold Interest.	88
§ 87207.	Disclosure of Income.	88
§ 87208.	Disclosure of Investments and Interests in Real Property; Incorporation by Reference.	88
§ 87209.	Business Positions.	88
§ 87210.	Gifts Made Through Intermediaries and Others - Disclosure Requirements.	89

§ 87200. Applicability.

This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

History: Amended by Stats. 1975, Ch. 797; effective September 16, 1975, operative September 5, 1975; amended by Stats. 1976, Ch. 129, effective May 5, 1976; amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 727, effective July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 1989, Ch. 403; amended by Stats. 2012, Ch. 626, effective September 27, 2012.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18700.3, 18707, 18723, 18723.1, 18724, 18732.5, 18753, 18940.1

§ 87201. Candidates.

Every candidate for an office specified in Section 87200 other than a justice of an appellate court or the Supreme Court shall file no later than the final filing date of a declaration of candidacy, a statement disclosing his or her investments, his or her interests in real property, and any income received during the immediately preceding 12 months.

This statement shall not be required if the candidate has filed, within 60 days prior to the filing of his or her declaration of candidacy, a statement for the same jurisdiction pursuant to Section 87202 or 87203.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1980, Ch. 928; amended by Stats. 1984, Ch. 931; amended by Stats. 1992, Ch. 1141.

References at the time of publication (see page 2):

Opinions: *In re Boreman* (1975) 1 FPPC Ops. 101

§ 87202. Officials - Elected, Appointed and Hold Over.

(a) Every person who is elected to an office specified in Section 87200 shall, within 30 days after assuming the office, file a statement disclosing his or her investments and his or her interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Every person who is appointed or nominated to an office specified in Section 87200 shall file such a statement not more than 30 days after assuming office, provided, however, that a person appointed or nominated to such an office who is subject to confirmation by the Commission on Judicial Appointments or the State Senate shall file such a statement no more than 10 days after the appointment or nomination.

The statement shall not be required if the person has filed, within 60 days prior to assuming office, a statement for the same jurisdiction pursuant to Section 87203.

(b) Every elected state officer who assumes office during the month of December or January shall file a statement pursuant to Section 87203 instead of this section, except that:

(1) The period covered for reporting investments and interests in real property shall begin on the date the person filed his or her declarations of candidacy.

(2) The period covered for reporting income shall begin 12 months prior to the date the person assumed office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1978, Ch. 537; amended by Stats. 1989, Ch. 499; amended by Stats. 1997, Ch. 36.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18722, 18723, 18735, 18754, 18940

§ 87203. Officeholders; Annual Statements.

Every person who holds an office specified in Section 87200 shall, each year at a time specified by Commission regulations, file a statement disclosing his investments, his interests in real property and his income during the period since the previous statement filed under this section or Section 87202. The statement shall include any investments and interest in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

History: Amended by Stats. 1976, Ch. 1161.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723, 18735

Opinions: *In re Sampson* (1975) 1 FPPC Ops. 183

§ 87204. Leaving Office.

Every person who leaves an office specified in Section 87200 shall, within thirty days after leaving the office, file a statement disclosing his investments, his interests in real property, and his income during the period since the previous statement filed under Sections 87202 or 87203. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18722, 18723, 18735, 18940

§ 87205. Persons Completing and Beginning Term of Office on the Same Day.

A person who completes a term of an office specified in Section 87200 and within 45 days begins a term of the same office or another such office of the same jurisdiction is deemed not to assume office or leave office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1997, Ch. 145; amended by Stats. 2005, Ch. 200.

§ 87206. Disclosure of Investment or Interest in Real Property.

If an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000), whether it exceeds ten thousand dollars (\$10,000) but does not exceed one hundred thousand dollars (\$100,000), whether it exceeds one hundred thousand dollars (\$100,000) but does not exceed one million dollars (\$1,000,000), or whether it exceeds one million dollars (\$1,000,000).

(e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(f) For purposes of disclosure under this article, "interest in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.

History: Amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18233, 18729

Opinions: *In re Schabarum* (1975) 1 FPPC Ops. 95

§ 87206.5. Disclosure of Leasehold Interest.

If an official must disclose a leasehold interest, the official shall do all of the following:

- (a) Identify the interest as a leasehold interest.
- (b) Disclose the number of years remaining on the lease.
- (c) Provide the leased property's address or other precise location.
- (d) Provide the exact date the lease became effective or terminated if the lease became effective or terminated during the period covered by the statement.
- (e) Disclose the value of the leasehold interest as specified in subdivision (d) of Section 87206.

History: Added by Stats. 2019, Ch. 312.

§ 87207. Disclosure of Income.

(a) If income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and street address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), whether it was greater than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000), or whether it was greater than one hundred thousand dollars (\$100,000).

(3) A description of the consideration, if any, for which the income was received.

(4) In the case of a gift, the amount and the date on which the gift was received and the travel destination for purposes of a gift that is a travel payment, advance, or reimbursement.

(5) In the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

(b) If the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, street address, and a general description of the business activity of the business entity.

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from that person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

(c) If a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this

section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interests. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1995, operative January 7, 1975; amended by Stats. 1979, Ch. 674; superseded by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 1000; amended by Stats. 1982, Ch. 29; amended by Stats. 1984, Ch. 931; amended by Stats. 1990, Ch. 1075; amended by Stats. 1997, Ch. 638; amended by Stats. 2000, Ch. 130; amended by Stats. 2015, Ch. 757; amended by Stats. 2016, Ch. 86; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18728, 18728.5, 18730.1, 18740, 18940, 18941, 18942, 18942.1, 18942.2, 18942.3, 18944, 18945, 18945.2, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5, 18946.6, 18950, 18950.1

Opinions: *In re Riemer* (2013) 21 FPPC Ops. 1
In re Rosenstiel (2012) 20 FPPC Ops. 1
In re Taylor (2004) 17 FPPC Ops. 1
In re Hopkins (1977) 3 FPPC Ops. 107
In re Carey (1977) 3 FPPC Ops. 99
In re Gutierrez (1977) 3 FPPC Ops. 44
In re Thomas (1977) 3 FPPC Ops. 30
In re Cory (1976) 2 FPPC Ops. 48
In re Hayes (1975) 1 FPPC Ops. 210
In re Russel (1975) 1 FPPC Ops. 191
In re Cory (1975) 1 FPPC Ops. 153
In re Brown (1975) 1 FPPC Ops. 67

§ 87208. Disclosure of Investments and Interests in Real Property; Incorporation by Reference.

Except in statements required by Section 87203, investments and interests in real property which have been disclosed on a statement of economic interests filed in the same jurisdiction within the previous 60 days may be incorporated by reference.

History: Added by Stats. 1976, Ch. 1161.

§ 87209. Business Positions.

When a statement is required to be filed under this article, every person specified in Section 87200 shall disclose any business positions held by that person. For purposes of this section, "business position" means any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction or has done business in the jurisdiction at any time during the two years prior to the date the statement is required to be filed.

History: Added by Stats. 1997, Ch. 455, effective September 24, 1997.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18230

§ 87210. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

No person shall make a gift totaling fifty dollars (\$50) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1982, Ch. 29.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723.1, 18754, 18945

**Article 3. Conflict of Interest Codes.
§ 87300 – 87314**

§ 87300.	Agency Requirement	89
§ 87301.	Formulation.....	89
§ 87302.	Required Provisions.....	89
§ 87302.3.	Disclosure by Candidates for Elective Office.....	90
§ 87302.6.	Disclosure by Members of Boards and Commissions of Newly Created Agencies.....	90
§ 87303.	Submission; Code Reviewing Body.....	90
§ 87304.	Failure to Submit, Adopt or Amend a Proposed Code.....	91
§ 87305.	Order to Adopt; Superior Court	91
§ 87306.	Amendments for Changed Circumstances.	91
§ 87306.5.	Conflict of Interest Code; Local Agency Review.....	91
§ 87307.	Amendments to Code by Agency; Failure to Act.	91
§ 87308.	Judicial Review.....	91
§ 87309.	Requirements for Approval.....	91
§ 87310.	Designated Employee; Broad or Indefinable Duties	92
§ 87311.	Review and Preparation; Administrative Procedure Act.	92
§ 87311.5.	Review and Preparation; Judicial Branch Agencies.	92
§ 87312.	Commission Assistance.	92
§ 87313.	Gifts Made Through Intermediaries and Others - Disclosure Requirements.	92
§ 87314.	Code Requirement for Public Pension and Retirement System Agencies.	92

§ 87300. Agency Requirement.

Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18351, 18730, 18730.1, 18750, 18751, 18754, 18755, 18940.1

Opinions: *In re Vonk* (1981) 6 FPPC Ops. 1
In re Leach (1978) 4 FPPC Ops. 48
In re Siegel (1977) 3 FPPC Ops. 62

§ 87301. Formulation.

It is the policy of this act that Conflict of Interest Codes shall be formulated at the most decentralized level possible, but without precluding intra-departmental review. Any question of the level of a department which should be deemed an “agency” for purposes of Section 87300 shall be resolved by the code reviewing body.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

§ 87302. Required Provisions.

Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took

office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 12 months following initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

(1) File a written resignation with the appointing power.

(2) File a written statement with the filing officer on a form prescribed by the Commission and signed under the penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

History: Amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1980, Ch. 765; amended by Stats. 1987, Ch. 1188; amended by Stats. 1989, Ch. 499; amended by Stats. 1991, Ch. 857; amended by Stats. 1992, Ch. 441.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18351, 18700.3, 18704, 18722, 18730, 18730.1, 18732, 18733, 18734, 18735, 18751, 18940, 18940.1, 18941, 18942, 18944, 18945, 18946, 18946.1, 18946.2, 18946.3, 18946.5, 18946.6, 18950, 18950.1

Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77

§ 87302.3. Disclosure by Candidates for Elective Office.

(a) Every candidate for an elective office that is designated in a conflict of interest code shall file a statement disclosing his or her investments, business positions, interests

in real property, and income received during the immediately preceding 12 months, as enumerated in the disclosure requirements for that position. The statement shall be filed with the election official with whom the candidate's declaration of candidacy or other nomination documents to appear on the ballot are required to be filed and shall be filed no later than the final filing date for the declaration or nomination documents.

(b) This section does not apply to either of the following:

(1) A candidate for an elective office designated in a conflict of interest code who has filed an initial, assuming office, or annual statement pursuant to that conflict of interest code within 60 days before the deadline specified in subdivision (a).

(2) A candidate for an elective office who has filed a statement for the office pursuant to Section 87302.6 within 60 days before the deadline specified in subdivision (a).

History: Added by Stats. 2007, Ch. 348.

§ 87302.6. Disclosure by Members of Boards and Commissions of Newly Created Agencies.

Notwithstanding Section 87302, a member of a board or commission of a newly created agency shall file a statement at the same time and in the same manner as those individuals required to file pursuant to Section 87200. A member shall file his or her statement pursuant to Section 87302 once the agency adopts an approved conflict-of-interest code.

History: Added by Stats. 2002, Ch. 264.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751, 18754

§ 87303. Submission; Code Reviewing Body.

No conflict of interest code shall be effective until it has been approved by the code reviewing body. Each agency shall submit a proposed conflict of interest code to the code reviewing body by the deadline established for the agency by the code reviewing body. The deadline for a new agency shall be not later than six months after it comes into existence. Within 90 days after receiving the proposed code or receiving any proposed amendments or revisions, the code reviewing body shall do one of the following:

(a) Approve the proposed code as submitted.

(b) Revise the proposed code and approve it as revised.

(c) Return the proposed code to the agency for revision and resubmission within 60 days. The code reviewing body shall either approve the revised code or revise it and approve it. When a proposed conflict of interest code or amendment is approved by the code reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

History: Amended by Stats. 1997, Ch. 455.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18351, 18750, 18751, 18755

§ 87304. Failure to Submit, Adopt or Amend a Proposed Code.

If any agency fails to submit a proposed conflict of interest code or amendments, or if any state agency fails to report amendments pursuant to subdivision (b) of Section 87306 within the time limits prescribed pursuant to Section 87303 or 87306, the code reviewing body may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. If the code reviewing body does not issue an appropriate order or take other action within 90 days of the deadline imposed on the agency as prescribed in Section 87303 or 87306, the Commission may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. The Commission shall consult with the agency before ordering the adoption of a conflict of interest code for the agency.

History: Amended by Stats. 1988, Ch. 923; amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

§ 87305. Order to Adopt; Superior Court.

If after six months following the deadline for submission of the proposed Conflict of Interest Code to the code reviewing body no Conflict of Interest Code has been adopted and promulgated, the superior court may, in an action filed by the Commission, the agency, the code reviewing body, any officer, employee, member or consultant of the agency, or any resident of the jurisdiction, prepare a Conflict of Interest Code and order its adoption by the agency or grant any other appropriate relief. The agency and the code reviewing body shall be parties to any action filed pursuant to this section.

History: Amended by Stats. 1980, Ch. 765.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

§ 87306. Amendments for Changed Circumstances.

(a) Every agency shall amend its Conflict of Interest Code, subject to the provisions of Section 87303, when change is necessitated by changed circumstances, including the creation of new positions which must be designated pursuant to subdivision (a) of Section 87302 and relevant changes in the duties assigned to existing positions. Amendments or revisions shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. If after nine months following the occurrence of those changes the Conflict of Interest Code has not been amended or revised, the superior court may issue any appropriate order in an action brought under the procedures set forth in Section 87305.

(b) Notwithstanding subdivision (a), every state agency shall submit to the code reviewing body a biennial report identifying changes in its code, including, but not limited to, all new positions designated pursuant to subdivision (a) of Section 87302, changes in the list of reportable sources

of income, and relevant changes in the duties assigned to existing positions. These reports shall be submitted no later than March 1 of each odd-numbered year.

History: Amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18351, 18736, 18750, 18751, 18755

§ 87306.5. Conflict of Interest Code; Local Agency Review.

(a) No later than July 1 of each even-numbered year, the code reviewing body shall direct every local agency which has adopted a Conflict of Interest Code in accordance with this title to review its Conflict of Interest Code and, if a change in its code is necessitated by changed circumstances, submit an amended Conflict of Interest Code in accordance with subdivision (a) of Section 87302 and Section 87303 to the code reviewing body.

(b) Upon review of its code, if no change in the code is required, the local agency head shall submit a written statement to that effect to the code reviewing body no later than October 1 of the same year.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18736.1, 18751

§ 87307. Amendments to Code by Agency; Failure to Act.

An agency may at any time amend its Conflict of Interest Code, subject to the provisions of Section 87303, either upon its own initiative or in response to a petition submitted by an officer, employee, member or consultant of the agency, or a resident of the jurisdiction. If the agency fails to act upon such a petition within ninety days, the petition shall be deemed denied. Within thirty days after the denial of a petition, the petitioner may appeal to the code reviewing body. The code reviewing body shall either dismiss the appeal or issue an appropriate order to the agency within ninety days.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18737, 18751

§ 87308. Judicial Review.

Judicial review of any action of a code reviewing body under this chapter may be sought by the Commission, by the agency, by an officer, employee, member or consultant of the agency, or by a resident of the jurisdiction.

History: Amended by Stats. 1980, Ch. 765.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18751

§ 87309. Requirements for Approval.

No Conflict of Interest Code or amendment shall be approved by the code reviewing body or upheld by a court if it:

(a) Fails to provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented;

(b) Fails to provide to each affected person a clear and specific statement of his duties under the Code; or

(c) Fails to adequately differentiate between designated employees with different powers and responsibilities.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77

§ 87310. Designated Employee; Broad or Indefinable Duties.

If the duties of a designated employee are so broad or indefinable that the requirements of Section 87309 cannot be complied with, the Conflict of Interest Code shall require the designated employee to comply with the requirements of Article 2 of this chapter.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

§ 87311. Review and Preparation; Administrative Procedure Act.

The review of proposed Conflict of Interest Codes by the Commission and by the Attorney General and the preparation of proposed Conflict of Interest Codes by state agencies shall be subject to the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by local government agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18351, 18751

§ 87311.5. Review and Preparation; Judicial Branch Agencies.

(a) Notwithstanding the provisions of Section 87311, the review of the Conflict of Interest Code of an agency in the judicial branch of government shall not be subject to the provisions of the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by these agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

(b) Conflict of Interest Codes of the Judicial Council, the Commission on Judicial Performance, and the Board of Governors and designated employees of the State Bar of California shall not be subject to the provisions of subdivision (c) of Section 87302.

History: Added by Stats. 1984, Ch. 727, effective July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18751

§ 87312. Commission Assistance.

The Commission shall, upon request, provide technical assistance to agencies in the preparation of Conflict of Interest Codes. Such assistance may include the preparation of model provisions for various types of agencies. Nothing in this section shall relieve each agency of the responsibility

for adopting a Conflict of Interest Code appropriate to its individual circumstances.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18751

§ 87313. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1984, Ch. 931.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751, 18945

§ 87314. Code Requirement for Public Pension and Retirement System Agencies.

(a) A board, commission, or agency of a public pension or retirement system shall attach to its Conflict of Interest Code an appendix entitled "Agency Positions that Manage Public Investments for Purposes of Section 87200 of the Government Code." The appendix shall list each position with the board, commission, or agency for which an individual occupying the position is required to file a Statement of Economic Interests as a public official who manages public investments within the meaning of Section 87200. The board, commission, or agency shall post the appendix on its Internet Web site in a manner that makes it easily identifiable and accessible by persons who view that Web site.

(b) (1) For purposes of this section, "public official who manages public investments" includes a salaried or unsalaried member of a committee, board, commission, or other entity that exists as, or within, a governmental agency and that possesses decisionmaking authority.

(2) A committee, board, commission, or other entity possesses decisionmaking authority for purposes of this section if any of the following apply:

(A) The entity may make a final governmental decision.

(B) The entity may compel a governmental decision or prevent a governmental decision, either by virtue of possessing exclusive power to initiate the decision or by having veto authority that may not be overridden.

(C) The entity makes substantive recommendations that are, and over an extended period of time have been, regularly approved, without significant amendment or modification, by another public official or governmental agency.

(3) A committee, board, commission, or other entity does not possess decisionmaking authority for purposes of this section if it is formed for the sole purpose of researching

a subject and preparing a report or recommendation for submission to another governmental entity that has final decisionmaking authority.

History: Added by Stats. 2010, Ch. 702.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18751

Article 3.5. Multiagency Filers. § 87350

§ 87350. Multiagency Filers.

Notwithstanding any other provision of this title, a person required to file more than one assuming office statement, statement of economic interests, or leaving office statement, due to his or her status as a designated employee for more than one joint powers insurance agency, may elect to file a multiagency statement disclosing all investments in entities doing business in the state, all interests in real property located within the state, and all income received during the applicable time period, in lieu of filing the disclosure statements for each agency.

The filer shall notify the Commission of his or her decision to become a multiagency filer. This status shall continue until revoked by the filer.

History: Added by Stats. 1990, Ch. 69.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18735.5

Article 4. Disqualification of Former Officers and Employees. § 87400 – 87410

§ 87400.	Definitions.	93
§ 87401.	Restrictions on Activities of Former State Officers.	93
§ 87402.	Restrictions on Activities of Former State Officers; Assisting Others.	93
§ 87403.	Exemptions.	94
§ 87404.	Proceedings to Exclude Former State Officers.	94
§ 87405.	Application of Requirements.	94
§ 87406.	Milton Marks Postgovernmental Employment Restrictions Act.	94
§ 87406.1.	Postgovernmental Employment Restrictions for Districts and District Boards.	95
§ 87406.3.	Postgovernmental Employment Restrictions for Local Officials.	95
§ 87407.	Influencing Prospective Employment.	96
§ 87408.	Postgovernmental Employment Restrictions for Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.	96
§ 87409.	Restrictions on Activities of Former Investment Officials; Assisting Others.	96
§ 87410.	Postgovernmental Ban on Placement Agent Activities.	96

§ 87400. Definitions.

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this section shall govern the interpretation of this article.

(a) "State administrative agency" means every state office, department, division, bureau, board and commission, but does not include the Legislature, the courts or any agency in the judicial branch of government.

(b) "State administrative official" means every member, officer, employee or consultant of a state administrative agency who as part of his or her official responsibilities engages in any judicial, quasi-judicial or other proceeding in other than a purely clerical, secretarial or ministerial capacity.

(c) "Judicial, quasi-judicial or other proceeding" means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency, including but not limited to any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(d) "Participated" means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information as an officer or employee, but excluding approval, disapproval or rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

History: Added by Stats. 1980, Ch. 66.

§ 87401. Restrictions on Activities of Former State Officers.

No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:

(a) The State of California is a party or has a direct and substantial interest.

(b) The proceeding is one in which the former state administrative official participated.

History: Added by Stats. 1980, Ch. 66; amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18741.1, 18746.4

Opinions: *In re Lucas* (2000) 14 PPCC Ops. 14

§ 87402. Restrictions on Activities of Former State Officers; Assisting Others.

No former state administrative official, after the termination of his or her employment or term of office shall for

compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

History: Added by Stats. 1980, Ch. 66.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18741.1, 18746.4

Opinions: *In re Lucas* (2000) 14 FPPC Ops. 14

§ 87403. Exemptions.

The prohibitions contained in Sections 87401 and 87402 shall not apply:

(a) To prevent a former state administrative official from making or providing a statement, which is based on the former state administrative official's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses; or

(b) To communications made solely for the purpose of furnishing information by a former state administrative official if the court or state administrative agency to which the communication is directed makes findings in writing that:

(1) The former state administrative official has outstanding and otherwise unavailable qualifications;

(2) The former state administrative official is acting with respect to a particular matter which requires such qualifications; and

(3) The public interest would be served by the participation of the former state administrative official; or

(c) With respect to appearances or communications in a proceeding in which a court or state administrative agency has issued a final order, decree, decision or judgment but has retained jurisdiction if the state administrative agency of former employment gives its consent by determining that:

(1) At least five years have elapsed since the termination of the former state administrative official's employment or term of office; and

(2) The public interest would not be harmed.

History: Added by Stats. 1980, Ch. 66.

§ 87404. Proceedings to Exclude Former State Officers.

Upon the petition of any interested person or party, the court or the presiding or other officer, including but not limited to a hearing officer serving pursuant to Section 11512 of the Government Code, in any judicial, quasi-judicial or other proceeding, including but not limited to any proceeding pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this article from further participation, or from assisting or counseling any other participant, in the proceeding then pending before such court or presiding or other officer.

History: Added by Stats. 1980, Ch. 66.

§ 87405. Application of Requirements.

The requirements imposed by this article shall not apply to any person who left government service prior to the effective date of this article except that any such person who returns to government service on or after the effective date of this article shall thereafter be covered thereby.

History: Added by Stats. 1980, Ch. 66.

§ 87406. Milton Marks Postgovernmental Employment Restrictions Act.

(a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b)(1) Except as provided in paragraph (2), a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(2) A Member of the Legislature who resigns from office, for a period commencing with the effective date of the resignation and concluding one year after the adjournment sine die of the session in which the resignation occurred, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) An elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board.

(d)(1) A designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position that entails the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, and a member of a state administrative agency, for a period of one year after leaving office or employment, shall not, for

compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board. The prohibition of this paragraph only applies to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) do not apply to any individual subject to this section who is or becomes either of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1993, Ch. 230; amended by Stats. 1999, Ch. 10, effective April 15, 1999; Amended by Stats. 2017, Ch. 800.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18746.1, 18746.2, 18746.4

§ 87406.1. Postgovernmental Employment Restrictions for Districts and District Boards.

(a) For purposes of this section, "district" means an air pollution control district or air quality management district and "district board" means the governing body of an air pollution control district or an air quality management district.

(b) No former member of a district board, and no former officer or employee of a district who held a position which entailed the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, shall, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that district board, or any committee, subcommittee, or present member of that district board, or any officer or employee of

the district, if the appearance or communication is made for the purpose of influencing regulatory action.

(c) Subdivision (b) shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another district or an employee or representative of a public agency.

(d) This section applies to members and former members of district hearing boards.

History: Added by Stats. 1994, Ch. 747.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18746.2

§ 87406.3. Postgovernmental Employment Restrictions for Local Officials.

(a) A local elected official, chief administrative officer of a county, city manager, or general manager or chief administrator of a special district who held a position with a local government agency as defined in Section 82041 shall not, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) (1) Subdivision (a) does not apply to an individual who is, at the time of the appearance or communication, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

(2) Subdivision (a) applies to an individual who is, at the time of the appearance or communication, an independent contractor of a local government agency or a public agency and is appearing or communicating on behalf of that agency.

(c) This section does not preclude a local government agency from adopting an ordinance or policy that restricts the appearance of a former local official before that local government agency if that ordinance or policy is more restrictive than subdivision (a).

(d) Notwithstanding Sections 82002 and 82037, the following definitions apply for purposes of this section only:

(1) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat by any local government agency of any matter, including any rule, regulation, or other action in any regulatory proceeding, whether quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.

(2) “Legislative action” means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the legislative body of a local government agency or by any committee or subcommittee thereof, or by a member or employee of the legislative body of the local government agency acting in his or her official capacity.

History: Added by Stats. 2005, Ch. 680, operative July 1, 2006; Amended by Stats. 2017, Ch. 196.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18746.2, 18746.3, 18746.4

§ 87407. Influencing Prospective Employment.

No public official shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2003, Ch. 778.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18747

§ 87408. Postgovernmental Employment Restrictions for Board of Administration of the Public Employees’ Retirement System and Teachers’ Retirement Board.

(a) A member of the Board of Administration of the Public Employees’ Retirement System, an individual in a position designated in subdivision (a) or (e) of Section 20098, or an information technology or health benefits manager with a career executive assignment designation with the Public Employees’ Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the Public Employees’ Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) A member of the Teachers’ Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers’ Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the State Teachers’ Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding,

or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

History: Added by Stats. 2011, Ch. 551.

§ 87409. Restrictions on Activities of Former Investment Officials; Assisting Others.

(a) A member of the Board of Administration of the Public Employees’ Retirement System, an individual in a position designated in subdivision (a) or (e) of Section 20098, or an information technology or health benefits manager with a career executive assignment designation with the Public Employees’ Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the Public Employees’ Retirement System.

(b) A member of the Teachers’ Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers’ Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the State Teachers’ Retirement System.

(c) For purposes of this section, “business entity” has the same meaning as set forth in Section 82005, and includes a parent or subsidiary of a business entity.

History: Added by Stats. 2011, Ch. 551.

§ 87410. Postgovernmental Ban on Placement Agent Activities.

(a) A member of the Board of Administration of the Public Employees’ Retirement System or an individual in a position designated in subdivision (a) or (e) of Section 20098, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the Public Employees’ Retirement System or the State Teachers’ Retirement System.

(b) A member of the Teachers’ Retirement Board or an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the State Teachers’ Retirement System or the Public Employees’ Retirement System.

History: Added by Stats. 2011, Ch. 551.

Article 4.5. Disqualification of State Officers and Employees. **§ 87450**

§ 87450. Restrictions in Participation of State Officers in Decisions Relating to Contracts.

(a) In addition to the provisions of Article 1 (commencing with Section 87100), no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family, has engaged in any business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more within 12 months prior to the time the official action is to be performed.

(b) As used in subdivision (a), "state administrative official" has the same meaning as defined in Section 87400.

History: Added by Stats. 1986, Ch. 653.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229.1

**Article 4.6. Loans to Public Officials.
§ 87460-87462**

§ 87460.	Loans to Public Officials.....	97
§ 87461.	Loan Terms.....	97
§ 87462.	Personal Loans.....	98

§ 87460. Loans to Public Officials.

(a) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(b) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(c) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit

card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(d) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(e) This section shall not apply to the following:

(1) Loans made to the campaign committee of an elected officer or candidate for elective office.

(2) Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans from a person which, in the aggregate, do not exceed two hundred fifty dollars (\$250) at any given time.

(4) Loans made, or offered in writing, before the operative date of this section.

History: Added by Stats. 1997, Ch. 638.

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 87461. Loan Terms.

(a) Except as set forth in subdivision (b), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(b) This section shall not apply to the following types of loans:

(1) Loans made to the campaign committee of the elected officer.

(2) Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such

person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans made, or offered in writing, before the operative date of this section.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638.

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 87462. Personal Loans.

(a) Except as set forth in subdivision (b), a personal loan shall become a gift to the debtor for the purposes of this title in the following circumstances:

(1) If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

(2) If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

(A) The date the loan was made.

(B) The date the last payment of one hundred dollars (\$100) or more was made on the loan.

(C) The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(b) This section shall not apply to the following types of loans:

(1) A loan made to the campaign committee of an elected officer or a candidate for elective office.

(2) A loan that would otherwise not be a gift as defined in this title.

(3) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor has taken reasonable action to collect the balance due.

(4) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

(5) A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638.

Article 5. Filing.

§ 87500-87505

§ 87500.	Statements of Economic Interests – Where to File.....	98
§ 87500.2.	Statements of Economic Interests – Electronic Filing.....	99
§ 87500.3.	Statements of Economic Interests – Development of Electronic Filing System for the Commission.....	100

§ 87500.4.	Statements of Economic Interests – Specifying Persons Authorized to File Electronically with the Commission.....	100
§ 87505.	Web Site Notification.....	101

§ 87500. Statements of Economic Interests – Where to File.

Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer – one original with the agency, which shall make and retain a copy and forward the original to the Commission. The Commission shall be the filing officer.

(b) Candidates for statewide elective office – one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the Commission. The Commission shall be the filing officer.

(c) Members of the Legislature and State Board of Equalization – one original with the agency, which shall make and retain a copy and forward the original to the Commission. The Commission shall be the filing officer.

(d) Candidates for the Legislature or the State Board of Equalization – one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the Commission. The Commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, county treasurer, and member of the board of supervisors – one original with the county clerk, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city treasurer, city attorney, and mayor – one original with the city clerk, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission – one original with the agency, which shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(h) Persons appointed to other state boards, commissions, or similar multimember bodies of the state—one original with the respective board, commission, or body. The original shall be handled as set forth in the Conflict of Interest Code of the respective board, commission, or body. If the board, commission, or body is not required by its Conflict of Interest Code to send the original to the Commission, it shall forward a copy to the Commission.

(i) Members of the Fair Political Practices Commission – one original with the Commission, which shall make and retain a copy and forward the original to the office of the Attorney General, which shall be the filing officer.

(j) Judges and court commissioners – one original with the clerk of the court, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer. Original statements of candidates for the office of judge shall be filed with the person with whom the candidate's declaration of candidacy is filed, who shall retain a copy and forward the original to the Commission, which shall be the filing officer.

(k) Except as provided in subdivision (l), heads of agencies, members of boards or commissions not under a department of state government, and members of boards or commissions not under the jurisdiction of a local legislative body – one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body, which shall be the filing officer. The code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(l) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body – one original to the agency or board or commission, which shall be the filing officer, unless, at its discretion, the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency, board, or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(m) Designated employees of the Legislature – one original with the house of the Legislature by which the designated employee is employed. Each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the Commission, and that no copies be retained by that house.

(n) Designated employees under contract to more than one joint powers insurance agency and who elect to file a multiagency statement pursuant to Section 87350 – the original of the statement with the Commission, which shall be the filing officer, and, with each agency with which they are under contract, a statement declaring that their statement of economic interests is on file with the Commission and available upon request.

(o) Members of a state licensing or regulatory board, bureau, or commission – one original with the agency, which shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(p) Persons not mentioned above – one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

History: Added by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 611; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 69; amended by Stats. 1992, Ch. 405; amended by Stats. 1993, Ch. 1140; amended by Stats. 1996, Ch. 289; amended by Stats. 2005, Ch. 200; amended by Stats. 2007, Ch. 348; amended by Stats. 2011, Ch. 252.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18115, 18115.1, 18115.2, 18227, 18732.5, 18735.5, 18753, 18754

§ 87500.2. Statements of Economic Interests – Electronic Filing.

(a) An agency may permit the electronic filing of a statement of economic interests required by Article 2 (commencing with Section 87200) or Article 3 (commencing with Section 87300), including amendments, in accordance with regulations adopted by the Commission.

(b) In consultation with interested agencies, the Commission shall use common database integration features in developing database design requirements for all electronic filings that may be used.

(c)(1) An agency that intends to permit electronic filing of a statement of economic interests shall submit a proposal, which shall include a description of the electronic filing system that the agency proposes to use, to the Commission for approval and certification. An agency that submits a proposal shall include a fee of one thousand dollars (\$1,000) that is payable to the Commission for the costs of approving and certifying the proposal.

(2) An agency shall not charge a person to electronically file a statement of economic interests.

(3) The Commission shall review an agency's proposal for compliance with the system requirement regulations adopted pursuant to subdivisions (a) and (b) and the requirements of subdivision (d). If the proposed system complies with these requirements, the Commission shall approve and certify the agency's electronic filing system as soon as practicable after receiving the agency's submitted proposal.

(d) An agency's proposed electronic filing system shall meet the following requirements:

(1) A statement of economic interests filed electronically shall include an electronic transmission that is submitted under penalty of perjury and that conforms to subdivision (b) of Section 1633.11 of the Civil Code.

(2)(A) The agency's filing officer shall issue to a person who electronically files their statement of economic interests or amendment an electronic confirmation that notifies the filer that their statement of economic interests or amendment was received. The confirmation shall include the date and the time that the statement of economic interests or amendment was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(B) A copy retained by the filer of a statement of economic interests or amendment that was electronically filed and the confirmation issued pursuant to subparagraph (A) that shows that the filer timely filed their statement of economic interests or amendment shall create a rebuttable presumption that the filer timely filed their statement of economic interests or amendment.

(3) The agency shall utilize an electronic filing system that includes layered security to ensure data integrity. The system shall have the capability to uniquely identify a filer electronically when the filer accesses the electronic filing system. The operational process for the system shall include

industry best practices to ensure that the security and integrity of the data and information contained in the statement of economic interests are not jeopardized or compromised.

(4) The agency shall provide the public with a copy of an official's statement of economic interests upon request, in accordance with Section 81008. The copy of the electronically filed statement of economic interests shall be identical to the statement of economic interests published by the Commission and shall include the date that the statement was filed.

(e) The Commission may adopt regulations to require that an agency redact information on a statement of economic interests prior to posting the statement of economic interests on the internet.

(f) The Commission may conduct discretionary audits of an agency's approved and certified electronic filing system to evaluate its performance and compliance with the requirements of this section.

(g) The Commission shall accept an electronic copy of a statement of economic interests that is forwarded to it by an agency that has received an electronically filed statement from a filer pursuant to this section.

(h) A city or county shall not continue to use an electronic filing system if the Commission does not approve and certify that electronic filing system as complying with the requirements of the Commission's regulations and the other requirements of this section.

History: Added by Stats. 2012, Ch. 500, effective September 24, 2012; amended by Stats. 2019, Ch. 315.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18115, 18756

§ 87500.3. Statements of Economic Interests – Development of Electronic Filing System for the Commission.

(a) The Commission may develop and operate an online system for filing statements of economic interests required by Article 2 (commencing with Section 87200) and Article 3 (commencing with Section 87300). Consistent with Section 87500.4, the online system shall enable a filer to comply with the requirements of this chapter relating to the filing of statements of economic interests and shall include, but not be limited to, both of the following:

(1) A means or method whereby a filer may electronically file, free of charge, a statement of economic interests that includes an electronic transmission that is submitted under penalty of perjury in conformity with Section 81004 of this code and subdivision (b) of Section 1633.11 of the Civil Code.

(2) Security safeguards that include firewalls, data encryption, secure authentication, and all necessary hardware and software and industry best practices to ensure that the security and integrity of the data and information contained in each statement of economic interests are not jeopardized or compromised.

(b)(1) A system developed pursuant to subdivision (a) shall issue to a person who electronically files his or her

statement of economic interests, or an amendment to a statement of economic interests, an electronic confirmation that notifies the filer that his or her statement of economic interests or amendment was received. The confirmation shall include the date and the time that the statement of economic interests or amendment was received and the method by which the filer may view and print the data received.

(2) A paper copy retained by the filer of a statement of economic interests or amendment that was electronically filed and the confirmation issued pursuant to paragraph (1) that shows that the filer timely filed his or her statement of economic interests or amendment shall create a rebuttable presumption that the filer filed his or her statement of economic interests or amendment on time.

(c) If the Commission develops an online system pursuant to subdivision (a), it shall conduct public hearings to receive input on the implementation of that system, maintain ongoing coordination among affected state and local agencies as necessary, and develop training and assistance programs for state and local filing officers and filers regarding use of the online system for filing statements of economic interests.

(d)(1) Except as provided in paragraph (2), the Commission may make all the data filed on a system developed pursuant to subdivision (a) available on the Commission's Internet Web site in an easily understood format that provides the greatest public access, and shall provide assistance to those seeking public access to the information.

(2) The Commission shall redact private information, including, but not limited to, the signatures of filers, from the data that is made available on the Internet pursuant to this subdivision. The Commission shall develop and implement a policy regarding redaction of private information for the purposes of this paragraph, and shall conduct one or more public hearings to receive input on the development of that policy.

History: Added by Stats. 2013, Ch. 643, effective October 8, 2013.

§ 87500.4. Statements of Economic Interests – Specifying Persons Authorized to File Electronically with the Commission.

(a) If the Commission establishes an online system pursuant to Section 87500.3, the Commission shall specify which categories of persons described in Section 87500 may file statements of economic interests electronically through the online system established by the Commission.

(b)(1) If the Commission, pursuant to subdivision (a), specifies that persons described in Section 87500 may file statements of economic interests electronically through the online system established by the Commission, the Commission, upon authorization by the filing officer designated by Section 87500, shall assume the duties of the filing officer for each filer within each category of filers authorized to file electronically through the online system, irrespective of whether the filer elects to file his or her statement of eco-

conomic interests electronically or on paper with the Commission. A filing officer who does not authorize the Commission to assume his or her duties as described in this paragraph shall continue to perform the duties prescribed in Section 81010. The filing officer duties assumed by the Commission with respect to each filer in each authorized category shall include, but not be limited to, all of the following:

- (A) Notifying the filer of his or her filing obligation.
- (B) Receiving the filer's statement of economic interests.

(C) Ensuring compliance with filing requirements in the event the filer fails to file in a timely manner or is required to amend his or her statement of economic interests.

(D) Distributing to filing officers copies of the completed statement of economic interests of a person who is required by this chapter to file more than one statement of economic interests for each period, and who, despite being authorized to file the statement with the Commission electronically, elects to file the statement with the Commission using a paper form.

(2) If the Commission assumes the duties of a filing officer pursuant to this subdivision, the filing officer whose duties are assumed shall provide to the Commission, in a manner prescribed by the Commission, the name and contact information for each filer in the filing officer's jurisdiction.

(c) The Commission shall notify a filing officer who may be affected by a determination of the Commission pursuant to this section to authorize a category of filers to file electronically, no later than six months before the implementation of that determination, in order to allow adequate preparation for implementation.

(d) A person who is required by this chapter to file more than one statement of economic interests for each reporting period and who files his or her statements of economic interests with the Commission electronically after being authorized to do so pursuant to Section 87500.3 is not required to file a statement of economic interests with any other person or agency. If a filer authorized to file electronically with the Commission files with the Commission on paper, the Commission shall distribute copies of the statement to any other filing officers pursuant to subparagraph (D) of paragraph (1) of subdivision (b).

(e)(1) After the Commission makes an initial determination pursuant to subdivision (a) regarding which categories of persons described in Section 87500 are permitted to file statements of economic interests electronically through the online system established by the Commission, the Commission may subsequently revise its determination at any time.

(2) In accordance with Section 87500.3, the Commission shall continue to conduct public hearings and receive input on the implementation of the online system, and that input shall inform any decision by the Commission to revise, pursuant to paragraph (1), its determination of which categories of persons described in Section 87500 are permitted to file statements of economic interests electronically through the online system established by the Commission.

History: Added by Stats. 2013, Ch. 643, effective October 8, 2013.

§ 87505. Web Site Notification.

Each city clerk or county clerk who maintains an Internet Web site shall post on that Internet Web site a notification that includes all of the following:

(a) A list of the elected officers identified in Section 87200 who file statements of economic interests with that city clerk or county clerk pursuant to Section 87500.

(b) A statement that copies of the statements of economic interests filed by the elected officers described in subdivision (a) may be obtained by visiting the offices of the Commission or that city clerk or county clerk, as appropriate. The statement shall include the physical address for the Commission's office and the city clerk's office or the county clerk's office, as appropriate.

(c) A link to the Commission's Internet Web site and a statement that statements of economic interests for some state and local government agency elected officers may be available in an electronic format on the Commission's Internet Web site.

History: Added by Stats. 2012, Ch. 498.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18115.2

Chapter 8. Ballot Pamphlet.

§ 88000-88007

§ 88000.	Responsibility.	101
§ 88001.	Contents.	101
§ 88002.	Format.	102
§ 88002.5.	Summary.	102
§ 88003.	Duties of Legislative Analyst.	102
§ 88004.	Manner, Form of Printing Measures.	103
§ 88005.	Printing Specifications.	103
§ 88005.5.	Duties of Legislative Counsel.	103
§ 88006.	Public Examination of Pamphlet.	103
§ 88007.	Amendment of Chapter by Legislature.	103

§ 88000. Responsibility.

There shall be a state ballot **pamphlet** which shall be prepared by the Secretary of State.

§ 88001. Contents.

The ballot pamphlet shall contain all of the following:

- (a) A complete copy of each state measure.
- (b) A copy of the specific constitutional or statutory provision, if any, that would be repealed or revised by each state measure.
- (c) A copy of the arguments and rebuttals for and against each state measure.
- (d) A copy of the analysis of each state measure.
- (e) Tables of contents, indexes, art work, graphics, and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.
- (f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

(h) The Voter Bill of Rights pursuant to Section 2300 of the Elections Code.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question as to the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's Internet Web site for information about candidates for the offices of President and Vice President of the United States.

(l) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and non-partisan offices as required by Section 9083.5 of the Elections Code.

(m) A written explanation of the top 10 contributor lists required by Section 84223, including a description of the Internet Web sites where those lists are available to the public.

History: Amended by Stats. 1977, Ch. 520; amended by Stats. 1991, Ch. 491; amended by Stats. 1994, Ch. 923; amended by Stats. 2008, Ch. 137; amended by Stats. 2009, Ch. 1; amended by Stats. 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26
In re Bunyan (1976) 2 FPPC Ops. 10

§ 88002. Format.

The ballot pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

(a)(1) Upon the top portion of the first page and not exceeding one-third of the page shall appear:

(A) The identification of the measure by number and title.

(B) The official summary prepared by the Attorney General.

(C) The total number of votes cast for and against the measure in both the State Senate and Assembly if the measure was passed by the Legislature.

(2) The space in the title and summary that is used for an explanatory table prepared pursuant to paragraph (2) of subdivision (e) of Section 9087 of the Elections Code and Section 88003 shall not be included when measuring the amount of space the information described in paragraph (1) has taken for purposes of determining compliance with the

restriction prohibiting the information described in paragraph (1) from exceeding one-third of the page.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst, provided that the analysis fits on a single page. If it does not fit on a single page, then the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Immediately below the analysis prepared by the Legislative Analyst shall appear a printed statement that refers voters to the Secretary of State's Internet Web site for a list of committees primarily formed to support or oppose a ballot measure, and information on how to access the committee's top 10 contributors.

(d) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the page on which the analysis of the Legislative Analyst ends. The rebuttals shall be placed immediately below the arguments.

(e) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis.

(f) The complete text of each measure shall appear at the back of the pamphlet. The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(g) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency."

History: Amended by Stats. 1990, Ch. 1430; amended by Stats. 2014, Ch. 920.

§ 88002.5. Summary.

(a) The ballot pamphlet shall also contain a section, located near the front of the pamphlet, that provides a concise summary of the general meaning and effect of "yes" and "no" votes on each state measure.

(b) The summary statements required by this section shall be prepared by the Legislative Analyst. These statements are not intended to provide comprehensive information on each measure. The Legislative Analyst shall be solely responsible for determining the contents of these statements. The statements shall be available for public examination and amendment pursuant to Section 88006.

History: Added by Stats. 1993, Ch. 156; amended by Stats. 1999, Ch. 312.

§ 88003. Duties of Legislative Analyst.

The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Any estimate of increased cost to local governments shall be set out in boldface print in the ballot pamphlet. The analysis shall be written in clear and concise

terms which will easily be understood by the average voter, and shall avoid the use of technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information which the average voter needs to understand the measure adequately. The Legislative Analyst may contract with professional writers, educational specialists or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The Legislative Analyst may also request the assistance of any state department, agency, or official in preparing his or her analysis. Prior to submission of the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons appointed by the Legislative Analyst for the purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one shall be bilingual, and one shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make such recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section. The title and summary of any measure which appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government financial impact. For state bond measures that are submitted to the voters for their approval or rejection, the summary of the Legislative Analyst's estimate of the net state and local government fiscal impact shall include an explanatory table of the information in the summary.

History: Amended by Stats. 1975, Ch. 486, effective September 2, 1975; amended by Stats. 1992, Ch. 232; amended by Stats. 2011, Ch. 453.

§ 88004. Manner, Form of Printing Measures.

Measures shall be printed in the ballot pamphlet, so far as possible, in the same order, manner and form in which they are designated upon the ballot.

§ 88005. Printing Specifications.

The ballot pamphlet shall be printed according to the following specifications:

(a) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in 8-point type.

(b) It shall be of a size and printed on a quality and weight of paper which in the judgment of the Secretary of State best serves the voters.

(c) The pamphlet shall contain a certificate of correctness by the Secretary of State.

History: Amended by Stats. 2008, Ch. 133.

References at the time of publication (see page 2):

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26.

§ 88005.5. Duties of Legislative Counsel.

The Legislative Counsel shall prepare and proofread the texts of all measures and the provisions which are repealed or revised.

§ 88006. Public Examination of Pamphlet.

Not less than 20 days before he or she submits the copy for the ballot pamphlet to the State Printer, the Secretary of State shall make the copy available for public examination. Any elector may seek a writ of mandate requiring the copy to be amended or deleted from the ballot pamphlet. A peremptory writ of mandate shall issue only upon clear and convincing proof that the copy in question is false, misleading or inconsistent with the requirements of this chapter or the Elections Code, and that issuance of the writ will not substantially interfere with the printing and distribution of the ballot pamphlet as required by law. Venue for a proceeding under this section shall be exclusively in Sacramento County. The Secretary of State shall be named as the respondent and the State Printer and the person or official who authored the copy in question shall be named as real parties in interest. If the proceeding is initiated by the Secretary of State, the State Printer shall be named as the respondent.

History: Amended by Stats. 1996, Ch. 724.

§ 88007. Amendment of Chapter by Legislature.

Notwithstanding the provisions of Section 81012, the Legislature may without restriction amend this chapter to add to the ballot pamphlet information regarding candidates or any other information.

Chapter 9. Incumbency.

§ 89000-89003

§ 89000.	Order of Names on Ballot.	103
§ 89001.	Newsletter or Mass Mailing.	104
§ 89002.	Mass Mailings Sent at Public Expense.	104
§ 89003.	Mass Mailings Sent at Public Expense; Temporal Prohibition.	105

§ 89000. Order of Names on Ballot.

Any provision of law to the contrary notwithstanding, the order of names of candidates on the ballot in every election shall be determined without regard to whether the candidate is an incumbent.

§ 89001. Newsletter or Mass Mailing.

No newsletter or other mass mailing shall be sent at public expense.

History: Amended by Stats. 1986, Ch. 654; amended by Stats. 1987, Ch. 230; amended by Prop. 73 of the June 1988 statewide primary election, effective June 8, 1988.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18901.1

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26

§ 89002. Mass Mailings Sent at Public Expense.

(a) Except as provided in subdivision (b), a mailing is prohibited by Section 89001 if all of the following criteria are met:

(1) An item sent is delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box. The item delivered to the recipient must be a tangible item, such as a videotape, record, or button, or a written document.

(2) The item sent either:

(A) Features an elected officer affiliated with the agency that produces or sends the mailing.

(B) Includes the name, office, photograph, or other reference to an elected officer affiliated with the agency that produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer.

(3) Any of the costs of distribution are paid for with public money or the costs of design, production, and printing exceeding fifty dollars (\$50) are paid with public moneys, and the design, production, or printing is done with the intent of sending the item other than as permitted by this section.

(4) More than 200 substantially similar items are sent in a single calendar month, excluding any item sent in response to an unsolicited request and any item described in subdivision (b).

(b) Notwithstanding subdivision (a), a mass mailing of the following items is not prohibited by Section 89001:

(1) An item in which the elected officer's name appears only in the letterhead or logotype of the stationery, forms, including "For Your Information" or "Compliments of" cards or stamps, and envelopes of the agency sending the mailing, or of a committee of the agency, or of the elected officer, or in a roster listing containing the names of all elected officers of the agency. For purposes of this section, the return address portion of a self-mailer is considered the envelope. In any such item, the names of all elected officers must appear in the same type size, typeface, type color, and location. The item shall not include the elected officer's photograph, signature, or any other reference to the elected officer, except as specifically permitted by this section. The item may, however, include the elected officer's office or district number and the elected officer's name or district number in his or her Internet Web site address or electronic mail address.

(2) A press release sent to members of the media.

(3) An item sent in the normal course of business from one governmental entity or officer to another governmental

entity or officer, including all local, state, and federal officers or entities.

(4) An intra-agency communication sent in the normal course of business to employees, officers, deputies, and other staff.

(5) An item sent in connection with the payment or collection of funds by the agency sending the mailing, including tax bills, checks, and similar documents, in any instance in which use of the elected officer's name, office, title, or signature is necessary to the payment or collection of the funds. The item shall not include the elected officer's photograph, signature, or any other reference to the elected officer, except as specifically permitted by this section.

(6) Any item sent by an agency responsible for administering a government program, to persons subject to that program, in any instance in which the mailing of the item is essential to the functioning of the program, the item does not include the elected officer's photograph, and use of the elected officer's name, office, title, or signature is necessary to the functioning of the program.

(7) Any legal notice or other item sent as required by law, court order, or order adopted by an administrative agency pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), and in which use of the elected officer's name, office, title, or signature is necessary in the notice or other mailing. For purposes of this paragraph, inclusion of an elected officer's name on a ballot as a candidate for elective office, and inclusion of an elected officer's name and signature on a ballot argument, shall be considered necessary to that notice or other item.

(8) A telephone directory, organization chart, or similar listing or roster which includes the names of elected officers as well as other individuals in the agency sending the mailing, in which the name of each elected officer and individual listed appears in the same type size, typeface, and type color. The item shall not include an elected officer's photograph, name, signature, or any other reference to an elected officer, except as specifically permitted by this section.

(9)(A) An announcement of any meeting or event of either of the following:

(i) An announcement sent to an elected officer's constituents concerning a public meeting that is directly related to the elected officer's incumbent governmental duties, is to be held by the elected officer, and that the elected officer intends to attend.

(ii) An announcement of any official agency event or events for which the agency is providing the use of its facilities or staff or other financial support.

(B) Any announcement provided for in this paragraph shall not include the elected officer's photograph or signature and may include only a single mention of the elected officer's name except as permitted elsewhere in this section.

(10) An agenda or other writing that is required to be made available pursuant to Sections 11125.1 and 54957.5, or a bill, file, history, journal, committee analysis, floor analysis, agenda of an interim or special hearing of a committee

of the Legislature, or index of legislation, published by the Legislature.

(11) A business card that does not contain the elected officer's photograph or more than one mention of the elected officer's name.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Elected officer affiliated with the agency" means an elected officer who is a member, officer, or employee of the agency, or of a subunit thereof such as a committee, or who has supervisory control over the agency or appoints one or more members of the agency.

(2) "Features an elected officer" means that the item mailed includes the elected officer's photograph or signature or singles out the elected officer by the manner of display of his or her name or office in the layout of the document, such as by headlines, captions, type size, typeface, or type color.

(3) "Substantially similar" is defined as follows:

(A) Two items are "substantially similar" if any of the following applies:

(i) The items are identical, except for changes necessary to identify the recipient and his or her address.

(ii) The items are intended to honor, commend, congratulate, or recognize an individual or group, or individuals or groups, for the same event or occasion, are intended to celebrate or recognize the same holiday, or are intended to congratulate an individual or group, or individuals or groups, on the same type of event, such as birthdays or anniversaries.

(iii) Both of the following apply to the items mailed:

(I) Most of the bills, legislation, governmental action, activities, events, or issues of public concern mentioned in one item are mentioned in the other.

(II) Most of the information contained in one item is contained in the other.

(B) Enclosure of the same informational materials in two items mailed, such as copies of the same bill, public document, or report, shall not, by itself, mean that the two items are "substantially similar." The informational materials shall not include the elected officer's name, photograph, signature, or any other reference to the elected officer except as permitted elsewhere in this section.

(C) An item is only considered substantially similar to other items sent by the same official, not to items sent by other officials in the same agency.

(4) "Unsolicited request" is defined as follows:

(A) A written or oral communication, including a petition, that specifically requests a response and is not requested or induced by the recipient elected officer or by any third person acting at his or her behest. However, an unsolicited oral or written communication, including a petition, that does not contain a specific request for a response shall be deemed to constitute an unsolicited request for a single written response.

(B) An unsolicited request for continuing information on a subject shall be deemed an unsolicited request for multiple responses directly related to that subject for a period of time not to exceed 24 months. An unsolicited request to receive a regularly published agency newsletter shall be

deemed an unsolicited request for each issue of that newsletter.

(C) A previously unsolicited request to receive an agency newsletter or mass mailing on an ongoing basis shall not be deemed to have become solicited by the sole fact that the requestor responds to an agency notice indicating that, in the absence of a response, his or her name will be purged from the mailing list for that newsletter or mass mailing. A notice in the following language shall be deemed to meet this standard:

"The law does not permit this office to use public funds to keep you updated on items of interest unless you specifically request that it do so."

Inclusion of a similar notice in other items does not constitute a solicitation under this section.

(D) A communication sent in response to an elected officer's participation at a public forum or press conference, or to his or her issuance of a press release, shall be deemed an unsolicited request.

(E) A person who subscribes to newspapers or other periodicals published by persons other than elected officers shall be deemed to have made unsolicited requests for materials published in those subscription publications.

History: Added by Stats. 2017, Ch. 827

§ 89003. Mass Mailings Sent at Public Expense; Temporal Prohibition.

Notwithstanding subdivision (b) of Section 89002, a mass mailing, as defined in Section 82041.5, that meets the criteria of subdivision (a) of Section 89002 shall not be sent within the 60 days preceding an election by or on behalf of a candidate whose name will appear on the ballot at that election, except as provided in paragraphs (2) to (8), inclusive, and paragraph (10) of subdivision (b) of Section 89002.

History: Added by Stats. 2017, Ch. 827

Chapter 9.5. Ethics.

§ 89500-89522

Article 1.	Honoraria. § 89500-89502	105
Article 2.	Gifts. § 89503	106
Article 3.	Travel. § 89506	107
Article 4.	Campaign Funds. § 89510 – 89522.....	108

Article 1. Honoraria.

§ 89500-89502

§ 89500.	Chapter Title.	105
§ 89501.	Honoraria.	106
§ 89502.	Honorarium.	106

§ 89500. Chapter Title.

This chapter shall be known and may be cited as the Ethics in Government Act of 1990.

History: Added by Stats. 1990, Ch. 84.

§ 89501. Honoraria.

(a) For purposes of this chapter, “honorarium” means, except as provided in subdivision (b), any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

(b) The term “honorarium” does not include:

(1) Earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches. The Commission shall adopt regulations to implement this subdivision.

(2) Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the State Controller for donation to the General Fund, or in the case of a public official for local government agency, delivered to his or her agency for donation to an equivalent fund, without being claimed as a deduction from income for tax purposes.

(c) Section 89506 shall apply to all payments, advances, or reimbursements for travel and related lodging and subsistence.

History: Repealed and new section added by Stats. 1995, Ch. 690.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18930, 18931.1, 18931.2, 18931.3, 18932, 18932.1, 18932.2, 18932.3, 18932.4, 18932.5, 18933, 18940, 18944, 18945.1, 18946.2, 18946.5, 18946.6, 18950, 18950.1, 18950.2

§ 89502. Honorarium.

(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept any honorarium.

(b) (1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept any honorarium. A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission and no designated employee of a state or local government agency shall accept an honorarium from any source if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

History: Added by Stats. 1990, Ch. 84; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18736, 18932.1, 18932.2,

Article 2. Gifts.**§ 89503-89503.5**

§ 89503. Gift Limits. 106

§ 89503.5. Gift; Received and Accepted. 106

§ 89503. Gift Limits.

(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).

(b)(1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250). A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election, after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250) if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

(e) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506.

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(f) Beginning on January 1, 1993, the Commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10).

(g) The limitations in this section are in addition to the limitations on gifts in Section 86203.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1993, Ch. 769; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18730.1, 18736, 18940.2, 18941, 18942, 18942.1, 18942.2, 18942.3, 18945, 18946, 18946.4

Opinions: *In re Solis* (2000) 14 FPPC Ops. 7

§ 89503.5. Gift; Received and Accepted.

A gift is both “received” and “accepted” when the public official, or the official’s immediate family member, knowingly takes actual possession of the gift, is provided the benefit of the gift, or takes any action exercising direction or control of the gift.

History: Added by Stats. 2019, Ch. 312.

Article 3. Travel.

§ 89506

§ 89506. Travel Payments, Advances and Reimbursements.

(a) Payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following applies:

(1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elective state office or local elective office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States who substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel that is reported on the recipient’s statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel that is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or that is a contribution.

(2) Travel that is provided by the governmental agency of a local elected officeholder, an elected state officer, member of a state board or commission, an individual specified in Section 87200, or a designated employee.

(3) Travel that is reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel that is excluded from the definition of a gift by any other provision of this title.

(e) This section does not apply to payments, advances, or reimbursements for travel and related lodging and subsistence permitted or limited by Section 170.9 of the Code of Civil Procedure.

(f)(1) A nonprofit organization that regularly organizes and hosts travel for elected officials and that makes payments, advances, or reimbursements that total more than ten thousand dollars (\$10,000) in a calendar year, or that total more than five thousand dollars (\$5,000) in a calendar year for a single person, for travel by an elected state officer or local elected officeholder as described in subdivision (a) shall disclose to the Commission the names of donors who did both of the following in the preceding year:

(A) Donated one thousand dollars (\$1,000) or more to the nonprofit organization.

(B) Accompanied an elected state officer or local elected officeholder, either personally or through an agent, employee, or representative, for any portion of travel described in subdivision (a).

(2) For purposes of this subdivision, a nonprofit organization “regularly organizes and hosts travel for elected officials” if the sum of the nonprofit organization’s expenses that relate to any of the following types of activities with regard to elected officials was greater than one-third of its total expenses reflected on the nonprofit organization’s Internal Revenue Service Form 990, or the equivalent, filed most recently within the last 12 months:

(A) Travel.

(B) Study tours.

(C) Conferences, conventions, and meetings.

(3) This subdivision does not preclude a finding that a nonprofit organization is acting as an intermediary or agent of the donor. If the nonprofit organization is acting as an intermediary or agent of the donor, all of the following apply:

(A) The donor to the nonprofit organization is the source of the gift.

(B) The donor shall be identified as a financial interest under Section 87103.

(C) The gift shall be reported as required by Section 87207.

(D) The gift shall be subject to the limitations on gifts specified in Section 89503.

(4) For purposes of this subdivision, a nonprofit organization includes an organization that is exempt from taxation under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 674; amended by Stats. 1994, Ch. 1105; amended by Stats. 1995, Ch. 690; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2015, Ch. 757; amended by Stats. 2016, Ch. 86

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18930, 18931.1, 18931.2, 18931.3, 18932, 18932.1, 18932.2, 18932.3, 18932.4, 18932.5, 18933, 18940, 18940.2, 18944, 18945.1, 18946.2, 18946.5, 18946.6, 18950, 18950.1, 18950.2

Article 4. Campaign Funds.
§ 89510 – 89522

§ 89510.	Contributions Held in Trust.	108
§ 89511.	Campaign Funds Held by Candidates and Committees.	108
§ 89511.5.	Use of Personal Funds for Incumbent Elected Officers.	109
§ 89512.	Expenditures Associated with Seeking or Holding Office.	109
§ 89512.5.	Expenditures by Committees not Controlled by Candidates.	109
§ 89513.	Use of Campaign Funds for Specific Activities.	110
§ 89514.	Use of Campaign Funds for Attorney’s Fees.	111
§ 89515.	Use of Campaign Funds for Donations and Loans.	111
§ 89516.	Use of Campaign Funds for Vehicle Expenses.	111
§ 89517.	Use of Campaign Funds for Real Property, Appliances or Equipment.	112
§ 89517.5.	Use of Campaign Funds for Security System.	112
§ 89517.6.	Use of Campaign Funds for Cybersecurity of Electronic Devices.	112
§ 89518.	Use of Campaign Funds for Compensation.	112
§ 89519.	Use of Surplus Campaign Funds.	113
§ 89519.5.	Use of Campaign Funds Held by an Officeholder Convicted of Certain Felonies of the Election Code.	113
§ 89520.	Violations.	113
§ 89521.	Unlawful Honorarium, Gift or Expenditure.	113
§ 89522.	Campaign Funds; Prohibited Use Under Elections Code.	114

§ 89510. Contributions Held in Trust.

(a) A candidate for elective state office may only accept contributions within the limits provided in Chapter 5 (commencing with Section 85100).

(b) All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.7

§ 89511. Campaign Funds Held by Candidates and Committees.

(a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b)(1) For purposes of this chapter, “campaign funds” includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, “committee” means a controlled committee, ballot measure committee, committee

opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(3) For purposes of this chapter, “substantial personal benefit” means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

(4) For purposes of this article, “household” includes the candidate’s or elected officer’s spouse, dependent children, and parents who reside with the candidate or elected officer.

(5)(A) For purposes of this article, “attorney’s fees and other costs” includes only the following:

(i) Attorney’s fees and other legal costs related to the defense of the candidate or officer.

(ii) Administrative costs directly related to compliance with the requirements of this title.

(B) “Attorney’s fees and other costs” does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or, except as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 2000, Ch. 130; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18421.7, 18960

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 89511.5. Use of Personal Funds for Incumbent Elected Officers.

(a) An incumbent elected officer may utilize his or her personal funds for expenditures authorized by subdivision (b) of Section 89510 without first depositing those funds in his or her controlled committee’s campaign bank account, if both of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The treasurer of the committee is provided with a dated receipt and a written description of the expenditure.

(b) An incumbent elected officer may be reimbursed for expenditures of his or her personal funds, from either the controlled committee campaign bank account established pursuant to Section 85201 with respect to election to the incumbent term of office, or from a controlled committee campaign bank account established pursuant to Section 85201 with respect to election to a future term of office, if all of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The incumbent elected officer, prior to reimbursement, provides the treasurer of the committee with a dated receipt and a written description of each expenditure.

(3) Reimbursement is paid within 90 days of the expenditure, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included,

in the case of an expenditure charged to a credit card or charge account.

(c) When the elected officer’s controlled committee is notified that expenditures totaling one hundred dollars (\$100) or more in a fiscal year have been made by the incumbent elected officer, the committee shall report, pursuant to subdivision (k) of Section 84211, the expenditures on the campaign statement for the period in which the expenditures were made and the reimbursements on the campaign statement for the period in which the reimbursements were made.

(d) If reimbursement is not paid within the time authorized by this section, the expenditure shall be reported on the campaign statement as a nonmonetary contribution received on the 90th day after the expenditure is paid, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(e) This section shall not be construed to authorize an incumbent elected officer to make expenditures from any campaign bank account for expenses other than those expenses associated with his or her election to the specific office for which the account was established and expenses associated with holding that office.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 2007, Ch. 348.

§ 89512. Expenditures Associated with Seeking or Holding Office.

(a) An expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. An expenditure associated with holding office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a legislative or governmental purpose. Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.

(b) Except as expressly authorized by this article, an expenditure for a fine, penalty, judgment, or settlement is not within the lawful execution of the trust imposed by Section 89510.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.7

§ 89512.5. Expenditures by Committees not Controlled by Candidates.

(a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.

History: Added by Stats. 1991, Ch. 546.

§ 89513. Use of Campaign Funds for Specific Activities.

This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section **shall** guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a)(1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee, or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, the candidate or elected officer's representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. The earning or awarding of mileage credit and the redeeming of credit for actual travel are not subject to reporting pursuant to Section 84211.

(b)(1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of their households. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychi-

atrists, psychologists, or counselors and expenses for medications, treatments, medical equipment, hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c)(1) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(A) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(B) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title. However, campaign funds shall not be used to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in either of the following:

(i) A personal benefit to the candidate or officer if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose.

(ii) A substantial personal benefit to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay a restitution fine imposed under Section 86 of the Penal Code.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e)(1) Except as otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of the candidate or elected officer's immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or the candidate or elected officer's immediate family are governed by subdivision (f).

(f)(1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) This section does not prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee

while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

(h)(1) Campaign funds shall not be used to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the campaign for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(i)(1) For purposes of this subdivision, "childcare expenses" include the reasonable costs of professional daycare services, babysitting, nanny services, food and beverages, transportation to and from the location of a childcare services provider, before and after school programs, summer day camps, and preschool. Additional qualifying expenses include costs related to a nurse, home care provider, or other care provider for a disabled dependent child. "Childcare expenses" do not include private school tuition, medical expenses, tutoring services, or payments to a relative, within the third degree of consanguinity, of a child, unless the relative owns or operates a professional daycare or babysitting service and the cost of the service is no greater than the relative would otherwise charge.

(2) Campaign funds may be used to pay or reimburse a candidate for reasonable and necessary childcare expenses for a dependent child resulting directly from the candidate engaging in campaign activities. For purposes of this paragraph, "directly" means that the candidate would not have incurred the childcare expenses if the candidate did not engage in the campaign activities.

(3) This section shall not be construed to limit the use of campaign funds to pay for childcare expenses resulting from an officeholder engaging in a campaign activity with both political and legislative or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 546; amended by Stats. 2006, Ch. 155; amended by Stats. 2006, Ch. 538; amended by Stats. 2007, Ch. 130;

amended by Stats. 2014, Ch. 881 and 884; amended by Stats. 2019, Ch. 384; amended by Stats. 2019, Ch. 564.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18421.7

§ 89514. Use of Campaign Funds for Attorney's Fees.

Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

§ 89515. Use of Campaign Funds for Donations and Loans.

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family, and where the donation or loan bears a reasonable relation to a political, legislative, or governmental purpose.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1

§ 89516. Use of Campaign Funds for Vehicle Expenses.

Notwithstanding Sections 89512 and 89513, this section governs the use of campaign funds for vehicle expenses.

(a) Campaign funds shall not be used to purchase a vehicle unless both of the following apply:

(1) Title to the vehicle is held by the committee and not the candidate, elected officer, campaign treasurer, or any other individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or a member of his or her immediate family.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(b) Campaign funds shall not be used to lease a vehicle unless both of the following apply:

(1) The lessee is the committee, or a state or local government agency and not the candidate, elected officer, or a member of his or her immediate family; or the lessor is a state or local government agency.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(c) Campaign funds may be used to pay for or reimburse the operating costs, including, but not limited to, insurance, maintenance, and repairs, for any vehicle for which campaign funds may be spent pursuant to this section.

(d) Campaign funds may be used to reimburse a candidate, elected officer, his or her immediate family, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or an employee or member of the staff of the committee or of the elected officer's governmental agency, for the use of his or her vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

(e) For the purposes of this section, use of a vehicle is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18961

§ 89517. Use of Campaign Funds for Real Property, Appliances or Equipment.

(a) Campaign funds shall not be used for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or member of his or her immediate family.

(b) Campaign funds shall not be used to purchase real property. Except as prohibited by subdivision (a), campaign funds may be used to lease real property for up to one year at a time where the use of that property is directly related to political, legislative, or governmental purposes.

(c) For the purposes of this section, real property, appliance, or equipment is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18961

§ 89517.5. Use of Campaign Funds for Security System.

Notwithstanding Section 89517, campaign funds may be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the Commission. The report to the Commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. The candidate or elected officer shall reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.

History: Added by Stats. 1993, Ch. 1143.

§ 89517.6 Use of Campaign Funds for Cybersecurity of Electronic Devices

Notwithstanding Section 89517, campaign funds may be used to pay for, or reimburse the state for, the costs of installing and monitoring hardware, software, or services related to the cybersecurity of electronic devices of a candidate, elected officer, or campaign worker. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission in the candidate's or elected officer's campaign statements filed pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of this title.

History: Added by Stats. 2019, Ch. 46.

§ 89518. Use of Campaign Funds for Compensation.

(a) Campaign funds shall not be used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

(b) Campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative, or governmental activities, except as provided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

§ 89519. Use of Surplus Campaign Funds.

(a) Upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100).

(b) Surplus campaign funds shall be used only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(3) Donations to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.

(5) Contributions to support or oppose a candidate for federal office, a candidate for elective office in a state other than California, or a ballot measure.

(6) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees and other costs for litigation that arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

(c) For purposes of this section, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report an expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and the telephone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following

the date upon which the campaign funds become surplus campaign funds. The candidate or elected officer shall reimburse the surplus fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds. The campaign funds become surplus campaign funds upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 1993, Ch. 1143; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2013, Ch. 9, effective July 1, 2014; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18519.4, 18530.4, 18531.2, 18951

Opinions: *In re Pirayou* (2006) 19 FPPC Ops. 1

§ 89519.5. Use of Campaign Funds Held by an Officeholder Convicted of Certain Felonies of the Election Code.

(a) An officeholder who is convicted of a felony enumerated in Section 20 of the Elections Code, and whose conviction has become final, shall use funds held by the officeholder's candidate controlled committee only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(b) Six months after the conviction becomes final, the officeholder shall forfeit any remaining funds subject to subdivision (a), and these funds shall be deposited in the General Fund.

(c) This section does not apply to funds held by a ballot measure committee or in a legal defense fund formed pursuant to Section 85304.

History: Added by Stats. 2016, Ch. 837.

§ 89520. Violations.

The remedies provided in Chapter 11 (commencing with Section 91000) shall not apply to violations of this chapter.

History: Added by Stats. 1990, Ch. 84.

§ 89521. Unlawful Honorarium, Gift or Expenditure.

Any person who makes or receives an honorarium, gift, or expenditure in violation of this chapter is liable in a civil action brought by the Commission for an amount of up to three times the amount of the unlawful honorarium, gift, or expenditure.

History: Added by Stats. 1990, Ch. 84.

§ 89522. Campaign Funds; Prohibited Use Under Elections Code.

This chapter shall not be construed to permit an expenditure of campaign funds prohibited by Section 18680 of the Elections Code.

History: Added by Stats. 1991, Ch. 546; amended by Stats. 1994, Ch. 923

Chapter 10. Auditing.
§ 90000-90009

§ 90000.	Responsibility.	114
§ 90001.	Mandatory Audits and Investigations.	114
§ 90002.	Audits and Investigations; Time.	115
§ 90003.	Discretionary Audits.	115
§ 90004.	Periodic Reports; Public Documents.	115
§ 90005.	Confidentiality; Exception.	115
§ 90006.	Audit and Investigation by Commission.	115
§ 90007.	Auditing Guidelines and Standards.	116
§ 90008.	Preelection Auditing.	116
§ 90009.	Injunction to Compel Disclosure.	116

§ 90000. Responsibility.

Except as provided in Section 90006, the Franchise Tax Board shall make audits and field investigations with respect to the following:

(a) Reports and statements filed with the Secretary of State under Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100).

(b) Local candidates and their controlled committees selected for audit pursuant to subdivision (i) of Section 90001.

History: Amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 483.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18994, 18995, 18998

§ 90001. Mandatory Audits and Investigations.

Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbying firm and each lobbyist employer who employs one or more lobbyists shall be subject to an audit on a random basis with these lobbying firms or lobbyist employers having a 25-percent chance of being audited. When a lobbying firm or lobbyist employer is audited, the individual lobbyists who are employed by the lobbying firm or the lobbyist employer shall also be audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars (\$25,000) or more in contributions have been raised or twenty-five thousand dollars (\$25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of his or her candi-

dacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars (\$25,000) shall be subject to an audit on a random basis of 10 percent of the number of such candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been received or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy. Random selection shall be made of 25 percent of the Senate districts, 25 percent of the Assembly districts and 25 percent of the judicial offices contested in an election year.

(d) Each candidate for the Legislature in a special primary or special runoff election for whom it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been raised or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy.

(e) Each controlled committee of any candidate who is being audited pursuant to subdivision (b), (c), or (d).

(f) Each committee, other than a committee specified in subdivision (c) of Section 82013, primarily supporting or opposing a candidate who is being audited pursuant to subdivision (b), (c), or (d) if it is determined that the committee has expended more than ten thousand dollars (\$10,000).

(g) Each committee, other than a committee specified in subdivision (c) of Section 82013, whose participation is primarily in support of or in opposition to a state measure or state measures if it is determined that the committee has expended more than ten thousand dollars (\$10,000) on such measure or measures.

(h) Each committee, other than a committee defined in subdivision (c) of Section 82013, a controlled committee or a committee primarily supporting or opposing a state candidate or measure, if it is determined that the committee has raised or expended more than ten thousand dollars (\$10,000) supporting or opposing state candidates or state measures during any calendar year, except that if the Commission determines from an audit report that a committee is in substantial compliance with the provisions of the act, the committee thereafter shall be subject to an audit on a random basis with each such committee having a 25-percent chance of being audited.

(i)(1) With respect to local candidates and their controlled committees, the Commission shall promulgate regulations which provide a method of selection for these audits.

(2) With respect to candidates for the Board of Administration of the Public Employees' Retirement System, the Commission shall promulgate regulations that provide a method for selection of these audits. The Public Employees' Retirement System shall reimburse the Commission for all reasonable expenses incurred pursuant to this section.

(j) In accordance with subdivisions (a), (b), (c), and (h), the Fair Political Practices Commission shall select by

lot the persons or districts to be audited on a random basis. For campaign audits the selection shall be made in public after the last date for filing the first report or statement following the general or special election for which the candidate ran, or following the election at which the measure was adopted or defeated. For lobbying firm and lobbyist employer audits, the selection shall be made in public in February of odd-numbered years.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1979, Ch. 551; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 835; amended by Stats. 1994, Ch. 1139; amended by Stats. 1998, Ch. 923.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18601, 18991, 18993, 18995, 18997

§ 90002. Audits and Investigations; Time.

(a) The scope of audits and investigations under Section 90001 is as follows:

(1) Audits and investigations of lobbying firms and employers of lobbyists shall be conducted biennially covering reports filed during the previous two-year period. If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(2) For campaign statements or reports of a candidate, controlled committee, or committee primarily supporting or opposing a candidate, the audit or investigation shall cover all campaign statements and reports filed for the primary and general election, or a special or runoff election, as well as any previous campaign statements or reports filed since the last election for that office. The audit or investigation shall not include statements or reports previously audited under Section 90001 or 90003.

(3) For campaign statements or reports of a committee primarily supporting or opposing a measure, the audit or investigation shall cover all campaign statements and reports filed by the committee in connection with the measure.

(4) For all other committees, the audit or investigation shall cover all campaign statements and reports filed during the previous two calendar years.

(b) The audit or investigation periods may be extended to include any transaction that relates to or is connected with the election being audited or investigated or the two-year period.

(c) An audit or investigation conducted under Section 90001 shall not include campaign statements or reports filed in conjunction with an election for any other office.

(d) This section shall not be interpreted to act as a limit on the Franchise Tax Board or the Commission in undertaking a discretionary audit under Section 90003.

History: Amended by Stats. 2014, Ch. 9; repealed and reenacted as amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18530.4, 18530.45, 18992

§ 90003. Discretionary Audits.

In addition to the audits and investigations required by Section 90001, the Franchise Tax Board and the Commission may make investigations and audits with respect to any reports or statements required by this title.

History: Amended by Stats. 2004, Ch. 483; amended by Stats. 2014, Ch. 9.

§ 90004. Periodic Reports; Public Documents.

(a) The Franchise Tax Board shall periodically prepare reports, which, except as otherwise provided in this section, shall be sent to the Commission, the Secretary of State, and the Attorney General. If the reports relate to candidates for or committees supporting or opposing candidates for the office of Attorney General, the reports shall be sent to the Commission, the Secretary of State, and the District Attorneys of the Counties of Los Angeles, Sacramento, and San Francisco. If the reports relate to local candidates and their controlled committees, the reports shall be sent to the Commission, the local filing officer with whom the candidate or committee is required to file the originals of campaign reports pursuant to Section 84215, and the district attorney for the candidate's county of domicile.

(b) The Franchise Tax Board shall complete its report of any audit conducted on a random basis pursuant to Section 90001 within two years after the person or entity subject to the audit is selected by the Commission to be audited.

(c) The reports of the Franchise Tax Board shall be public documents and shall contain in detail the Franchise Tax Board's findings with respect to the accuracy and completeness of each report and statement reviewed and its findings with respect to any report or statement that should have been but was not filed. The Secretary of State and the local filing officer shall place the audit reports in the appropriate campaign statement or lobbying files.

History: Amended by Stats. 1976, Ch. 564; amended by Stats. 1979, Ch. 531; amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 591; amended by Stats. 2005, Ch. 22; amended by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18993, 18995

§ 90005. Confidentiality; Exception.

A member, employee, or agent of the Franchise Tax Board or the Commission shall not divulge or make known in any manner the particulars of any record, documents, or information that he or she receives by virtue of this chapter, except in furtherance of the work of the Franchise Tax Board or the Commission or in connection with a court proceeding or the lawful investigation of any agency.

History: Amended by Stats. 2014, Ch. 9.

§ 90006. Audit and Investigation by Commission.

Audits and field investigations of candidates for Controller and member of the Board of Equalization and of committees supporting such candidates shall be made by the Commission instead of the Franchise Tax Board.

§ 90007. Auditing Guidelines and Standards.

(a) The Commission shall adopt auditing guidelines and standards which shall govern audits and field investigations conducted under Section 90001. The guidelines and standards shall be formulated to accomplish the following purposes:

- (1) The audits should encourage compliance and detect violations of this title;
- (2) The audits should be conducted with maximum efficiency in a cost-effective manner; and
- (3) The audits should be as unobtrusive as possible consistent with the foregoing purposes.

(b) In adopting its guidelines and standards the Commission shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

History: Added by Stats. 1978, Ch. 779, effective September 18, 1978.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18995

§ 90008. Preelection Auditing.

(a) It is the intent of the Legislature that the people of California have timely access to information concerning the campaign contributions and expenditures of all committees, corporations, and individuals, and that this information be provided before the election, when it is relevant, in accordance with the requirements of this title. It is the further intent of the Legislature that the Commission ensure that these disclosures are being made, and that this title be liberally construed and any judicial process be expedited to achieve this purpose.

(b) The Commission, and the Franchise Tax Board at the direction of the Commission, may audit any record required to be maintained under this title to ensure compliance with this title prior to an election, even if the record is a report or statement that has not yet been filed.

History: Added by Stats. 2014, Ch. 9.

§ 90009. Injunction to Compel Disclosure.

(a) To further the purposes of this title, the Commission may seek injunctive relief in a superior court to compel disclosure consistent with this title.

(b) A court shall grant expedited review to an action filed pursuant to subdivision (a) as follows:

- (1) The court shall conduct an expedited hearing with an opportunity for the defendant to respond.
- (2) Briefs of the parties shall be required pursuant to an expedited schedule.

(c) A superior or appellate court may, at its discretion, grant a stay of an order granting relief pursuant to subdivision (a).

History: Added by Stats. 2014, Ch. 9.

Chapter 11. Enforcement.
§ 91000-91014

§ 91000.	Violations; Criminal.	116
§ 91000.5.	Administrative Proceedings.	116
§ 91001.	Responsibility for Enforcement.	117
§ 91001.5.	Authority of City Attorneys of Charter Cities.	117
§ 91002.	Effect of Conviction.	117
§ 91003.	Injunction.	117
§ 91003.5.	Conflicts of Interest Violation.	117
§ 91004.	Violations of Reporting Requirements; Civil Liability.	117
§ 91005.	Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.	118
§ 91005.5.	Civil Penalties.	118
§ 91006.	Joint and Several Liability.	118
§ 91007.	Procedure for Civil Actions.	118
§ 91008.	Judgment on the Merits; Precedence; Dismissal.	118
§ 91008.5.	Civil Action Precluded by Commission Order.	119
§ 91009.	Considerations; Liability.	119
§ 91010.	Campaign Disclosure Violations; Request to Civil Prosecutor.	119
§ 91011.	Statute of Limitations.	119
§ 91012.	Costs; Attorney Fees; Bond.	119
§ 91013.	Late Filing of Statement or Report; Fees.	119
§ 91013.5.	Collection of Penalties.	119
§ 91013.7.	Judgment for Collection of Penalties.	120
§ 91014.	Applicability of Other State Law.	120

§ 91000. Violations; Criminal.

(a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 91000.5. Administrative Proceedings.

No administrative action brought pursuant to Chapter 3 (commencing with Section 83100) alleging a violation of any of the provisions of this title shall be commenced more than five years after the date on which the violation occurred.

(a) The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.

(b) If the person alleged to have violated this title engages in the fraudulent concealment of his or her acts or identity, the five-year period shall be tolled for the period of

the concealment. For purposes of this subdivision, “fraudulent concealment” means the person knows of material facts related to his or her duties under this title and knowingly conceals them in performing or omitting to perform those duties, for the purpose of defrauding the public of information to which it is entitled under this title.

(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under Chapter 3 (commencing with Section 83100), the person alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date the documents are produced.

History: Added by Stats. 1997, Ch. 179.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18610, 18612, 18615

§ 91001. Responsibility for Enforcement.

(a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The district attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the Commission with respect to the state or any state agency, except itself. The Attorney General is the civil prosecutor with respect to the Commission. The district attorneys are the civil prosecutors with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Upon written authorization from a district attorney, the Commission may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Under such circumstances, Section 91007 shall not apply to the Commission.

(c) Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall be considered in applying the remedies and sanctions of this title.

History: Amended by Stats. 1976, Ch. 1161; repealed and reenacted as amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1979, Ch. 357.

§ 91001.5. Authority of City Attorneys of Charter Cities.

In any case in which a district attorney could act as the civil or criminal prosecutor under the provisions of this title, the elected city attorney of any charter city may act as the civil or criminal prosecutor with respect to any violations of this title occurring within the city.

History: Added by Stats. 1976, Ch. 594, effective August 26, 1976.

§ 91002. Effect of Conviction.

No person convicted of a misdemeanor under this title shall be a candidate for any elective office or act as a lobbyist for a period of four years following the date of the conviction

unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section. Any person violating this section is guilty of a felony.

§ 91003. Injunction.

(a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require any plaintiff other than the Commission to file a complaint with the Commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his costs of litigation, including reasonable attorney’s fees.

(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 (commencing with Section 87100), Article 4 (commencing with Section 87400), or Article 4.5 (commencing with Section 87450) of Chapter 7 of this title or of a disqualification provision of a Conflict of Interest Code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include, but are not limited to orders, permits, resolutions and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. of 1987, Ch. 628.

§ 91003.5. Conflicts of Interest Violation.

Any person who violates a provision of Article 2 (commencing with Section 87200), 3 (commencing with Section 87300), or 4.5 (commencing with Section 87450) of Chapter 7 is subject to discipline by his or her agency, including dismissal, consistent with any applicable civil service or other personnel laws, regulations, and procedures.

History: Amended by Stats. 1986, Ch. 653.

§ 91004. Violations of Reporting Requirements; Civil Liability.

Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18427

§ 91005. Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.

(a) Any person who makes or receives a contribution, gift, or expenditure in violation of Section 84300, 84304, 86203, or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to one thousand dollars (\$1,000) or three times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(b) Any designated employee or public official specified in Section 87200, except an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a conflict of interest code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

History: Amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130.

§ 91005.5. Civil Penalties.

Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars (\$5,000) per violation.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

History: Amended by Stats. 1982, Ch. 727; amended by Proposition 208 of the November 1996 Statewide General Election; Repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 91006. Joint and Several Liability.

If two or more persons are responsible for any violation, they shall be jointly and severally liable.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18316.6

§ 91007. Procedure for Civil Actions.

(a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond to the person in writing, indicating whether he or she intends to file a civil action.

(1) If the civil prosecutor responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(2) If the civil prosecutor responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the civil prosecutor. If, pursuant to this subdivision, the civil prosecutor does not respond within 120 days, the civil prosecutor shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.

(3) The time period within which a civil action shall be commenced, as set forth in Section 91011, shall be tolled from the date of receipt by the civil prosecutor of the written request to either the date that the civil action is dismissed without prejudice or the date of receipt by the person of the negative response from the civil prosecutor, but only for a civil action brought by the person who requested the civil prosecutor to commence the action.

(b) Any person filing a complaint, cross-complaint, or other initial pleading in a civil action pursuant to Section 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

(1) The full title and number of the case.

(2) The court in which the case is pending.

(3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act of 1974.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

History: Amended by Stats. 1985, Ch. 1200; amended by Stats. 1999, Ch. 577; amended by Stats. 2000, Ch. 135.

§ 91008. Judgment on the Merits; Precedence; Dismissal.

Not more than one judgment on the merits with respect to any violation may be obtained under Sections 91004 and 91005. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Such actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the civil prosecutor or any plaintiff in an action based on the same violation.

§ 91008.5. Civil Action Precluded by Commission Order.

No civil action may be filed under Section 91004, 91005, or 91005.5 with regard to any person for any violations of this title after the Commission has issued an order pursuant to Section 83116 against that person for the same violation.

History: Added by Stats. 1984, Ch. 670.

§ 91009. Considerations; Liability.

In determining the amount of liability under Sections 91004 or 91005, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought under Section 91004 or 91005, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction.

§ 91010. Campaign Disclosure Violations; Request to Civil Prosecutor.

No request to the civil prosecutor pursuant to Section 91007 shall be made or filed in connection with a report or statement required by Chapter 4 (commencing with Section 84100) until the time when an audit and investigation could be begun under subdivision (c) of Section 90002.

History: Amended by Stats. 1992, Ch. 405.

§ 91011. Statute of Limitations.

(a) No civil action alleging a violation in connection with a report or statement required by Chapter 4 (commencing with Section 84100) shall be filed more than four years after an audit could begin as set forth in subdivision (c) of Section 90002, or more than one year after the Franchise Tax Board forwards its report to the commission, pursuant to Section 90004, of any audit conducted of the alleged violator, whichever period is less.

(b) No civil action alleging a violation of any provisions of this title, other than those described in subdivision (a), shall be filed more than four years after the date the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1980, Ch. 742; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2004, Ch. 591.

§ 91012. Costs; Attorney Fees; Bond.

The court may award to a plaintiff or defendant other than an agency, who prevails in any action authorized by this title his costs of litigation, including reasonable attorney's fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs.

§ 91013. Late Filing of Statement or Report; Fees.

(a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by

this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars (\$10) per day, starting 10 days, or five days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he or she is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1977, Ch. 555; amended by Stats. 1985, Ch. 1200; amended by Stats. 1993, Ch. 1140.

References at the time of publication (see page 2):

Opinions: *In re Wood* (2000) 13 FPPC Ops. 21
In re Layton (1975) 1 FPPC Ops. 113
In re Rundstrom (1975) 1 FPPC Ops. 188

§ 91013.5. Collection of Penalties.

(a) In addition to any other available remedies, the commission or the filing officer may bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The action may be filed as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer. In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(1) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations.

(2) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

(3) That a demand for payment has been made by the commission or the filing officer and full payment has not been received.

(b) A civil action brought pursuant to subdivision (a) shall be commenced within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

History: Added by Stats. 1984, Ch. 670; amended by Stats. 2004, Ch. 483.

§ 91013.7. Judgment for Collection of Penalties.

If the time for judicial review of a final Commission order or decision has lapsed, or if all means of judicial review of the order or decision have been exhausted, the Commission may apply to the clerk of the court for a judgment to collect the penalties imposed by the order or decision, or the order as modified in accordance with a decision on judicial review.

The application, which shall include a certified copy of the order or decision, or the order as modified in accordance with a decision on judicial review, and proof of service of the order or decision, constitutes a sufficient showing to warrant issuance of the judgment to collect the penalties. The clerk of the court shall enter the judgment immediately in conformity with the application.

An application made pursuant to this section shall be made to the clerk of the superior court in the county where the monetary penalties, fees, or civil penalties were imposed by the Commission.

A judgment entered in accordance with this section has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action and may be enforced in the same manner as any other judgment of the court in which it is entered.

The Commission may bring an application pursuant to this section only within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

The remedy available under this section is in addition to those available under Section 91013.5 or any other law.

History: Added by Stats. 2013, Ch. 645.

§ 91014. Applicability of Other State Law.

Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.



2020
POLITICAL
REFORM ACT
Fair Political Practices Commission

POLITICAL REFORM ACT — 2020

Introduction

This 2020 version of the Political Reform Act (the “Act”) is not an official publication of the Government Code. It has been produced for use by the public and staff of the Fair Political Practices Commission. The boldface title before each Government Code Section and the histories following some sections have been added for clarity and are not part of the Act.

Proposition 34, which was passed by the voters on November 7, 2000, added new campaign finance provisions and made some changes to the disclosure and enforcement provisions of the Act. Proposition 34 took effect on January 1, 2001, except that Section 83 of the measure deferred to November 6, 2002, applicability of portions of Chapter 5 (commencing with Section 85100) of Title 9, to candidates for statewide elective office. Uncodified Sections 83-86 of Proposition 34 appear in Appendix I.

Commission regulations implementing the Act are contained in the California Code of Regulations, Title 2, Division 6 (Sections 18110-18997). References to applicable regulations and opinions follow each statute. These references were accurate as of January 1, 2019, but changes may have occurred since then. Thus, the references are provided for convenience only and should not be relied upon. Opinion summaries appear in Appendix II. In addition, Commission opinions and advice letters are available on Westlaw, Lexis-Nexis, and the FPPC’s website. Appendix III contains Government Code Sections 1090 through 1097.5. AB 1090 (Fong), Chapter 650, Statutes of 2013, authorized the Commission to provide advice to public officials and enforce violations relating to Section 1090, which prohibits specified officials from being financially interested in a contract. Appendix IV contains repealed sections of the Political Reform Act. Appendix V contains the text of newly chaptered laws with future operative dates.

Please contact the Commission if you need more detailed information or have questions about the Political Reform Act.

Contact the Commission

General Information: (916) 322-5660

Advice: 1-866-ASK-FPPC

1-866-275-3772 *2

Advice@fppc.ca.gov

Commission Mailing Address:

Fair Political Practices Commission

1102 Q Street, Suite 3000

Sacramento, CA 95811



CONTENTS

Chapter 1. General.....	4	Article 3. Travel.....	108
Chapter 2. Definitions.....	7	Article 4. Campaign Funds.	109
Chapter 3. Fair Political Practices Commission.....	22	Chapter 10. Auditing.	115
Chapter 4. Campaign Disclosure.	27	Chapter 11. Enforcement.	117
Article 1. Organization of Committees.....	27	Appendix I. Uncodified Sections of Proposition 3	
Article 2. Filing of Campaign Statements.....	30	... ..	Appendix I-1
Article 2.5. Campaign Reporting Requirements LAFCO		Appendix II. Summary of Opinions.....	Appendix II-1
Proposals.....	45	Appendix III. Gov. Code Sections of Stats. 2013, Chapter	
Article 3. Prohibitions.....	45	650 (AB 1090), effective Jan. 1, 2014	
Article 4. Exemptions.	50	... ..	Appendix III-1
Article 5. Advertisements.	50	Appendix IV. Repealed Sections of Political Reform Act	
Chapter 4.6. Online Disclosure.	59	... ..	Appendix IV-1
Chapter 5. Limitations on Contributions.....	64	Appendix V. Newly Chaptered Laws with Future Operative	
Article 1. Title of Chapter.....	64	Dates	Appendix V-1
Article 2. Candidacy.	64	Index	Index-1
Article 2.5. Applicability of the Political Reform Act of			
1974.	65		
Article 3. Contribution Limitations.....	65		
Article 4. Voluntary Expenditure Ceilings.	72		
Article 5. Independent Expenditures.....	73		
Article 6. Ballot Pamphlet.	73		
Article 7. Additional Contribution Requirements.....	74		
Article 8. Appropriation.....	76		
Chapter 6. Lobbyists.....	76		
Article 1. Registration and Reporting.	76		
Article 2. Prohibitions.....	83		
Article 3. Exemptions.	83		
Chapter 7. Conflicts of Interests.	84		
Article 1. General Prohibitions.	84		
Article 2. Disclosure.	87		
Article 3. Conflict of Interest Codes.	90		
Article 3.5. Multiagency Filers.	94		
Article 4. Disqualification of Former Officers and			
Employees.	94		
Article 4.5. Disqualification of State Officers and			
Employees.	98		
Article 4.6. Loans to Public Officials.....	98		
Article 5. Filing.....	99		
Chapter 8. Ballot Pamphlet.....	103		
Chapter 9. Incumbency.....	105		
Chapter 9.5. Ethics.....	107		
Article 1. Honoraria.	107		
Article 2. Gifts.	107		

Chapter 1. General.

§ 81000 – 81016

§ 81000.	Title.....	4
§ 81001.	Findings and Declarations.....	4
§ 81002.	Purposes of Title.....	4
§ 81003.	Construction of Title.....	4
§ 81004.	Reports and Statements; Perjury; Verification..	4
§ 81004.5.	Reports and Statements; Amendments.....	5
§ 81005.	Reports and Statements; Filing Deadline on Weekend or Holiday.....	5
§ 81006.	Filing Fees Prohibition.....	5
§ 81007.	Mailing of Report or Statement.....	5
§ 81007.5.	Faxing of Report or Statement.....	5
§ 81008.	Public Records; Inspection; Reproduction; Time; Charges.....	5
§ 81009.	Preservation of Reports and Statements.....	6
§ 81009.5.	Local Ordinances.....	6
§ 81010.	Duties of the Filing Officer.....	6
§ 81010.5.	Duties of Filing Officers; Effect of Non- Compliance.....	6
§ 81011.5.	Information on Statewide Petitions.....	7
§ 81012.	Amendment or Repeal of Title.....	7
§ 81013.	Imposition of Additional Requirements.....	7
§ 81014.	Regulations.....	7
§ 81015.	Severability.....	7

§ 81000. Title.

This title shall be known and may be cited as the “Political Reform Act of 1974.”

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18200

§ 81001. Findings and Declarations.

The people find and declare as follows:

(a) State and local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth;

(b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them;

(c) Costs of conducting election campaigns have increased greatly in recent years, and candidates have been forced to finance their campaigns by seeking large contributions from lobbyists and organizations who thereby gain disproportionate influence over governmental decisions;

(d) The influence of large campaign contributors is increased because existing laws for disclosure of campaign receipts and expenditures have proved to be inadequate;

(e) Lobbyists often make their contributions to incumbents who cannot be effectively challenged because of election laws and abusive practices which give the incumbent an unfair advantage;

(f) The wealthy individuals and organizations which make large campaign contributions frequently extend their influence by employing lobbyists and spending large amounts to influence legislative and administrative actions;

(g) The influence of large campaign contributors in ballot measure elections is increased because the ballot pamphlet mailed to the voters by the state is difficult to read and almost impossible for a layman to understand; and

(h) Previous laws regulating political practices have suffered from inadequate enforcement by state and local authorities.

§ 81002. Purposes of Title.

The people enact this title to accomplish the following purposes:

(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.

(b) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.

(c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.

(d) The state ballot pamphlet should be converted into a useful document so that voters will not be entirely dependent on paid advertising for information regarding state measures.

(e) Laws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly.

(f) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced.

History: Amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18313.5, 18313.6, 18702, 18702.1, 18705, 18708

§ 81003. Construction of Title.

This title should be liberally construed to accomplish its purposes.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18702, 18702.1, 18705, 18708

§ 81004. Reports and Statements; Perjury; Verification.*

(a) All reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his knowledge it is true and complete.

(b) A report or statement filed by a committee which qualifies under subdivision (a) of Section 82013 shall be signed and verified by the treasurer, and a report or statement filed by any other person shall be signed and verified by the filer. If the filer is an entity other than an individual, the report or statement shall be signed and verified by a responsible officer of the entity or by an attorney or a certified

public accountant acting as agent for the entity. Every person who signs and verifies any report or statement required to be filed under this title which contains material matter which he knows to be false is guilty of perjury.

History: Amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.6, 18426.1, 18427, 18539.2

Opinions: *In re Layton* (1975) 1 FPPC Ops. 113
In re Augustine (1975) 1 FPPC Ops. 69

*Section 81004 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81004.5. Reports and Statements; Amendments.

Any report or statement filed pursuant to this title may be amended by the filer at any time. Amending an incorrect or incomplete report or statement may be considered as evidence of good faith.

History: Added by Stats. 1976, Ch. 1161.

§ 81005. Reports and Statements; Filing Deadline on Weekend or Holiday.

(a) If this title requires that a statement or report be filed before or on a specified date or during or within a specified period, and the filing deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for the statement or report shall be extended to the next regular business day.

(b) This extension does not apply to the following statements or reports:

(1) Contribution reports required by Section 84203, subdivision (b) of Section 84203.3, or Section 85309, or the contributor's notice of a late in-kind contribution required by subdivision (a) of Section 84203.3, when the due date for these types of reports falls on a Saturday, Sunday, or official state holiday immediately before an election.

(2) Independent expenditure reports required by Section 84204 or 85500.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18227.5, 18247.5, 18329, 18351, 18360.1, 18401, 18404, 18404.2, 18405, 18417, 18419, 18420.1, 18422, 18425, 18427, 18427.1, 18451, 18465, 18530.3, 18531.62, 18539.2, 18550, 18615, 18616

§ 81006. Filing Fees Prohibition.

Except as provided in this title, no fee or charge shall be collected by any officer for the filing of any report or statement or for the forms upon which reports or statements are to be prepared.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

§ 81007. Mailing of Report or Statement.*

When a report or statement or copies thereof required to be filed with any officer under this title have been sent by

first-class mail or by any other guaranteed overnight delivery service addressed to the officer, it shall for purposes of any deadline be deemed to have been received by him or her on the date of the deposit in the mail or of receipt by that delivery service. It shall be presumed until the contrary is established that any date stamped by the post office on the envelope or contained on the delivery service receipt containing the report or statement is the date it was deposited in the mail or received by the delivery service. Mail which is not received by the filing officer shall be presumed not to have been sent unless the filer possesses a post office or delivery service receipt establishing the date of deposit and the name and address of the addressee.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1994, Ch. 638.

*Section 81007 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81007.5. Faxing of Report or Statement.*

(a) Any report or statement or copies thereof required to be filed with any official under Chapter 4 (commencing with Section 84100) or Chapter 7 (commencing with Section 87100) may be faxed by the applicable deadline, provided that the required originals or paper copies are sent by first-class mail or by any other personal delivery or guaranteed overnight delivery service within 24 hours of the applicable deadline and provided that the total number of pages of each report or statement faxed is no more than 30 pages.

(b) A faxed report or statement shall not be deemed filed if the faxed report or statement is not a true and correct copy of the original or copy of the report or statement personally delivered or sent by first-class mail or guaranteed overnight delivery service pursuant to subdivision (a).

(c) A filing officer who receives a faxed report or statement shall make the report or statement available to the public in the same manner as provided in Section 81008. If the faxed report or statement is requested prior to the receipt of the original or copy of the report or statement by the filing officer, the filing officer shall inform the requester that the faxed report or statement will not be considered a filed report or statement if the requirements of subdivision (b) have not been met by the filer.

History: Added by Stats. 1994, Ch. 638; amended by Stats. 1997, Ch. 394.

*Section 81007.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81008. Public Records; Inspection; Reproduction; Time; Charges.*

Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this

title, nor shall any information or identification be required from these persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars (\$5) per request for copies of reports and statements which are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1988, Ch. 1208; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2013, Ch. 654.

*Section 81008 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81009. Preservation of Reports and Statements.*

(a) Statements of organization, registration statements, and original campaign statements of persons holding elective state office, candidates for any such office, committees supporting any such officeholder or candidate, and committees supporting or opposing statewide measures, shall be retained by filing officers indefinitely.

(b) Original campaign statements of mayors, city council members, county supervisors, candidates for any of these offices, and committees supporting any officeholder or candidate shall be retained indefinitely, except that original campaign statements of candidates not elected to these offices and of committees supporting candidates not elected to these offices shall be retained by filing officers for a period of not less than five years.

(c) Original campaign statements of all other persons shall be retained by filing officers for a period of not less than seven years.

(d) Original statements of economic interests of persons holding statewide elective office shall be retained by filing officers indefinitely.

(e) Original reports and statements not specified above in this section shall be retained by filing officers for a period of not less than seven years.

(f) Copies of reports or statements shall be retained by the officer with whom they are filed for a period of not less than four years, provided, however, that a filing officer is not required to retain more than one copy of a report or statement.

(g) After an original report or statement or a copy has been on file for at least two years, the officer with whom it is filed may comply with this section by retaining a copy on microfilm or other space-saving materials available for public inspection instead of the original report or statement or copy. Upon request, the officer shall provide copies of such statements pursuant to Section 81008.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1979, Ch. 531; amended by Stats. 1984, Ch. 390, effective July 11, 1984; amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

*Section 81009 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81009.5. Local Ordinances.

(a) Any local government agency which has enacted, enacts, amends, or repeals an ordinance or other provision of law affecting campaign contributions and expenditures shall file a copy of the action with the Commission.

(b) Notwithstanding Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 (commencing with Section 84100) for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.

History: Added by Stats. 1979, Ch. 531; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1991, Ch. 674.

References at the time of publication (see page 2):

Regulation: 2 Cal. Code of Regs. Section 18531.5

Opinions: *In re Olson* (2001) 15 FPPC Ops. 13

§ 81010. Duties of the Filing Officer.*

With respect to reports and statements filed with him pursuant to this title, the filing officer shall:

(a) Supply the necessary forms and manuals prescribed by the Commission;

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;

(c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;

(d) Report apparent violations of this title to the appropriate agencies; and

(e) Compile and maintain a current list of all reports and statements filed with this office.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18110, 18115, 18117, 18363, 18732.5

Opinions: *In re Rundstrom* (1975) 1 FPPC Ops. 188

In re Layton (1975) 1 FPPC Ops. 113

*Section 81010 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 81010.5. Duties of Filing Officers; Effect of Non-Compliance.

A filing officer or filing official's failure to comply with a duty or to provide notice of a filing or disclosure obligation does not affect a person's duty to file statements and reports disclosing information as required by this title or any enforceable conflict of interest code.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulation: 2 Cal. Code of Regs. Sections 18110, 18115, 18117, 18227, 18227.5, 18247.5, 18404, 18404.2, 18406, 18422, 18425, 18723, 18730, 18732, 187320.5, 18753, 18754, 18755, 18942.3

§ 81011.5. Information on Statewide Petitions.

Any provision of law to the contrary notwithstanding, the election precinct of a person signing a statewide petition shall not be required to appear on the petition when it is filed with the county elections official, nor any additional information regarding a signer other than the information required to be written by the signer.

History: Added by Stats. 1977, Ch. 1095; (Identical to former Section 85203, repealed by Stats. 1977, Ch. 1095); amended Stats. 2002, Ch. 221.

§ 81012. Amendment or Repeal of Title.

This title may be amended or repealed by the procedures set forth in this section. If any portion of subdivision (a) is declared invalid, then subdivision (b) shall be the exclusive means of amending or repealing this title.

(a) This title may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the Commission for distribution to the news media and to every person who has requested the Commission to send copies of such bills to him or her.

(b) This title may be amended or repealed by a statute that becomes effective only when approved by the electors.

History: Amended by Stats. 1976, Ch. 883, effective September 13, 1976; amended by Stats. 1985, Ch. 1200.

§ 81013. Imposition of Additional Requirements.

Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18312, 18531.5

Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77
In re Miller (1976) 2 FPPC Ops. 91

§ 81014. Regulations.

Whenever any reference is made in this title to a federal or state statute and that statute has been or is subsequently repealed or amended, the Commission may promulgate regulations to carry out the intent of this title as nearly as possible.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18312

§ 81015. Severability.

If any provision of this title, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this title to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid,

shall not be affected thereby, and to this end the provisions of this title are severable.

Chapter 2. Definitions.

§ 82000 – 82054

§ 82000.	Interpretation of this Title.	8
§ 82001.	Adjusting an Amount for Cost of Living Changes.	8
§ 82002.	Administrative Action.	8
§ 82003.	Agency.	8
§ 82004.	Agency Official.	8
§ 82004.5.	Behested Payment.	8
§ 82005.	Business Entity.	9
§ 82006.	Campaign Statement.	9
§ 82007.	Candidate.	9
§ 82008.	City.	9
§ 82009.5.	Clerk.	9
§ 82010.	Closing Date.	9
§ 82011.	Code Reviewing Body.	9
§ 82012.	Commission.	9
§ 82013.	Committee.	9
§ 82014.	Conflict of Interest Code.	10
§ 82015.	Contribution.	10
§ 82015.5.	Contribution; Aggregation.	11
§ 82016.	Controlled Committee.	11
§ 82017.	County.	11
§ 82018.	Cumulative Amount.	11
§ 82019.	Designated Employee.	11
§ 82020.	Elected Officer.	11
§ 82021.	Elected State Officer.	12
§ 82022.	Election.	12
§ 82022.5.	Election-Related Activities.	12
§ 82023.	Elective Office.	12
§ 82024.	Elective State Office.	12
§ 82025.	Expenditure.	12
§ 82025.3.	External Manager.	14
§ 82025.5.	Fair Market Value.	14
§ 82026.	Filer.	14
§ 82027.	Filing Officer.	14
§ 82027.5.	General Purpose Committee.	14
§ 82028.	Gift.	14
§ 82029.	Immediate Family.	15
§ 82030.	Income.	15
§ 82030.5.	Income; Earned.	16
§ 82031.	Independent Expenditure.	16
§ 82032.	Influencing Legislative or Administrative Action.	16
§ 82033.	Interest in Real Property.	16
§ 82034.	Investment.	16
§ 82035.	Jurisdiction.	17
§ 82035.5.	LAFCO Proposal.	17
§ 82036.	Late Contribution.	17
§ 82036.5.	Late Independent Expenditure.	17
§ 82037.	Legislative Action.	17
§ 82038.	Legislative Official.	17
§ 82038.3.	Lobbying Coalition.	17
§ 82038.5.	Lobbying Firm.	18
§ 82039.	Lobbyist.	18
§ 82039.5.	Lobbyist Employer.	18
§ 82041.	Local Government Agency.	18
§ 82041.3.	Made at the Behest of.	18
§ 82041.5.	Mass Mailing.	18

§ 82042.	Mayor.....	19
§ 82043.	Measure.	19
§ 82044.	Payment.	19
§ 82045.	Payment to Influence Legislative or Administrative Action.....	19
§ 82046.	Period Covered.	19
§ 82047.	Person.	19
§ 82047.3.	Placement Agent.	19
§ 82047.5.	Primarily Formed Committee.	20
§ 82047.6.	Principal Officer.	20
§ 82047.7.	Proponent of a State Ballot Measure.....	20
§ 82048.	Public Official.....	20
§ 82048.3.	Slate Mailer.....	20
§ 82048.4.	Slate Mailer Organization.	21
§ 82048.5.	Special District.....	21
§ 82048.7.	Sponsored Committee.....	21
§ 82048.8.	Spouse.....	21
§ 82049.	State Agency.....	21
§ 82050.	State Candidate.	21
§ 82051.	State Measure.....	21
§ 82052.	Statewide Candidate.....	21
§ 82052.5.	Statewide Election.	21
§ 82053.	Statewide Elective Office.	21
§ 82054.	Statewide Petition.	22

§ 82000. Interpretation of this Title.

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this chapter shall govern the interpretation of this title.

§ 82001. Adjusting an Amount for Cost of Living Changes.

“Adjusting an amount for cost-of-living changes” means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

History: Amended by Stats. 1978, Ch. 199, effective June 6, 1978.

§ 82002. Administrative Action.

(a) “Administrative action” means either of the following:

(1) The proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding, including any proceeding governed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(2) With regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets on behalf of a state public retirement system.

(b) “Ratemaking proceeding” means, for the purposes of a proceeding before the Public Utilities Commission, any proceeding in which it is reasonably foreseeable that a rate will be established, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

(c) “Quasi-legislative proceeding” means, for purposes of a proceeding before the Public Utilities Commission, any proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons, including, but not limited to, rule-makings and investigations that may establish rules affecting an entire industry.

History: Amended by Stats. 1991, Ch. 491; amended by Stats. 2001, Ch. 921; amended by Stats. 2010, Ch. 668; amended by Stats. 2017, Ch. 561.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18202

Opinions: *In re Evans* (1978) 4 FPPC Ops. 84
In re Leonard (1976) 2 FPPC Ops. 84
In re Nida (1976) 2 FPPC Ops. 1
In re Carson (1975) 1 FPPC Ops. 46

§ 82003. Agency.

“Agency” means any state agency or local government agency.

§ 82004. Agency Official.

“Agency official” means any member, officer, employee or consultant of any state agency who as part of his official responsibilities participates in any administrative action in other than a purely clerical, secretarial or ministerial capacity.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18249

Opinions: *In re Morrissey* (1976) 2 FPPC Ops. 120
In re Morrissey (1976) 2 FPPC Ops. 84
In re Wallace (1975) 1 FPPC Ops. 118

§ 82004.5. Behested Payment.

“Behested payment” means a payment that is made at the behest of a committee, an elected officer, a member of the Public Utilities Commission, or an agent thereof, under any of the following circumstances:

(a) Full and adequate consideration is received from the committee or elected officer.

(b) The payment is made to a different candidate or to a committee not controlled by the behesting candidate.

(c) As to an elected officer, it is clear from the surrounding circumstances that the payment was made for purposes unrelated to the officer’s seeking or holding of elective office. For purposes of this subdivision, a payment is made for purposes related to an elected officer’s seeking or holding of elective office if all or a portion of the payment is used for election-related activities, as defined in Section 82022.5. The following types of payments are presumed to be for purposes unrelated to an elected officer’s seeking or holding of elective office:

(1) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(2) A payment made by a state, local, or federal governmental agency.

(3) A payment made by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) A payment made principally for charitable purposes.

(5) A payment made principally for legislative or governmental purposes by a person other than a state, local, or federal governmental agency.

History: Added by Stats. 2017, Ch. 749.

§ 82005. Business Entity.

“Business entity” means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

§ 82006. Campaign Statement.*

“Campaign statement” means an itemized report which is prepared on a form prescribed by the Commission and which provides the information required by Chapter 4 of this title.

References at the time of publication (see page 2):

Opinions: *In re Layton* (1975) 1 FPPC Ops. 113

*Section 82006 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 82007. Candidate.

(a) “Candidate” means any of the following:

(1) Anyone who is listed on a ballot or is qualified to have write-in votes cast on their behalf counted by elections officials for nomination or election to any elective office.

(2) Anyone who receives a contribution, makes an expenditure, or gives their consent for another person to receive a contribution or make an expenditure, to bring about the person’s nomination or election to an elective office, even if any of the following apply:

(A) The specific elective office for which the person will seek nomination or election is unknown at the time the contribution is received or the expenditure is made.

(B) The person has not announced the candidacy or filed a declaration of candidacy.

(3) An elected officer, including any elected officer who is the subject of a recall.

(b) Anyone who becomes a candidate retains candidate status until that status is terminated under Section 84214.

(c) “Candidate” does not include any candidate, as defined in Section 30101(2) of Title 52 of the United States Code, for federal office, as to the person’s activities related to seeking nomination or election to that federal office.

History: Amended by Stats. 1980, Ch. 289; repealed and reenacted as amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18404, 18531.5

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Lui (1987) 10 FPPC Ops. 10

In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110

§ 82008. City.

“City” means a general law or a chartered city.

§ 82009.5. Clerk.

“Clerk” refers to the city or county clerk unless the city council or board of supervisors has designated any other agency to perform the specified function.

§ 82010. Closing Date.

“Closing date” means the date through which any report or statement filed under this title is required to be complete.

§ 82011. Code Reviewing Body.

“Code reviewing body” means all of the following:

(a) The commission, with respect to the conflict-of-interest code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.

(b) The board of supervisors, with respect to the conflict-of-interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

(c) The city council, with respect to the conflict-of-interest code of any city agency other than the city council.

(d) The Attorney General, with respect to the conflict-of-interest code of the commission.

(e) The Chief Justice of California or his or her designee, with respect to the conflict-of-interest code of the members of the Judicial Council, Commission on Judicial Performance, and Board of Governors of the State Bar of California.

(f) The Board of Governors of the State Bar of California with respect to the conflict-of-interest code of the State Bar of California.

(g) The Chief Justice of California, the administrative presiding judges of the courts of appeal, and the presiding judges of superior courts, or their designees, with respect to the conflict-of-interest code of any agency of the judicial branch of government subject to the immediate administrative supervision of that court.

(h) The Judicial Council of California, with respect to the conflict-of-interest code of any state agency within the judicial branch of government not included under subdivisions (e), (f), and (g).

History: Amended by Stats. 1980, Ch. 779; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 775; amended by Stats. 1995, Ch. 587; amended by Stats. 2003, Ch. 62.

§ 82012. Commission.

“Commission” means the Fair Political Practices Commission.

§ 82013. Committee.

“Committee” means any person or combination of persons who directly or indirectly does any of the following:

(a) Receives contributions totaling two thousand dollars (\$2,000) or more in a calendar year;

(b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or

(c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1980, Ch. 289; amended by Stats. 1984, Ch. 670; amended by Stats. 1987, Ch. 632; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18247.5, 18404.2, 18420, 18420.1, 18521.5, 18531.5

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Welsh (1978) 4 FPPC Ops. 78
In re Kahn (1976) 2 FPPC Ops. 151
In re Lumsdon (1976) 2 FPPC Ops. 140
In re Cannon (1976) 2 FPPC Ops. 133
In re Masini (1976) 2 FPPC Ops. 38
In re Fontana (1976) 2 FPPC Ops. 25
In re Christiansen (1975) 1 FPPC Ops. 170
In re Augustine (1975) 1 FPPC Ops. 69

§ 82014. Conflict of Interest Code.

“Conflict of Interest Code” means a set of rules and regulations adopted by an agency pursuant to Chapter 7 of this title.

§ 82015. Contribution.

(a) “Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, except to the extent that full and adequate consideration is received or if it is clear from the surrounding circumstances that the payment is not made for political purposes.

(b) “Contribution” includes all of the following:

(1) The purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate’s own money or property used on behalf of his or her candidacy, other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(2) The transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(3) The payment of public moneys by a state or local governmental agency for a communication to the public that satisfies both of the following:

(A) The communication expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or, taken as a whole and in context, unambiguously urges a particular result in an election.

(B) The communication is made at the behest of the affected candidate or committee.

(4) A payment made by a person to a multipurpose organization as defined and described in Section 84222.

(5)(A) A payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist, including the value of the use of the home as a fundraising event venue. A payment described in this paragraph is attributable to the lobbyist for purposes of Section 85702.

(B) A payment made by a lobbying firm for costs related to a fundraising event held at the office of the lobbying firm, including the value of the use of the office as a fundraising event venue.

(c) “Contribution” does not include any of the following:

(1) Amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(2) Except as provided in paragraph (5) of subdivision (b), a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(3) Volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they will be, directly or indirectly, repaid to him or her.

(4) A behested payment, as defined in Section 82004.5, but only as to the behesting committee, elected officer, or member of the Public Utilities Commission.

History: Amended by Stats. 1980, Ch. 289; amended by Stats. 1997, Ch. 450, effective September 24, 1997; amended by Stats. 2008, Ch. 418; amended by Stats. 2009, Ch. 363; amended by Stats. 2013, Ch. 16, effective July 1, 2014; amended by Stats. 2014, Ch. 882 and 930; amended by Stats. 2015, Ch. 756, effective October 10, 2015; Amended by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18215, 18215.1, 18215.2, 18215.3, 18216, 18225.7, 18420, 18420.1, 18421.1, 18421.31, 18422, 18423, 18428, 18440, 18521.5, 18530.3, 18531.7, 18540, 18572, 18950, 18950.3

Opinions: *In re Montoya* (1989) 12 FPPC Ops. 7
In re Johnson (1989) 12 FPPC Ops. 1
In re Bell (1988) 11 FPPC Ops. 1
In re Nielsen (1979) 5 FPPC Ops. 18
In re Buchanan (1979) 5 FPPC Ops. 14
In re Reinhardt (1977) 3 FPPC Ops. 83
In re Cannon (1976) 2 FPPC Ops. 133
In re Willmarth (1976) 2 FPPC Ops. 130
In re Adams (1976) 2 FPPC Ops. 127
In re Dixon (1976) 2 FPPC Ops. 70
In re McCormick (1976) 2 FPPC Ops. 42

In re Burciaga (1976) 2 FPPC Ops. 17
In re Hayes (1975) 1 FPPC Ops. 210
In re Christiansen (1975) 1 FPPC Ops. 170
In re Cory (1975) 1 FPPC Ops. 137

§ 82015.5. Contribution; Aggregation.

(a) To determine when contributions are aggregated under this title, “entity” means any person other than an individual, and “majority owned” means ownership of more than 50 percent.

(b) If an individual directs or controls an entity’s contributions, the entity’s contributions shall be aggregated with contributions made by both of the following:

(1) That individual.

(2) Any other entity whose contributions that individual directs or controls.

(c) If two or more entities make contributions that are directed or controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by a person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their contribution-making decisions.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.1, 18422.1, 18428, 18537

§ 82016. Controlled Committee.

(a) “Controlled committee” means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205, is not a controlled committee.

History: Amended by Stats. 1983, Ch. 898; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18217, 18405, 18521, 18521.5, 18535

§ 82017. County.

“County” includes a city and county.

§ 82018. Cumulative Amount.

(a) Except as provided in subdivisions (b), (c), and (d), “cumulative amount” means the amount of contributions received or expenditures made in the calendar year.

(b) For a filer required to file a campaign statement or independent expenditure report in one year in connection with an election to be held in another year, the period over which the cumulative amount is calculated shall end on the closing date of the first semiannual statement filed after the election.

(c) For a filer required to file a campaign statement in connection with the qualification of a measure which extends into two calendar years, the period over which the cumulative amount is calculated shall end on December 31 of the second calendar year.

(d) For a person filing a campaign statement with a period modified by the provisions of this section, the next period over which the cumulative amount is calculated shall begin on the day after the closing date of the statement.

History: Amended by Stats. 1976, Ch. 1106; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats. 1985, Ch. 1456; amended by Stats. 1992, Ch. 405; amended by Stats. 1993, Ch. 769.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18535

§ 82019. Designated Employee.

(a) “Designated employee” means any officer, employee, member, or consultant of any agency whose position with the agency:

(1) Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical, or manual.

(2) Is elective, other than an elective state office.

(3) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

(4) Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

(b)(1) “Designated employee” does not include an elected state officer, any unsalaried member of any board or commission which serves a solely advisory function, any public official specified in Section 87200, and also does not include any unsalaried member of a nonregulatory committee, section, commission, or other such entity of the State Bar of California.

(2) “Designated employee” does not include a federal officer or employee serving in an official federal capacity on a state or local government agency. The state or local government agency shall annually obtain, and maintain in its files for public inspection, a copy of any public financial disclosure report filed by the federal officer or employee pursuant to federal law.

History: Amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 1108; amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18219, 18700.3, 18701

§ 82020. Elected Officer.

“Elected officer” means any person who holds an elective office or has been elected to an elective office but has

not yet taken office. A person who is appointed to fill a vacant elective office is an elected officer.

§ 82021. Elected State Officer.

“Elected state officer” means any person who holds an elective state office or has been elected to an elective state office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elected state officer.

§ 82022. Election.

“Election” means any primary, general, special or recall election held in this state. The primary and general or special elections are separate elections for purposes of this title.

§ 82022.5. Election-Related Activities.

“Election-related activities” include, but are not limited to, the following with respect to candidate-based elections:

(a) Communications that contain express advocacy of the nomination or election of a candidate or the defeat of his or her opponent.

(b) Communications that contain reference to a candidate’s candidacy for elective office, the candidate’s election campaign, or the candidate’s or his or her opponent’s qualifications for elective office.

(c) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(d) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in subdivisions (a) to (c), inclusive.

(e) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(f) Preparing campaign budgets.

(g) Preparing campaign finance disclosure statements.

(h) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

History: Added by Stats. 2017, Ch. 749.

§ 82023. Elective Office.

“Elective office” means any state, regional, county, municipal, district or judicial office that is filled at an election. “Elective office” also includes membership on a county central committee of a qualified political party, and membership through election on the Board of Administration of the Public Employees’ Retirement System or the Teachers’ Retirement Board.

History: Amended by Stats. 1998, Ch. 923; amended by Stats. 2010, Ch. 633.

§ 82024. Elective State Office.

“Elective state office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, mem-

ber elected to the Board of Administration of the Public Employees’ Retirement System, member elected to the Teachers’ Retirement Board, and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 1998, Ch. 923; amended by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18723, 18535

§ 82025. Expenditure.

(a) “Expenditure” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. “Expenditure” does not include a candidate’s use of **the candidate’s** own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

(b) A payment is made for political purposes if it is any of the following:

(1) For purposes of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure.

(2) Made by any of the following:

(A) A candidate, unless it is clear from surrounding circumstances that the payment was made for personal purposes unrelated to **the candidate’s** candidacy or status as an officeholder.

(B) A controlled committee.

(C) An official committee of a political party, including a state central committee, county central committee, assembly district committee, or any subcommittee of such committee.

(D) An organization formed or existing primarily for political purposes, as described in paragraph (1), including, but not limited to, a political action committee established by any membership organization, labor union, or corporation.

(c) “Expenditure” includes any monetary or nonmonetary payment made by any person, other than the persons or organizations described in subdivision (b), that is used for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage, or defeat of a clearly identified ballot measure.

(1) “Clearly identified” is defined as follows:

(A) A candidate is clearly identified if the communication states **the candidate’s** name, makes unambiguous reference to **the candidate’s** office or status as a candidate, or unambiguously describes **the candidate** in any manner.

(B) A group of candidates is clearly identified if the communication makes unambiguous reference to some well-defined characteristic of the group, even if the communication does not name each candidate. A communication that clearly identifies a group of candidates and expressly

advocates their election or defeat is reportable as an expenditure, but the expenditure need not be allocated among all members of the class or group on the campaign statement reporting the expenditure.

(C) A measure that has qualified to be placed on the ballot is clearly identified if the communication states a proposition number, official title, or popular name associated with the measure. In addition, the measure is clearly identified if the communication refers to the subject matter of the measure and either states that the measure is before the people for a vote or, taken as a whole and in context, unambiguously refers to the measure.

(D) A measure that has not qualified to be placed on the ballot is clearly identified if the communication refers to the subject matter of the measure and the qualification drive.

(2) A communication “expressly advocates” the nomination, election, or defeat of a candidate or the qualification, passage, or defeat of a measure if it contains express words of advocacy such as “vote for,” “elect,” “support,” “cast your ballot,” “vote against,” “defeat,” “reject,” “sign petitions for,” or, within 60 days before an election in which the candidate or measure appears on the ballot, the communication otherwise refers to a clearly identified candidate or measure so that the communication, taken as a whole, unambiguously urges a particular result in an election.

(A) Except for those communications paid for with public moneys by a state or local government agency, a communication, taken as a whole, unambiguously urges a particular result in an election if it is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure. A communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure when, taken as a whole, it could only be interpreted by a reasonable person as containing an appeal to vote for or against a specific candidate or measure because of both of the following:

(i) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning.

(ii) Reasonable minds could not differ as to whether it encourages a vote for or against a clearly identified candidate or measure, or encourages some other kind of action on a legislative, executive, or judicial matter or issue.

(B) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that in most contexts would not be susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate or measure: “Smith’s the One”; “No Measure A”; “Rally ‘round O’Malley”; “Create jobs with Measure X”; “Only Nancy Brown can clean out City Hall”; “Proposition 123 - your last chance to save California”; “Joe Green will earn your trust”; “Bob Boone is unqualified for office and a special-interest puppet”; “Shirley Hall - bad for California, bad for you.”

(C) The following nonexhaustive examples, referring to candidates or measures on the ballot in an upcoming election, illustrate statements that would be susceptible of a reasonable interpretation other than as an appeal to vote for or

against a specific candidate or measure: “Assembly Member Nancy Brown needs to be tough on criminals. Call her and tell her to stand firm on AB 100”; “Poor children need a home too. Support the Mayor’s stance against more budget cuts”; “Thank you, Supervisor Smith, for continuing to support our farmers.”

(D) Safe Harbor. A communication does not expressly advocate the nomination, election, or defeat of a candidate, or the qualification, passage, or defeat of a measure, within the meaning of this section, if both of the following apply:

(i) The communication does not mention an election, candidacy, political party unless required by law, opposing candidate, or voting by the general public, and it does not take a position on the character, qualifications, or fitness for office of a candidate or officeholder, or the merits of a ballot measure.

(ii) The communication focuses on a legislative, executive, or judicial matter or issue, either urging a candidate to take a particular position or action with respect to the matter or issue, or urging the public to adopt a particular position and to contact the candidate with respect to the matter or issue.

(E) Rules of Interpretation. If a communication does not qualify for the safe harbor described in subparagraph (D), the commission shall consider if the communication has an interpretation other than as an appeal to vote for or against a clearly identified candidate or measure, in order to determine if, on balance, the communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or measure.

(3) Reporting Expenditures.

(A) The amount of an expenditure reportable pursuant to this subdivision shall include all costs directly attributable to the communication, including, but not limited to, salaries, production, postage, space or time purchased, agency fees, printing, and any additional administrative or overhead costs attributable to the communication. The expenditure does not include any of the regular ongoing business overhead that will be incurred in similar amounts regardless of the communication.

(B) When a printed or broadcast communication circulates outside the state, the expenditure may be calculated on the basis of the fraction of the total cost attributable to circulation within the state.

(C) Costs directly traceable to the communication are reportable when the communication is made, or when payments are made in connection with the development, production, or dissemination of the communication, whichever occurs first.

(D) The costs of printing and distributing petitions, recruiting, training, and paying expenses of petition circulators, and other costs incurred in connection with the qualification of a measure are reportable expenditures.

(4) Except for those communications paid for with public moneys by a state or local government agency, notwithstanding this subdivision, “expenditure” does not include costs incurred for communications that expressly advocate the nomination, election, or defeat of a clearly identified candidate or candidates, or the qualification, passage,

or defeat of a clearly identified measure or measures by either of the following:

(A) A broadcasting station, including a cable or satellite television operation, programmer, or producer, **internet web-site**, or a regularly published newspaper, magazine, or other periodical of general circulation, including an **internet** or electronic publication, that routinely carries news and commentary of general interest, for the cost of covering or carrying a news story, commentary, or editorial.

(B) A regularly published newsletter or regularly published periodical, other than those specified in subparagraph (A), whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals, and those who request or purchase the publication. This subparagraph applies only to the costs regularly incurred in publishing the newsletter or periodical. If additional costs are incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size, or format, the additional costs are expenditures.

(5) The term "expenditure" also does not include uncompensated **internet** activity by an individual supporting or opposing a candidate or measure as stated in Section 18215.2 of Title 2 of the California Code of Regulations.

(d) A payment used to make contributions, as defined in Section 82015, is an expenditure.

History: Amended by Stats. 1997, Ch. 394; amended by Stats. 2017, Ch. 546; **amended by Stats. 2019, Ch. 102.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.2, 18225.4, 18225.7, 18420, 18421.1, 18421.6, 18423, **18428**, 18450.11, 18530.3, 18531.7, 18531.10, 18901.1

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10
In re Buchanan (1979) 5 FPPC Ops. 14
In re Welsh (1978) 4 FPPC Ops. 78
In re Cannon (1976) 2 FPPC Ops. 133
In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Hayes (1975) 1 FPPC Ops. 210
In re Christiansen (1975) 1 FPPC Ops. 170
In re Kelly, Masini (1975) 1 FPPC Ops. 162

§ 82025.3. External Manager.

(a) "External manager" means either of the following:

(1) A person who is seeking to be, or is, retained by a state public retirement system in California or an investment vehicle to manage a portfolio of securities or other assets for compensation.

(2) A person who manages an investment fund and who offers or sells, or has offered or sold, an ownership interest in the investment fund to a state public retirement system in California or an investment vehicle.

(b) For purposes of this section, "investment fund" has the same meaning as set forth in Section 7513.8.

(c) For purposes of this section, "investment vehicle" has the same meaning as set forth in Section 82047.3.

History: Added by Stats. 2010, Ch. 668; amended by Stats. 2011, Ch. 704, effective October 9, 2011.

§ 82025.5. Fair Market Value.

"Fair market value" means the estimated fair market value of goods, services, facilities or anything of value other than money. Whenever the amount of goods, services, facilities, or anything of value other than money is required to be reported under this title, the amount reported shall be the fair market value, and a description of the goods, services, facilities, or other thing of value shall be appended to the report or statement. "Full and adequate consideration" as used in this title means fair market value.

History: Added by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Opinions: *In re Hopkins* (1977) 3 FPPC Ops. 107
In re Stone (1977) 3 FPPC Ops. 52
In re Thomas (1977) 3 FPPC Ops. 30
In re Cory (1975) 1 FPPC Ops. 153

§ 82026. Filer.

"Filer" means the person filing or required to file any statement or report under this title.

§ 82027. Filing Officer.

"Filing officer" means the office or officer with whom any statement or report is required to be filed under this title. If copies of a statement or report are required to be filed with more than one office or officer, the one first named is the filing officer, and the copy filed with him shall be signed in the original and shall be deemed the original copy.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18227

§ 82027.5. General Purpose Committee.

(a) "General purpose committee" means all committees pursuant to subdivision (b) or (c) of Section 82013, and any committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5.

(b) A "state general purpose committee" is a political party committee, as defined in Section 85205, or a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

(c) A "county general purpose committee" is a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.

(d) A "city general purpose committee" is a committee to support or oppose candidates or measures voted on in only one city.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 2004, Ch. 623, effective September 21, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18227.5, 18247.5, 18421.8, 18521.5

§ 82028. Gift.

(a) "Gift" means, except as provided in subdivision (b), any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater

value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(b) The term “gift” does not include:

(1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed “informational material.”

(2) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.

(3) Gifts from an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 of this title.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

History: Amended by Stats. 1978, Ch. 641; amended by Stats. 1986, Ch. 654; amended by Stats. 1997, Ch. 450, effective September 24, 1997.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18229.1, 18730.1, 18932.4, 18940, 18940.1, 18941, 18942, 18942.1, 18942.2, 18942.3, 18943, 18944, 18944.1, 18944.2, 18944.3, 18944.4, 18945, 18945.2, 18945.4, 18946-18946.5, 18950, 18950.1, 18950.2, 18950.3

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Hopkins (1977) 3 FPPC Ops. 107
In re Stone (1977) 3 FPPC Ops. 52
In re Gutierrez (1977) 3 FPPC Ops. 44
In re Thomas (1977) 3 FPPC Ops. 30
In re Nida (1977) 3 FPPC Ops. 1
In re Torres (1976) 2 FPPC Ops. 31
In re Brown (1975) 1 FPPC Ops. 677
In re Hayes (1975) 1 FPPC Ops. 210
In re Russel (1975) 1 FPPC Ops. 191
In re Cory (1975) 1 FPPC Ops. 153
In re Cory (1975) 1 FPPC Ops. 137
In re Cory (1976) 2 FPPC Ops. 48
In re Spellman (1975) 1 FPPC Ops. 16
In re Lunardi (1975) 1 FPPC Ops. 97

§ 82029. Immediate Family.

“Immediate family” means the spouse and dependent children.

History: Amended by Stats. 1980, Ch. 1000.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18229.1, 18234

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 82030. Income.

(a) “Income” means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. “Income,” other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) “Income” also does not include:

(1) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100).

(2) Salary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(3) Any devise or inheritance.

(4) Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.

(5) Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.

(6) Redemption of a mutual fund.

(7) Alimony or child support payments.

(8) Any loan or loans from a commercial lending institution which are made in the lender’s regular course of business on terms available to members of the public without regard to official status.

(9) Any loan from or payments received on a loan made to an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan or loan payment received from any such person shall be considered income if he or she is acting as an agent or intermediary for any person not covered by this paragraph.

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender’s regular

course of business on terms available to members of the public without regard to official status.

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

(12) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the filer sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1977, Ch. 344, effective August 20, 1977; amended by Stats. 1978, Ch. 641; amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch. 931; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2002, Ch. 172; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18230, 18232, 18234, 18235, 18728.5, 18940, 18944, 18950.1, 18950.2, 18950.3

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Elmore (1978) 4 FPPC Ops. 8
In re Carey (1977) 3 FPPC Ops. 99
In re Moore (1977) 3 FPPC Ops. 33
In re Hayes (1975) 1 FPPC Ops. 210
In re Brown (1975) 1 FPPC Ops. 67

§ 82030.5. Income; Earned.

(a) For purposes of this title, “earned income” means, except as provided in subdivision (b), income from wages, salaries, professional fees, and other amounts received or promised to be received as compensation for personal services rendered.

(b) Income which is not “earned income” includes, but is not limited to, the following:

(1) Any income derived from stocks, bonds, property, or other investments, or from retail or wholesale sales.

(2) Any amount paid by, or on behalf of, an elected state officer to a tax-qualified pension, profit sharing, or stock bonus plan and received by the elected state officer from the plan.

(3) The community property interest in the income of a spouse.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18932
 Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 82031. Independent Expenditure.

“Independent expenditure” means an expenditure made by any person, including a payment of public moneys by a state or local government agency, in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

History: Formerly titled “Independent Committee.” Repealed by Stats. 1979, Ch. 779. Added by Stats. 1980, Ch. 289. (Formerly Section 82031.5.) Amended by Stats. 2009, Ch. 363.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18225.7, 18420.1, 18521.5, 18530.3

§ 82032. Influencing Legislative or Administrative Action.

“Influencing legislative or administrative action” means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

References at the time of publication (see page 2):

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Leonard (1976) 2 FPPC Ops. 54
In re Nida (1976) 2 FPPC Ops. 1

§ 82033. Interest in Real Property.

“Interest in real property” includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18233, 18234, 18235, 18702.3, 18729

Opinions: *In re Overstreet* (1981) 6 FPPC Ops. 12

§ 82034. Investment.

“Investment” means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000). The term “investment” does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or in a common trust fund created pursuant to Section 1564 of the Financial Code, interest in a government defined-benefit pension plan, or any bond or

other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a 10-percent interest or greater. The term “parent, subsidiary or otherwise related business entity” shall be specifically defined by regulations of the commission.

History: Amended by Stats. 1978, Ch. 607; amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130; amended by Stats. 2007, Ch. 348.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1. 18230. 18234. 18235. 18237

Opinions: *In re Nord* (1983) 8 FPPC Ops. 6
In re Baty (1979) 5 FPPC Ops. 10
In re Elmore (1978) 4 FPPC Ops. 8

§ 82035. Jurisdiction.

“Jurisdiction” means the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction. Real property shall be deemed to be “within the jurisdiction” with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

History: Amended by Stats. 1975, Ch. 499, effective September 5, 1975; amended by Stats. 1993, Ch. 769.

§ 82035.5. LAFCO Proposal.

“LAFCO proposal” means a proposal, as defined in Section 56069, including a proceeding, as defined by Section 56067.

History: Added by Stats. 2008, Ch. 192; amended by Stats. 2009, Ch. 113.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

§ 82036. Late Contribution.

“Late contribution” means any of the following:

(a) A contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure during the 90-day period preceding the date of the election, or on the date of the election, at which the candidate or measure is to be voted on. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

(b) A contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a political party committee, as defined in Section 85205, within 90 days before the date of a state election or on the date of the election.

History: Amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289; amended by Stats. 2004, Ch. 623, effective September 21, 2004; amended by Stats.

2005, Ch. 22; amended by Stats. 2010, Ch. 633; amended by Stats. 2012, Ch. 496; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18425

§ 82036.5. Late Independent Expenditure.

“Late independent expenditure” means an independent expenditure that totals in the aggregate one thousand dollars (\$1,000) or more and is made for or against a specific candidate or measure involved in an election during the 90-day period preceding the date of the election or on the date of the election. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

History: Added by Stats. 1980, Ch. 289; amended by Stats. 2010, Ch. 633; amended by Stats. 2012, Ch. 496; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116. 18550

§ 82037. Legislative Action.

“Legislative action” means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in his official capacity. “Legislative action” also means the action of the Governor in approving or vetoing any bill.

References at the time of publication (see page 2):

Opinions: *In re Cohen* (1975) 1 FPPC Ops. 10

§ 82038. Legislative Official.

“Legislative official” means any employee or consultant of the Legislature whose duties are not solely secretarial, clerical or manual.

References at the time of publication (see page 2):

Opinions: *In re Morrissey* (1976) 2 FPPC Ops. 120

§ 82038.3. Lobbying Coalition.

(a) “Lobbying coalition” means a group of 10 or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for sharing the expenses of employing a lobbyist or contracting for the services of a lobbying firm.

(b) For purposes of Sections 86115 and 86116, a lobbying coalition shall file the same statements and reports as a lobbyist employer.

(c) A bona fide federation, confederation, or trade, labor, or membership organization is not a lobbying coalition if it is ongoing in nature and its membership services are not limited to influencing legislative or administrative action.

(d) A person making payments to a lobbying coalition does not qualify as a lobbying firm or lobbyist employer as a result of those payments.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18616.4, 18616, 18614

§ 82038.5. Lobbying Firm.

(a) “Lobbying firm” means any business entity, including an individual contract lobbyist, which meets either of the following criteria:

(1) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

(2) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action.

(b) No business entity is a lobbying firm by reason of activities described in Section 86300.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18238.5, 18614

§ 82039. Lobbyist.

(a) “Lobbyist” means either of the following:

(1) Any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.

(2) A placement agent, as defined in Section 82047.3.

(b) An individual is not a lobbyist by reason of activities described in Section 86300.

(c) For the purposes of subdivision (a), a proceeding before the Public Utilities Commission constitutes “administrative action” if it meets any of the definitions set forth in subdivision (b) or (c) of Section 82002. However, a communication made for the purpose of influencing this type of Public Utilities Commission proceeding is not within subdivision (a) if the communication is made at a public hearing, public workshop, or other public forum that is part of the proceeding, or if the communication is included in the official record of the proceeding.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1984, Ch. 161; amended by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2001, Ch. 921; amended by Stats. 2010, Ch. 668.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18239, 18601

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Morrissey (1976) 2 FPPC Ops. 84
In re Leonard (1976) 2 FPPC Ops. 54
In re Zenz (1975) 1 FPPC Ops. 195
In re Hardie (1975) 1 FPPC Ops. 140

In re Stern (1975) 1 FPPC Ops. 59

In re McCarthy (1975) 1 FPPC Ops. 50

In re Carson (1975) 1 FPPC Ops. 46

In re California Labor Federation (1975) 1 FPPC Ops. 28

In re Cohen (1975) 1 FPPC Ops. 10

§ 82039.5. Lobbyist Employer.

“Lobbyist employer” means any person, other than a lobbying firm, who:

(a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or

(b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.

History: Added by Stats. 1985, Ch. 1183, Effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18239.5, 18614

§ 82041. Local Government Agency.

“Local government agency” means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

History: Amended by Stats. 1984, Ch. 727, effective July 1, 1985.

References at the time of publication (see page 2):

Opinions: *In re Rotman* (1987) 10 FPPC Ops. 1
In re Leach (1978) 4 FPPC Ops. 48
In re Siegel (1977) 3 FPPC Ops. 62
In re Witt (1975) 1 FPPC Ops. 1

§ 82041.3. Made at the Behest of.

“Made at the behest of” means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.3, 18225.7

§ 82041.5. Mass Mailing.

“Mass mailing” means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.

History: Amended by Proposition 73 on the June 1988 statewide primary ballot, effective June 8, 1988; amended by Stats. 1988, Ch. 1027.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18435, 18901.1

Opinions: *In re Welsh* (1978) 4 FPPC Ops. 78
In re Juvinall, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 82042. Mayor.

“Mayor” of a city includes mayor of a city and county.

§ 82043. Measure.

“Measure” means any constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a legislative body, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum or recall procedure whether or not it qualifies for the ballot.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.5

Opinions: *In re Fontana* (1976) 2 FPPC Ops. 25

§ 82044. Payment.

“Payment” means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18944, 18950.1

Opinions: *In re Johnson* (1989) 12 FPPC Ops. 1
In re Gutierrez (1977) 3 FPPC Ops. 44
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Cory (1975) 1 FPPC Ops. 137

§ 82045. Payment to Influence Legislative or Administrative Action.

“Payment to influence legislative or administrative action” means any of the following types of payment:

(a) Direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose, by a person employing or contracting for the services of the lobbyist separately or jointly with other persons;

(b) Payment in support or assistance of a lobbyist or his activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(c) Payment which directly or indirectly benefits any elective state official, legislative official or agency official or a member of the immediate family of any such official;

(d) Payment, including compensation, payment or reimbursement for the services, time or expenses of an employee, for or in connection with direct communication with any elective state official, legislative official or agency official;

(e) Payment for or in connection with soliciting or urging other persons to enter into direct communication with any elective state official, legislative official or agency official.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229.1

Opinions: *In re Kovall* (1978) 4 FPPC Ops. 95
In re Nida (1977) 3 FPPC Ops. 1
In re Morrissey (1976) 2 FPPC Ops. 84
In re Naylor (1976) 2 FPPC Ops. 65
In re Leonard (1976) 2 FPPC Ops. 54
In re Gillies (1975) 1 FPPC Ops. 165
In re Morrissey (1975) 1 FPPC Ops. 130

§ 82046. Period Covered.

(a) “Period covered” by a statement or report required to be filed by this title, other than a campaign statement, means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report which was required to be filed, and ending with the closing date of the statement or report in question. If the person filing the statement or report has not previously filed a statement or report of the same type, the period covered begins on the day on which the first reportable transaction occurred. Nothing in this chapter shall be interpreted to exempt any person from disclosing transactions which occurred prior to the effective date of this title according to the laws then in effect.

(b) “Period covered” by a campaign statement required to be filed by this title means, unless a different period is specified, the period beginning the day after the closing date of the most recent campaign statement which was required to be filed and ending with the closing date of the statement in question. If a person has not previously filed a campaign statement, the period covered begins on January 1.

History: Amended by Stats. 1976, Ch. 1106; amended by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Opinions: *In re Welsh* (1978) 4 FPPC Ops. 78
In re Juvinal, Stull, Meyers, Republican Central Committee of Orange County, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 82047. Person.

“Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

History: Amended by Stats. 1994, Ch. 1010.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs., Sections 18432.5, 18533
Opinions: *In re Lumsdon* (1976) 2 FPPC Ops. 140
In re Witt (1975) 1 FPPC Ops. 1

§ 82047.3. Placement Agent.

(a) “Placement agent” means an individual directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager or an investment fund managed by an external manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to a state public retirement system in California or an investment vehicle either of the following:

(1) In the case of an external manager within the meaning of paragraph (1) of subdivision (a) of Section 82025.3, the investment management services of the external manager.

(2) In the case of an external manager within the meaning of paragraph (2) of subdivision (a) of Section

82025.3, an ownership interest in an investment fund managed by the external manager.

(b) Notwithstanding subdivision (a), an individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager and who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager is not a placement agent.

(c) Notwithstanding subdivision (a), an employee, officer, or director of an external manager, or of an affiliate of an external manager, is not a placement agent with respect to an offer or sale of investment management services described in subdivision (a) if all of the following apply:

(1) The external manager is registered as an investment adviser or a broker-dealer with the Securities and Exchange Commission or, if exempt from or not subject to registration with the Securities and Exchange Commission, any appropriate state securities regulator.

(2) The external manager is participating in a competitive bidding process, such as a request for proposals, subject to subdivision (a) of Section 22364 of the Education Code or subdivision (a) of Section 20153 of this code, as applicable, or has been selected through that process, and is providing services pursuant to a contract executed as a result of that competitive bidding process.

(3) The external manager, if selected through a competitive bidding process described in paragraph (2), has agreed to a fiduciary standard of care, as defined by the standards of conduct applicable to the retirement board of a public pension or retirement system and set forth in Section 17 of Article XVI of the California Constitution, when managing a portfolio of assets of a state public retirement system in California.

(d) For purposes of this section, “investment fund” has the same meaning as set forth in Section 7513.8.

(e) For purposes of this section, “investment vehicle” means a corporation, partnership, limited partnership, limited liability company, association, or other entity, either domestic or foreign, managed by an external manager in which a state public retirement system in California is the majority investor and that is organized in order to invest with, or retain the investment management services of, other external managers.

History: Added by Stats. 2010, Ch. 668; amended by Stats. 2011, Ch. 704, effective October 9, 2011.

§ 82047.5. Primarily Formed Committee.

“Primarily formed committee” means a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose any of the following:

(a) A single candidate.

(b) A single measure.

(c) A group of specific candidates being voted upon in the same city, county, or multicounty election.

(d) Two or more measures being voted upon in the same city, county, multicounty, or state election.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1990, Ch. 626; amended by Stats. 1991, Ch. 191; amended by Stats. 1995, Ch. 295.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18247.5, 18421.8, 18521.5

§ 82047.6. Principal Officer.

(a) “Principal officer” means the individual primarily responsible for approving the political activities of a committee, including, but not limited to, the following activities:

(1) Authorizing the content of communications made by the committee.

(2) Authorizing expenditures, including contributions, on behalf of the committee.

(3) Determining the committee’s campaign strategy.

(b) If two or more individuals share the primary responsibility for approving the political activities of a committee, each individual is a principal officer.

History: Added by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18402.1

§ 82047.7. Proponent of a State Ballot Measure.

“Proponent of a state ballot measure” means “proponent” as defined in Section 9002 of the Elections Code.

History: Added by Stats. 1988, Ch. 704; amended by Stats. 1994, Ch. 923; renumbered by Stats. 2012, Ch. 496. (Formerly Section 82047.6.)

§ 82048. Public Official.

(a) “Public official” means every member, officer, employee or consultant of a state or local government agency.

(b) Notwithstanding subdivision (a), “public official” does not include the following:

(1) A judge or court commissioner in the judicial branch of government.

(2) A member of the Board of Governors and designated employees of the State Bar of California.

(3) A member of the Judicial Council.

(4) A member of the Commission on Judicial Performance, provided that he or she is subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

(5) A federal officer or employee serving in an official federal capacity on a state or local government agency.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18700.3, 18701, 18940.1

Opinions: *In re Rotman* (1987) 10 FPPC Ops. 1
In re Maloney (1977) 3 FPPC Ops. 69
In re Siegel (1977) 3 FPPC Ops. 62

§ 82048.3. Slate Mailer.

“Slate mailer” means a mass mailing which supports or opposes a total of four or more candidates or ballot measures.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18401.1

§ 82048.4. Slate Mailer Organization.

(a) “Slate mailer organization” means, except as provided in subdivision (b), any person who, directly or indirectly, does all of the following:

(1) Is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers.

(2) Receives or is promised payments totaling five hundred dollars (\$500) or more in a calendar year for the production of one or more slate mailers.

(b) Notwithstanding subdivision (a), a slate mailer organization shall not include any of the following:

(1) A candidate or officeholder or a candidate’s or officeholder’s controlled committee.

(2) An official committee of any political party.

(3) A legislative caucus committee.

(4) A committee primarily formed to support or oppose a candidate, officeholder, or ballot measure.

(c) The production and distribution of slate mailers by a slate mailer organization shall not be considered making contributions or expenditures for purposes of subdivision (b) or (c) of Section 82013. If a slate mailer organization makes contributions or expenditures other than by producing or distributing slate mailers, and it reports those contributions and expenditures pursuant to Sections 84218 and 84219, no additional campaign reports shall be required of the slate mailer organization pursuant to Section 84200 or 84200.5.

History: Added by Stats. 1987, Ch. 905; renumbered by Stats. 1988, Ch. 160.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18401.1

§ 82048.5. Special District.

“Special district” means any agency of the state established for the local performance of governmental or proprietary functions within limited boundaries. “Special district” includes a county service area, a maintenance district or area, an improvement district or zone, an air pollution control district, or a redevelopment agency. “Special district” shall not include a city, county, city and county, or school district.

History: Added by Stats. 1994, Ch. 36.

§ 82048.7. Sponsored Committee.

(a) “Sponsored committee” means a committee, other than a candidate controlled committee, that has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives 80 percent or more of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

(c) A sponsor that is a multipurpose organization, as defined in subdivision (a) of Section 84222, and that makes contributions or expenditures from its general treasury funds shall comply with Section 84222.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1988, Ch. 1155; amended by Stats. 1991, Ch. 130; amended by Stats. 2005, Ch. 200; amended by Stats. 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18419, 18421.1

§ 82048.8. Spouse.

“Spouse” includes registered domestic partners recognized by state law.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18217, 18234, 18235, 18313.6, 18531.7, 18700, 18702.3, 18730

§ 82049. State Agency.

“State agency” means every state office, department, division, bureau, board and commission, and the Legislature.

History: Amended by Stats. 1984, Ch. 727, operative July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18249

§ 82050. State Candidate.

“State candidate” means a candidate who seeks nomination or election to any elective state office.

§ 82051. State Measure.

“State measure” means any measure which is submitted or is intended to be submitted to the voters of the state.

§ 82052. Statewide Candidate.

“Statewide candidate” means a candidate who seeks election to any statewide elective office.

§ 82052.5. Statewide Election.

“Statewide election” means an election for statewide elective office.

§ 82053. Statewide Elective Office.

“Statewide elective office” means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction and member of the State Board of Equalization.

History: Amended by Stats. 1991, Ch. 674; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18535

§ 82054. Statewide Petition.

“Statewide petition” means a petition to qualify a proposed state measure.

Chapter 3. Fair Political Practices**Commission.****§ 83100 – 83124**

§ 83100.	Establishment; Membership.....	22
§ 83101.	Appointment by Governor.	22
§ 83102.	Appointment by Attorney General, Secretary of State and Controller.	22
§ 83103.	Terms of Office.....	22
§ 83104.	Vacancies; Quorum.....	22
§ 83105.	Qualifications; Removal.	22
§ 83106.	Compensation; Expenses.	23
§ 83107.	Executive Officer; Staff; Staff Compensation.	23
§ 83108.	Delegation of Authority.	23
§ 83109.	Civil Service Classification.....	23
§ 83110.	Offices; Public Meetings.....	23
§ 83111.	Administration and Implementation of Title... ..	23
§ 83111.5.	Actions to Implement Title.	23
§ 83112.	Rules and Regulations.....	23
§ 83113.	Additional Duties.....	23
§ 83114.	Requests For and Issuances of Opinions; Advice.....	24
§ 83115.	Investigations; Notice.	24
§ 83115.5.	Findings of Probable Cause; Requirements.	24
§ 83116.	Violation of Title.	24
§ 83116.3.	Administrative Law Judge; Rejection.	24
§ 83116.5.	Liability for Violations; Administrative.....	24
§ 83117.	Authority of Commission.	25
§ 83117.5.	Receipt of Gift.	25
§ 83118.	Subpoena Powers.....	25
§ 83119.	Self-Incrimination.....	25
§ 83120.	Judicial Review.....	25
§ 83121.	Judicial Advancement of Action.....	25
§ 83122.	Fair Political Practices Commission; Appropriation.....	25
§ 83123.5.	Enforcement of San Bernardino County Campaign Ordinance.	25
§ 83123.6.	Enforcement of Local Government Campaign and Ethics Ordinance.	26
§ 83124.	Cost of Living Adjustment.....	27

§ 83100. Establishment; Membership.

There is hereby established in state government the Fair Political Practices Commission. The Commission shall have five members, including the chairman. No more than three members of the Commission shall be members of the same political party.

§ 83101. Appointment by Governor.

The chairman and one additional member of the Commission shall be appointed by the Governor. The Governor's appointees shall not be members of the same political party.

§ 83102. Appointment by Attorney General, Secretary of State and Controller.

(a) The Attorney General, the Secretary of State and the Controller shall each appoint one member of the Commission.

(b) If the Attorney General, the Secretary of State and the Controller are all members of the same political party, the chairman of the state central committee of any other political party with a registration of more than five hundred thousand may submit to the Controller a list of not less than five persons who are qualified and willing to be members of the Commission. The list shall be submitted not less than ten days after the effective date of this chapter for the Controller's initial appointment, and not later than January 2 immediately prior to any subsequent appointment by the Controller. If the Controller receives one or more lists pursuant to this section, his appointment shall be made from one of such lists.

§ 83103. Terms of Office.

Members and the chairman of the Commission shall serve four-year terms beginning on February 1 and ending on January 31 or as soon thereafter as their successors are qualified, except that the initial appointees under Section 83102 shall serve six-year terms. No member or chairman who has been appointed at the beginning of a term is eligible for reappointment.

History: Amended by Stats. of 1987, Ch. 624.

§ 83104. Vacancies; Quorum.

Vacancies on the Commission shall be filled, within thirty days, by appointment of the same official who appointed the prior holder of the position. The provisions of Section 83102 (b) are not applicable to the filling of vacancies. Appointments to fill vacancies shall be for the unexpired term of the member or chairman whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to exercise all of the powers of the board. Three members shall constitute a quorum.

§ 83105. Qualifications; Removal.

Each member of the Commission shall be an elector. No member of the Commission, during his or her tenure, shall hold, any other public office, serve as an officer of any political party or partisan organization, participate in or contribute to an election campaign, or employ or be employed as a lobbyist nor, during his or her term of appointment, seek election to any other public office. Members of the Commission may be removed by the Governor, with concurrence of the Senate, for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office or violation of this section, after written notice and opportunity for a reply.

History: Amended by Stats. 1986, Ch. 620.

§ 83106. Compensation; Expenses.

The chairman of the Commission shall be compensated at the same rate as the president of the Public Utilities Commission. Each remaining member shall be compensated at the rate of one hundred dollars (\$100) for each day on which he engages in official duties. The members and chairman of the Commission shall be reimbursed for expenses incurred in performance of their official duties.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18307

§ 83107. Executive Officer; Staff; Staff Compensation.

The Commission shall appoint an executive director who shall act in accordance with Commission policies and regulations and with applicable law. The Commission shall appoint and discharge officers, counsel and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18327

§ 83108. Delegation of Authority.

The Commission may delegate authority to the chairman or the executive director to act in the name of the Commission between meetings of the Commission.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18308, 18308.1, 18308.2, 18308.3, 18319, 18327, 18361.9, 18363

§ 83109. Civil Service Classification.

For purposes of Section 19818.6, a nonclerical position under the Commission shall not be included in the same class in the civil service classification plan with any position of any other department or agency.

History: Amended by Stats. 2013, Ch. 654.

§ 83110. Offices; Public Meetings.

The principal office of the Commission shall be in Sacramento but it may establish offices, meet, and exercise its powers at any other place in the state. Meetings of the Commission shall be public except that the Commission may provide otherwise for discussions of personnel and litigation.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18310, 18327

§ 83111. Administration and Implementation of Title.

The Commission has primary responsibility for the impartial, effective administration and implementation of this title.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18200, 18308, 18308.1, 18308.2, 18308.3, 18327, 18361.10

§ 83111.5. Actions to Implement Title.

The Commission shall take no action to implement this title that would abridge constitutional guarantees of freedom

of speech, that would deny any person of life, liberty, or property without due process of law, or that would deny any person the equal protection of the laws.

History: Added by Stats. 1999, Ch. 225.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18327

§ 83112. Rules and Regulations.

The Commission may adopt, amend and rescind rules and regulations to carry out the purposes and provisions of this title, and to govern procedures of the Commission. These rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.) and shall be consistent with this title and other applicable law.

History: Fair Political Practices Commission v. Office of Administrative Law and Linda Stockdale Brewer, Sacramento County Superior Court, Case No. 512795 (affirmed by Court of Appeal, Third District (April 27, 1992), Case No. C010924).

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18200, 18312, 18327, 18351, 18402, 18420, 18420.1, 18423, 18435, 18440, 18450.1, 18450.5, 18521.5, 18531.5, 18535, 18539.2

§ 83113. Additional Duties.

The Commission shall, in addition to its other duties, do all of the following:

(a) Prescribe forms for reports, statements, notices and other documents required by this title.

(b) Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this title, and explaining the duties of persons and committees under this title.

(c) Provide assistance to agencies and public officials in administering the provisions of this title.

(d) Maintain a central file of local campaign contribution and expenditure ordinances forwarded to it by local government agencies.

(e) Annually publish a booklet not later than March 1 that sets forth the provisions of this title and includes other information the Commission deems pertinent to the interpretation and enforcement of this title. The Commission shall provide a reasonable number of copies of the booklet at no charge for the use of governmental agencies and subdivisions thereof that request copies of the booklet.

The Commission may charge a fee, not to exceed the prorated cost of producing the booklet, for providing copies of the booklet to other persons and organizations.

History: Amended by Stats. 1979, Ch. 531; amended by Stats. 1999, Ch. 855.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18313, 18313.5, 18313.6, 18327

§ 83114. Requests For and Issuances of Opinions; Advice.

(a) Any person may request the Commission to issue an opinion with respect to his duties under this title. The Commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. No person who acts in good faith on an opinion issued to him by the Commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The Commission's opinions shall be public records and may from time to time be published.

(b) Any person may request the Commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the Commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the Commission to provide advice within 21 days of the request or such later extended time.

History: Amended by Stats. 1976, Ch. 1080.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18320, 18321, 18322, 18324, 18326, 18327, 18329, 18329.5

§ 83115. Investigations; Notice.

Upon the sworn complaint of any person or on its own initiative, the Commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action. Within 14 days after receipt of a complaint under this section, the Commission shall notify in writing the person who made the complaint of the action, if any, the Commission has taken or plans to take on the complaint, together with the reasons for such action or nonaction. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

History: Amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18327, 18360, 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18362

§ 83115.5. Findings of Probable Cause; Requirements.

No finding of probable cause to believe this title has been violated shall be made by the Commission unless, at least 21 days prior to the Commission's consideration of the alleged violation, the person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of his right to be

present in person and represented by counsel at any proceeding of the Commission held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the Commission a written request that the proceeding be public.

History: Added by Stats. 1976, Ch. 1080.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18327, 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18362

§ 83116. Violation of Title.

When the commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The commission shall have all the powers granted by that chapter. When the commission determines on the basis of the hearing that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

(a) Cease and desist violation of this title.

(b) File any reports, statements, or other documents or information required by this title.

(c) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the state. When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.5, 18316.6, 18327, 18360.2, 18361, 18361.1, 18361.2, 18361.3, 18361.4, 18361.5, 18361.6, 18361.7, 18361.8, 18361.9, 18361.10, 18361.11, 18362

§ 83116.3. Administrative Law Judge; Rejection.

Whenever the Commission rejects the decision of an administrative law judge made pursuant to Section 11517, the Commission shall state the reasons in writing for rejecting the decision.

History: Added by Stats. 1999, Ch. 297.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18327

§ 83116.5. Liability for Violations; Administrative.

Any person who violates any provision of this title, who purposely or negligently causes any other person to violate any provision of this title, or who aids and abets any other person in the violation of any provision of this title, shall be

liable under the provisions of this chapter. However, this section shall apply only to persons who have filing or reporting obligations under this title, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by this title, and a violation of this section shall not constitute an additional violation under Chapter 11 (commencing with Section 91000).

History: Added by Stats. 1984, Ch. 670; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.5, 18316.6, 18327

§ 83117. Authority of Commission.

The Commission may:

- (a) Accept grants, contributions and appropriations;
- (b) Contract for any services which cannot satisfactorily be performed by its employees;
- (c) Employ legal counsel. Upon request of the Commission, the Attorney General shall provide legal advice and representation without charge to the Commission.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18308, 18308.1, 18308.2, 18308.3, 18327

§ 83117.5. Receipt of Gift.

It shall be unlawful for a member of the Commission to receive a gift of ten dollars (\$10) or more per month.

“Gift” as used in this section means a gift made directly or indirectly by a state candidate, an elected state officer, a legislative official, an agency official, or a lobbyist or by any person listed in Section 87200.

History: Added by Stats. 1975, Ch. 797, effective September 16, 1975.

§ 83118. Subpoena Powers.

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission’s duties or exercise of its powers.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18363

§ 83119. Self-Incrimination.

The Commission may refuse to excuse any person from testifying, or from producing books, records, correspondence, documents or other evidence in obedience to the subpoena of the Commission notwithstanding an objection that the testimony or evidence required of him may tend to incriminate him. No individual shall be prosecuted in any manner or subjected to any penalty or forfeiture whatever for or on account of any transaction, act, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. No immunity shall be granted to any

witness under this section unless the Commission has notified the Attorney General of its intention to grant immunity to the witness at least thirty days in advance, or unless the Attorney General waives this requirement.

§ 83120. Judicial Review.

An interested person may seek judicial review of any action of the Commission.

§ 83121. Judicial Advancement of Action.

If judicial review is sought of any action of the Commission relating to a pending election, the matter shall be advanced on the docket of the court and put ahead of other actions. The court may, consistent with due process of law, shorten deadlines and take other steps necessary to permit a timely decision.

§ 83122. Fair Political Practices Commission; Appropriation.

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) during the fiscal year of 1974-1975, and the sum of one million dollars (\$1,000,000), adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the Commission pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate such additional amounts to the Commission and other agencies as may be necessary to carry out the provisions of this title.

The Department of Finance, in preparing the state budget and the Budget Bill submitted to the Legislature, shall include an item for the support of the Political Reform Act of 1974, which item shall indicate all of the following: (1) the amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of such agencies; (2) the additional amounts required to be appropriated by the Legislature to the Commission to carry out the purposes of this title, as provided for in this section; and (3) in parentheses, for informational purposes, the continuing appropriation during each fiscal year of one million dollars (\$1,000,000) adjusted for cost-of-living changes made to the Commission by this section.

The definition of “expenditure” in Section 82025 is not applicable to this section.

History: Amended by Stats. 1976, Ch. 1075, effective September 21, 1976.

§ 83123.5. Enforcement of San Bernardino County Campaign Ordinance.

(a) Upon mutual agreement between the Commission and the Board of Supervisors of the County of San Bernardino, the Commission is authorized to assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance passed by the Board of Supervisors of the County of San Bernardino. The Commission is authorized to

be the civil prosecutor responsible for the civil enforcement of that local campaign finance reform ordinance in accordance with this title. As the civil prosecutor of the County of San Bernardino's local campaign finance reform ordinance, the Commission may do both of the following:

(1) Investigate possible violations of the local campaign finance reform ordinance.

(2) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(b) Any local campaign finance reform ordinance of the County of San Bernardino enforced by the Commission pursuant to this section shall comply with this title.

(c) The Board of Supervisors of the County of San Bernardino shall consult with the Commission prior to adopting and amending any local campaign finance reform ordinance that is subsequently enforced by the Commission pursuant to this section.

(d)(1) The Board of Supervisors of the County of San Bernardino and the Commission may enter into any agreements necessary and appropriate to carry out the provisions of this section, including agreements pertaining to any necessary reimbursement of state costs with county funds for costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance reform ordinance pursuant to this section.

(2) An agreement entered into pursuant to this subdivision shall not contain any form of a cancellation fee, a liquidated damages provision, or other financial disincentive to the exercise of the right to terminate the agreement pursuant to subdivision (e), except that the Commission may require the Board of Supervisors of the County of San Bernardino to pay the Commission for services rendered and any other expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement in the event that the Board of Supervisors of the County of San Bernardino terminates the agreement.

(e) The Board of Supervisors of the County of San Bernardino or the Commission may, at any time, by ordinance or resolution, terminate any agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance reform ordinance or any provision thereof.

History: Added by Stats. 2012, Ch. 169; amended by Stats. 2016, Ch. 202; amended by Stats. 2019, Ch. 315.

§ 83123.6. Enforcement of Local Government Campaign and Ethics Ordinance.

(a)(1) Upon mutual agreement between the Commission and the governing body of a local government agency, the Commission may assume primary responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance or government ethics law passed by the local government agency.

(2)(A) Upon approval of an agreement pursuant to paragraph (1), the Commission shall be the civil prosecutor re-

sponsible for the civil enforcement of the local campaign finance or government ethics law of the local government agency in accordance with this title.

(B) As the civil prosecutor, the Commission may do all of the following with respect to the local campaign finance or government ethics law:

(i) Provide advice.

(ii) Investigate possible violations.

(iii) Bring administrative actions in accordance with this title and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(iv) Bring civil actions.

(C) The Commission shall not be required to obtain authorization from the local government agency to bring an administrative or civil action pursuant to subparagraph (B).

(b) A local campaign finance or government ethics law of the local government agency enforced by the Commission pursuant to this section shall comply with this title.

(c) The governing body of the local government agency shall consult with the Commission before adopting and amending any local campaign finance or government ethics law that is subsequently enforced by the Commission pursuant to this section.

(d)(1) The governing body of the local government agency and the Commission shall enter into any agreements necessary and appropriate to carry out the provisions of paragraph (1) of subdivision (a), including agreements pertaining to any necessary local reimbursement of direct and indirect costs incurred by the Commission in administering, implementing, or enforcing a local campaign finance or government ethics law pursuant to this section. Before approving an agreement for local reimbursement, the Commission shall submit the proposed agreement to the Department of General Services for review. The Commission may approve the agreement 90 days after submitting it to the Department of General Services or after receiving the department's written review of the agreement, whichever occurs first. The Commission shall submit an approved agreement, along with any review received, to the Department of Finance.

(2) An agreement entered into pursuant to this subdivision shall not contain a cancellation fee, a liquidated damages provision, or other financial disincentive to terminate the agreement pursuant to subdivision (e), except that, if the local government agency terminates the agreement, the Commission may require the governing body of the local government agency to pay the Commission for services rendered and any other expenditures reasonably made by the Commission in anticipation of services to be rendered pursuant to the agreement.

(e) The governing body of the local government agency or the Commission may, at any time, by ordinance or resolution, terminate an agreement made pursuant to this section for the Commission to administer, implement, or enforce a local campaign finance ordinance or any provision thereof. The termination shall be effective 90 days after the enactment of the ordinance or resolution unless an agreement between the local government and the Commission requires a longer period.

(f) The Commission shall conspicuously post on its Internet Web site a list of every local government agency that it has entered into agreement with pursuant to this section.

(g) An agreement for the enforcement of a local campaign finance or government ethics law between the Commission and the City of Stockton, or the City of Sacramento that was in effect on December 31, 2018, shall be deemed to comply with this section.

(h) If an agreement is entered into pursuant to this section, the Commission shall report to the Legislature regarding the performance of that agreement on or before January 1, 2025, and shall submit that report in compliance with Section 9795. The Commission shall develop the report in consultation with the governing body of the local government agency. The report shall include, but not be limited to, all of the following:

- (1) The status of the agreement.
- (2) The estimated annual cost savings, if any, for the local government agency.
- (3) A summary of relevant annual performance metrics, including measures of use, enforcement, and customer satisfaction.
- (4) Public comments submitted to the Commission or the local government agency relative to the operation of the agreement.

(5) Legislative recommendations.

(i) This section does not apply to a jurisdiction with a population of 3,000,000 or more or to the County of San Bernardino.

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

History: Added by Stats. 2015, Ch. 186, effective January 1, 2016; repealed and added by Stats. 2018, Ch. 394.

§ 83124. Cost of Living Adjustment.

The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18544, 18545, 18531.10, 18535

Chapter 4. Campaign Disclosure. **§ 84100 – 84511**

Article 1.	Organization of Committees. § 84100 – 84108...	27
Article 2.	Filing of Campaign Statements. § 84200 – 84225	30
Article 2.5.	Campaign Reporting Requirements LAFCO	45
Proposals. § 84250 – 84252		45
Article 3.	Prohibitions. § 84300 – 84310	45
Article 4.	Exemptions. § 84400	50
Article 5.	Advertisements. § 84501 – 84511	50

Article 1. Organization of Committees. **§ 84100 – 84108**

§ 84100.	Treasurer.	27
§ 84101.	Statement of Organization; Filing.*	27
§ 84101.5.	Annual Fees.*	28
§ 84102.	Statement of Organization; Contents.*	28
§ 84103.	Statement of Organization; Amendment.*	29
§ 84104.	Recordkeeping.	29
§ 84105.	Notification to Contributors.	29
§ 84106.	Sponsored Committee; Identification.	30
§ 84107.	Ballot Measure Committee; Identification.	30
§ 84108.	Slate Mailer Organization; Statement of Organization.*	30

§ 84100. Treasurer.

Every recipient committee, as defined by subdivision (a) of Section 82013, shall have a treasurer. An expenditure shall not be made by or on behalf of a committee without the authorization of the treasurer or the treasurer's designated agents. A contribution or expenditure shall not be accepted or made by or on behalf of a committee when the office of treasurer is vacant.

(b) A recipient committee, as defined by subdivision (a) of Section 82013, may designate one assistant treasurer on the committee's statement of organization. The assistant treasurer may sign and verify a campaign statement on behalf of the committee if the assistant uses reasonable diligence to prepare and review the statement and signs to that effect under penalty of perjury as required by Section 81004.

History: Repealed and reenacted as amended by Stats. 1979, Ch. 779, amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18316.6, 18401, 18421.2, 18426.1, 18427, 18700.1

Opinions: *In re Augustine* (1975) 1 FPPC Ops. 69

§ 84101. Statement of Organization; Filing.*

(a) A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file a statement of organization. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign

a number to each committee that files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the county elections official of each county that he or she deems appropriate. A county elections official who receives a copy of a statement of organization from the Secretary of State pursuant to this section shall send a copy of the statement to the clerk of each city in the county that he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.8 or 84200.9, the committee shall file, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) If an independent expenditure committee qualifies as a committee pursuant to subdivision (a) of Section 82013 during the time period described in Section 82036.5 and makes independent expenditures of one thousand dollars (\$1,000) or more to support or oppose a candidate or candidates for office, the committee shall file, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this section shall be filed with the filing officer with whom the committee is required to file the original of its campaign reports pursuant to Section 84215, and shall be filed at all locations required for the candidate or candidates supported or opposed by the independent expenditures. The filings required by this section are in addition to filings that may be required by Section 84204.

(d) For purposes of this section, in calculating whether two thousand dollars (\$2,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate's personal funds.

History: Amended by Stats. 1978, Ch. 551; amended by Stats. 1979, Ch. 531; amended by Stats. 1986, Ch. 544; amended by Stats. 1992, Ch. 405; amended by Stats. 2001, Ch. 901; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2010, Ch. 633; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18402.1, 18404, 18410, 18421.2, 18421.8, 18503, 18520, 18521

*Section 84101 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84101.5. Annual Fees.*

(a) Notwithstanding Section 81006, the Secretary of State shall charge each committee that is required to file a statement of organization pursuant to subdivision (a) of Section 84101, and each committee that is required to file a statement of organization pursuant to subdivision (a) of Section 84101 shall pay, a fee of fifty dollars (\$50) per year until the committee is terminated pursuant to Section 84214.

(b) A committee shall pay the fee prescribed in subdivision (a) no later than 15 days after filing its statement of organization.

(c)(1) A committee annually shall pay the fee prescribed in subdivision (a) no later than January 15 of each year.

(2) A committee that is created and pays the initial fee pursuant to subdivision (b) in the final three months of a calendar year is not subject to the annual fee pursuant to paragraph (1) for the following calendar year.

(3) A committee that existed prior to January 1, 2013, shall pay the fee prescribed in subdivision (a) no later than February 15, 2013, and in accordance with paragraph (1) in each year thereafter. A committee that terminates pursuant to Section 84214 prior to January 31, 2013, is not required to pay a fee pursuant to this paragraph.

(d)(1) A committee that fails to timely pay a fee required by this section is subject to a penalty equal to three times the amount of the fee.

(2) The Commission shall enforce the requirements of this section.

History: Added by Stats. 2012, Ch. 506.

*Section 84101.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84102. Statement of Organization; Contents.*

The statement of organization required by Section 84101 shall include all of the following:

(a) The name, street address, and telephone number, if any, of the committee. In the case of a sponsored committee, the name of the committee shall include the name of its sponsor. If a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

(b) In the case of a sponsored committee, the name, street address, and telephone number of each sponsor.

(c) The full name, street address, and telephone number, if any, of the treasurer and any other principal officers.

(1) A committee with more than one principal officer shall identify its principal officers as follows:

(A) A committee with three or fewer principal officers shall identify all principal officers.

(B) A committee with more than three principal officers shall identify no fewer than three principal officers.

(2) If no individual other than the treasurer is a principal officer, the treasurer shall be identified as both the treasurer and the principal officer.

(d) The full name and office sought by a candidate, and the title and ballot number, if any, of any measure, that the

committee supports or opposes as its primary activity. A committee that does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics, such as a political party preference.

(e) A statement whether the committee is independent or controlled and, if it is controlled, the name of each candidate or state measure proponent by which it is controlled, or the name of any controlled committee with which it acts jointly. If a committee is controlled by a candidate for partisan or voter-nominated office, the controlled committee shall indicate the political party, if any, for which the candidate has disclosed a preference.

(f) For a committee that is a committee by virtue of subdivision (a) or (b) of Section 82013, the name and address of the financial institution in which the committee has established an account and the account number.

(g) Other information as shall be required by the rules or regulations of the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1977, Ch. 1095; amended by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats. 1990, Ch. 655; amended by Stats. 1992, Ch. 223; amended by Stats. 2000, Ch. 853; amended by Stats. 2012, Ch. 496; amended by Stats. 2013, Ch. 654.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18402, 18402.1, 18404.1, 18410, 18419, 18421.2, 18421.8, 18430, 18503, 18521.5

Opinions: *In re Petris* (1975) 1 FPPC Ops. 20

*Section 84102 was amended by AB 909 (Stats. 2019, Ch. 313) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84103. Statement of Organization; Amendment.*

(a) If there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change. The committee shall file the original of the amendment with the Secretary of State and shall also file a copy of the amendment with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(b) In addition to filing an amendment to a statement of organization as required by subdivision (a), a committee as defined in subdivision (a) of Section 82013 shall, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours, notify the filing officer with whom it is required to file the originals of its campaign reports pursuant to Section 84215 if the change requiring the amendment occurs before the date of the election in connection with which the committee is required to file a preelection statement, but after the closing date of the last preelection statement required to be filed for the election pursuant to Section 84200.8, if any of the following information is changed:

(1) The name of the committee.

(2) The name of the treasurer or other principal officers.

(3) The name of any candidate or committee by which the committee is controlled or with which it acts jointly.

The notification shall include the changed information, the date of the change, the name of the person providing the notification, and the committee's name and identification number.

A committee may file a notification online only if the appropriate filing officer is capable of receiving the notification in that manner.

History: Amended by Stats. 1986, Ch. 544; amended by Stats. 1987, Ch. 479; amended by Stats. 2000, Ch. 853; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18247.5, 18401, 18402.1, 18404.1, 18410, 18421.2, 18503, 18521.5

*Section 84103 was amended by SB 1239 (Stats. 2018, Ch. 662) and AB 909 (Stats. 2019, Ch. 313) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84104. Recordkeeping.

It shall be the duty of each candidate, treasurer, principal officer, and elected officer to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of this chapter. The detailed accounts, records, bills, and receipts shall be retained by the filer for a period specified by the Commission. However, the Commission shall not require retention of records for a period longer than the statute of limitations specified in Section 91000.5 or two years after the adoption of an audit report pursuant to Chapter 10 (commencing with Section 90000), whichever is less.

History: Added by Stats. 1979, Ch. 779; amended by Stats. 2004, Ch. 483; amended by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18421.31, 18422.1, 18426.1, 18531.62

§ 84105. Notification to Contributors.

(a) A candidate or committee that receives contributions totaling five thousand dollars (\$5,000) or more from a person in a calendar year shall inform that contributor within two weeks of receipt that the contributor may be required to file campaign reports. The notice shall include a reference to the filing requirements for multipurpose organizations under Section 84222.

(b) A candidate or committee that receives a contribution of ten thousand dollars (\$10,000) or more from a person during a period in which late-contribution reports are required to be filed under Section 84203 shall provide the information in subdivision (a) of that section to the contributor within one week.

(c) The notifications required by this section need not be sent to a contributor who has an identification number assigned by the Secretary of State issued under Section 84101.

History: Added by Stats. 1984, Ch. 670; amended by Stats. 2014, Ch. 16, effective July 1, 2014; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18360, 18360.1, 18401, 18421.2, 18422, 18422.5, 18425, 18427.1, 18521

§ 84106. Sponsored Committee; Identification.

(a) Whenever identification of a sponsored committee is required by this title, the identification shall include the full name of the committee as required in its statement of organization.

(b) A sponsored committee shall use only one name in its statement of organization.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 1986, Ch. 546; amended by Stats. 2004, Ch. 484.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18419, 18421.2

§ 84107. Ballot Measure Committee; Identification.

Within 30 days of the designation of the numerical order of propositions appearing on the ballot, any committee which is primarily formed to support or oppose a ballot measure, shall, if supporting the measure, include the statement, “a committee for Proposition __,” or, if opposing the measure, include the statement, “a committee against Proposition __,” in any reference to the committee required by law.

History: Added by Stats. 1985, Ch. 498; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18402, 18421.2, 18521.5, 18531.5

§ 84108. Slate Mailer Organization; Statement of Organization.*

(a) Every slate mailer organization shall comply with the requirements of Sections 84100, 84101, 84103, and 84104.

(b) The statement of organization of a slate mailer organization shall include:

(1) The name, street address, and telephone number of the organization. In the case of an individual or business entity that qualifies as a slate mailer organization, the name of the slate mailer organization shall include the name by which the individual or entity is identified for legal purposes. Whenever identification of a slate mailer organization is required by this title, the identification shall include the full name of the slate mailer organization as contained in its statement of organization.

(2) The full name, street address, and telephone number of the treasurer and other principal officers.

(3) The full name, street address, and telephone number of each person with final decisionmaking authority as to which candidates or measures will be supported or opposed in the organization’s slate mailers.

(c) The statement of organization shall be filed with the Secretary of State within 10 days after the slate mailer organization receives or is promised five hundred dollars (\$500) or more for producing one or more slate mailers. However, if an entity qualifies as a slate mailer organization

before the date of an election in which it is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84218, the slate mailer organization shall file with the Secretary of State, by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a slate mailer organization, the information required to be reported in the statement of organization.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1996, Ch. 892; amended by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18402.1, 18421.2

*Section 84108 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

Article 2. Filing of Campaign Statements. § 84200 – 84225

§ 84200.	Semi-Annual Statements.....	31
§ 84200.5.	Preelection Statements.....	31
§ 84200.8.	Timing for Filing Preelection Statements.*	32
§ 84200.9.	Time for Filing Preelection Statements for Candidates for the Board of Administration of the Public Employees’ Retirement System and Teachers’ Retirement Board.	32
§ 84202.3.	Campaign Statements; Ballot Measure Committees.	32
§ 84202.7.	Time for Filing by Committees of Odd-Numbered Year Reports.	32
§ 84203.	Late Contribution; Reports.*	33
§ 84203.3.	Late In-Kind Contributions.....	33
§ 84204.	Late Independent Expenditures; Reports.	33
§ 84204.5.	Ballot Measure Contributions and Expenditures; Reports.*	34
§ 84205.	Combination of Statements.....	35
§ 84206.	Candidates Who Receive or Spend Less Than \$2,000.	35
§ 84207.	County Central Committee Candidates Who Receive or Spend Less Than \$2,000.	35
§ 84209.	Consolidated Statements.....	35
§ 84211.	Contents of Campaign Statement.*	36
§ 84212.	Forms; Loans.	37
§ 84213.	Verification.*	37
§ 84214.	Termination.	38
§ 84215.	Campaign Reports and Statements; Where to File.....	38
§ 84216.	Loans.	39
§ 84216.5.	Loans Made by a Candidate or Committee.	39
§ 84217.	Federal Office Candidates; Places Filed.*	39
§ 84218.	Slate Mailer Organization; Campaign Statements.....	39
§ 84219.	Slate Mailer Organization; Semi-Annual Statements; Contents.*	40
§ 84220.	Slate Mailer Organization; Late Payments.....	40
§ 84221.	Slate Mailer Organization; Termination.	41
§ 84222.	Multipurpose Organizations.....	41
§ 84222.5.	Publicly Funded Nonprofit Organizations.	43
§ 84223.	Top Ten Contributor Lists.	43
§ 84224.	Behested Payment Disclosure.*	44

- § 84225. Public Employees' Retirement Board and Teachers' Retirement Board Candidates..... 44

§ 84200. Semi-Annual Statements.

(a) Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than two hundred dollars (\$200) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(A) The judge has not received any contributions.

(B) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other candidates or committees totaling less than one thousand dollars (\$1,000).

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures, including payments to a slate mailer organization, during the six-month period before the closing date of the statements.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing Campaign Statements in Connection with Elections Held at Times Other Than the State Direct Primary or the State General Election.") Amended by Stats. 1981, Ch. 78; amended by Stats. 1982, Ch. 1069; amended by Stats. 1983, Ch. 898; amended by Stats. 1984, Ch. 1368; repealed and reenacted as amended by Stats. 1985, Ch. 1456; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 581; amended by Stats. 1994, Ch. 1129; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18405, 18420, 18421.2, 18426, 18435, 18531.5

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10
In re Sampson (1975) 1 FPPC Ops. 183
In re Kelly, Masini (1975) 1 FPPC Ops. 162
In re Goodwin (1975) 1 FPPC Ops. 24

§ 84200.5. Preelection Statements.

(a) In addition to the semiannual campaign statements required by Section 84200, the following elected officers, candidates, and committees shall file preelection statements under 84200.8:

(1) All candidates appearing on the ballot on at the next election, their controlled committees, and committees primarily formed to support or oppose an elected officer, candidate, or measure appearing on the ballot for the next election.

(2) All elected state officers and candidates for elective state office who are not appearing on the ballot at the next state primary or general election, and who, during the preelection reporting periods covered by Section 84200.8, make contributions or independent expenditures totaling five hundred dollars (\$500) or more to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at the next state primary or general election.

(3) A state or county general purpose committee formed pursuant to subdivision (a) of Section 82013, other than a political party committee as defined in Section 85205, that, during the preelection reporting periods covered by 84200.8, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at the next state primary or general election. However, a state or county general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the preelection statements specified in Section 84200.8.

(4) A political party committee as defined in Section 85205 that, during the preelection reporting periods covered by Section 84200.8, receives contributions totaling one thousand dollars (\$1,000) or more, or makes contributions or independent expenditures totaling five hundred dollars (\$500) or more, to a state or county general purpose committee, or to support or oppose a candidate or measure appearing on the ballot at a state election.

(5) A city general purpose committee formed pursuant to subdivision (a) of Section 82013 that, during the preelection reporting periods covered by Section 84200.8, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to a city general purpose committee formed within the same jurisdiction, or to support or oppose a candidate or measure appearing on the ballot at the next city election. However, a city general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the preelection statements specified in Section 84200.8.

(b) During an election period for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board, the following candidates and committees shall file the preelection statements specified in Section 84200.9:

(1) All candidates for these boards, their controlled committees, and committees primarily formed to support or oppose the candidates.

(2) A state or county general purpose committee formed pursuant to subdivision (a) of Section 82013 that, during the preelection reporting periods covered by Section 84200.9, makes contributions or independent expenditures totaling five hundred dollars (\$500) or more to support or oppose a candidate for the Board of Administration of the

Public Employees' Retirement System or the Teachers' Retirement Board. However, a general purpose committee formed pursuant to subdivision (b) or (c) of Section 82013 is not required to file the statements specified in Section 84200.9.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 542; amended by Stats. 1988, Ch. 1281 effective September 26, 1988; amended by Stats. 1991, Ch. 505; amended by Stats. 1991, Ch. 1077; amended by Stats. 1993, Ch. 769; amended by Stats. 1999, Ch. 158, effective July 23, 1999; amended by Stats. 1999, Ch. 855; amended by Stats. 2004, Ch. 623, effective September 21, 2004; amended by Stats. 2010, Ch. 633; repealed and adopted by Stats. 2015, Ch. 364, effective January 1, 2016; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18405, 18421.2, 18435, 18531.5

§ 84200.8. Timing for Filing Preelection Statements.*

Preelection statements shall be filed under this section as follows:

(a) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election.

(b) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(c) For runoff elections held within 60 days of the qualifying election, an additional preelection statement for the period ending 17 days before the runoff election shall be filed no later than 12 days before the election. All candidates being voted upon in the election in connection with which the statement is filed, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in that election shall file this statement by guaranteed overnight delivery service or by personal delivery.

History: Added by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 984.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18405, 18421.2, 18435, 18531.5

*Section 84200.8 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84200.9. Time for Filing Preelection Statements for Candidates for the Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.

Preelection statements for an election period for the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board shall be filed as follows:

(a) For the period ending five days before the beginning of the ballot period, as determined by the relevant board, a statement shall be filed no later than two days before the beginning of the ballot period.

(b) For the period ending five days before the deadline to return ballots, as determined by the relevant board, a statement shall be filed no later than two days before the deadline to return ballots.

(c) In the case of a runoff election, for the period ending five days before the deadline to return runoff ballots, as determined by the relevant board, a statement shall be filed no later than two days before the deadline to return runoff ballots.

(d) All candidates being voted upon, their controlled committees, and committees primarily formed to support or oppose a candidate being voted upon in that election shall file the statements specified in subdivisions (b) and (c) by guaranteed overnight delivery service or by personal delivery.

History: Added by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18435

§ 84202.3. Campaign Statements; Ballot Measure Committees.

(a) In addition to the campaign statements required by Section 84200, committees pursuant to subdivision (a) of Section 82013 that are primarily formed to support or oppose the qualification, passage, or defeat of a measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification, passage, or defeat of a state ballot measure, shall file campaign statements on the following dates:

(1) No later than April 30 for the period January 1 through March 31.

(2) No later than October 31 for the period July 1 through September 30.

(b) This section does not apply to a committee during any semiannual period in which the committee is required to file preelection statements pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 84200.5.

(c) This section does not apply to a committee following the election at which the measure is voted upon unless the committee makes contributions or expenditures to support or oppose the qualification or passage of another ballot measure.

History: Added by Stats. 1991, Ch. 696; amended by Stats. 1993, Ch. 769; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18421.2, 18435, 18531.5

§ 84202.7. Time for Filing by Committees of Odd-Numbered Year Reports.

During an odd-numbered year, any committee by virtue of Section 82013 that makes contributions totaling ten thousand dollars (\$10,000) or more to elected state officers, their controlled committees, or committees primarily formed to

support or oppose any elected state officer during a period specified below shall file campaign statements on the following dates:

(a) No later than April 30 for the period of January 1 through March 31.

(b) No later than October 31 for the period of July 1 through September 30.

History: Added by Stats. 1986, Ch. 984; amended by Stats. 1993, Ch. 218; amended by Stats. 2000, Ch. 130; amended by Stats. 2019, Ch. 315.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18421.2, 18435

§ 84203. Late Contribution; Reports.*

(a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. If a late contribution is required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

(e) The report required pursuant to this section is not required to be filed by a candidate or committee that has disclosed the late contribution pursuant to subdivision (a) or (b) of Section 85309.

History: Amended and renumbered by Stats. 1977, Ch. 1193. (Formerly Section 84201.) (Former Section 84203, titled "Measure; Committee; Time for Filing Campaign Statement," repealed by Stats. 1977, Ch. 1193.) Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing When a Special, General or Runoff Election is Held Less than 60 Days Following the Primary Election.") Repealed and reenacted as

amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Committee Preelection Statement."); amended by Stats. 1992, Ch. 89; amended by Stats. 2002, Ch. 211; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18117, 18401, 18421.1, 18421.2, 18425, 18435

*Section 84203 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84203.3. Late In-Kind Contributions.

(a) Any candidate or committee that makes a late contribution that is an in-kind contribution shall notify the recipient in writing of the value of the in-kind contribution. The notice shall be received by the recipient within 24 hours of the time the contribution is made.

(b) Nothing in this section shall relieve a candidate or committee that makes a late in-kind contribution or the recipient of a late in-kind contribution from the requirement to file late contribution reports pursuant to Section 84203. However, a report filed by the recipient of a late in-kind contribution shall be deemed timely filed if it is received by the filing officer within 48 hours of the time the contribution is received.

History: Added by Stats. 1995, Ch. 77.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18117, 18401, 18421.2, 18425, 18435

§ 84204. Late Independent Expenditures; Reports.*

(a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made. If a late independent expenditure is required to be reported to the Secretary of State, the report to the Secretary of State shall be by online or electronic transmission only. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the

late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported with a late independent expenditure report by this subdivision is required to be reported on more than one late independent expenditure report.

(c) A committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

(e) Expenditures that have been disclosed by candidates and committees pursuant to Section 85500 are not required to be disclosed pursuant to this section.

History: Former Section 84204, titled "Support of Both Candidates and Measures; Filing Requirements," repealed by Stats. 1977, Ch. 1193; former Section 84202 amended by Stats. 1976, Ch. 1106; renumbered to 84204 by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Time for Filing; Committees Supporting or Opposing the Qualification of a Measure and Proponents of State Measures"); repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Designation of Final Candidate Preelection Statement"); amended by Stats. 1992, Ch. 89; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2004, Ch. 478, effective September 10, 2004; amended by Stats. 2005, Ch. 200; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18117, 18401, 18421.2, 18435, 18550

*Section 84204 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84204.5. Ballot Measure Contributions and Expenditures; Reports.*

(a) In addition to any other report required by this title, a committee pursuant to subdivision (a) of Section 82013 that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State each time it makes contributions totaling five thousand dollars (\$5,000) or more or each time it makes independent expenditures totaling five thousand dollars (\$5,000) or more to support or oppose the qualification or passage of a single state ballot measure. The report shall be filed within 10 business days of making the contributions or independent expenditures and shall contain all of the following:

(1) The full name, street address, and identification number of the committee.

(2) The number or letter of the measure if the measure has qualified for the ballot and has been assigned a number or letter; the title of the measure if the measure has not been assigned a number or letter but has been issued a title by the

Attorney General; or the subject of the measure if the measure has not been assigned a number or letter and has not been issued a title by the Attorney General.

(3) In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to whom the contribution was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the contribution requiring a report under this section, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the contribution requiring a report under this section. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(4) In the case of an independent expenditure, the date, amount, and a description of the goods or services for which the expenditure was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the expenditure. No information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(b) In addition to any other report required by this title, a committee pursuant to subdivision (a) of Section 82013 shall file a report each time it makes contributions totaling five thousand dollars (\$5,000) or more or independent expenditures aggregating five thousand dollars (\$5,000) or more to support or oppose the qualification of a single local initiative or referendum ballot measure. A committee that is required to file a report under this subdivision shall file the report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the local initiative or referendum ballot measure. The report shall be filed within 10 business days of reaching the aggregate dollar threshold and shall contain all of the following:

(1) The full name, street address, and identification number of the committee.

(2) The name or subject of the measure.

(3) In the case of an independent expenditure, the date, amount, and a description of the goods or services for which

the expenditure was made. In the case of a contribution, the date and amount of the contribution and the name, address, and identification number of the committee to which the contribution was made. In addition, the report shall include the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 regarding contributions or loans received from a person described in that subdivision, covering the period from the day after the closing date of the last campaign report filed to the date of the contribution or expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the contribution or expenditure. The information described in paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211 that is required to be reported pursuant to this subdivision is not required to be reported in more than one report provided for in this subdivision for each contribution or loan received from a person described in subdivision (f) of Section 84211.

(c) Reports required by this section are not required to be filed by a committee primarily formed to support or oppose the qualification or passage of a state ballot measure or the qualification of a local initiative or referendum ballot measure for expenditures made on behalf of the ballot measure or measures for which it is formed.

(d) Independent expenditures that have been disclosed by a committee pursuant to Section 84204 or 85500 are not required to be disclosed pursuant to this section.

History: Added by Stats. 2006, Ch. 438; amended by Stats. 2017 Ch. 183.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.3, 18401, 18421.2, 18435, 18466

*Section 84204.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84205. Combination of Statements.

The Commission may by regulation or written advice permit candidates and committees to file campaign statements combining statements and reports required to be filed by this title.

History: Amended by Stats. 1977, Ch. 1193; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Closing Dates"); amended by Stats. 1981, Ch. 78; repealed and reenacted by Stats. 1985, Ch. 1456. (Formerly titled "Candidates Who Receive or Spend Less than \$500.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18421.2, 18435

§ 84206. Candidates Who Receive or Spend Less Than \$2,000.

(a) The commission shall provide by regulation for a short form for filing reports required by this article for candidates or officeholders who receive contributions of less than two thousand dollars (\$2,000), and who make expenditures of less than two thousand dollars (\$2,000), in a calendar year.

(b) For the purposes of this section, in calculating whether two thousand dollars (\$2,000) in expenditures have

been made, payments for a filing fee or for a statement of qualification shall not be included if these payments have been made from the candidate's personal funds.

(c) Every candidate or officeholder who has filed a short form pursuant to subdivision (a), and who thereafter receives contributions or makes expenditures totaling two thousand dollars (\$2,000) or more in a calendar year, shall send written notification to the Secretary of State, the local filing officer, and each candidate contending for the same office within 48 hours of receiving or expending a total of two thousand dollars (\$2,000). The written notification shall revoke the previously filed short form statement.

History: Repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Semi-Annual Campaign Statements"); repealed and reenacted as amended by Stats. 1985, Ch. 1456. (Formerly titled "Late Contributions; Reports"); amended by Stats. 1987, Ch. 632; amended by Stats. 1993, Ch. 391; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18406, 18421.2, 18435

Opinions: *In re Lui* (1987) 10 FPPC Ops. 10

§ 84207. County Central Committee Candidates Who Receive or Spend Less Than \$2,000.

(a) An elected member of, or a candidate for election to, a county central committee of a qualified political party who receives contributions of less than two thousand dollars (\$2,000) and who makes expenditures of less than two thousand dollars (\$2,000) in a calendar year shall not be required to file any campaign statements required by this title.

(b) Notwithstanding Sections 81009.5 and 81013, a local government agency shall not impose any filing requirements on an elected member of, or a candidate for election to, a county central committee of a qualified political party who receives contributions of less than two thousand dollars (\$2,000) and who makes expenditures of less than two thousand dollars (\$2,000) in a calendar year.

History: Amended by Stats. 1977, Ch. 1193, effective January 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidate for Reelection to Judicial Office"); repealed by Stats. 1985, Ch. 1456; reenacted as amended by Stats. 2012, Ch. 502. (Formerly titled "Late Independent Expenditures; Reports."); amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18435

§ 84209. Consolidated Statements.

A candidate or state measure proponent and any committee or committees which the candidate or a state measure proponent controls may file consolidated campaign statements under this chapter. Such consolidated statements shall be filed in each place each of the committees and the candidate or state measure proponent would be required to file campaign statements if separate statements were filed.

History: Added by Stats. 1980, Ch. 289.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18421.2, 18435

§ 84211. Contents of Campaign Statement.*

Each campaign statement required by this article shall contain all of the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars (\$100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars (\$100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan.

(6) The cumulative amount of contributions.

(g) If the cumulative amount of loans received from or made to a person is one hundred dollars (\$100) or more, and a loan has been received from or made to a person during the period covered by the campaign statement, or is outstanding during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The original date and amount of each loan.

(6) The due date and interest rate of the loan.

(7) The cumulative payment made or received to date at the end of the reporting period.

(8) The balance outstanding at the end of the reporting period.

(9) The cumulative amount of contributions.

(h) For each person, other than the filer, who is directly, indirectly, or contingently liable for repayment of a loan received or outstanding during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.

(3) His or her occupation.

(4) The name of his or her employer, or if self-employed, the name of the business.

(5) The amount of his or her maximum liability outstanding.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(j) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(k) For each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, all of the following:

- (1) His or her full name.
- (2) His or her street address.
- (3) The amount of each expenditure.

(4) A brief description of the consideration for which each expenditure was made.

(5) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which he or she seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon.

(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of five hundred dollars (\$500) or more during the period covered by the campaign statement.

For purposes of subdivisions (i), (j), and (k) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(l) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(m) If a committee is listed pursuant to subdivision (f), (g), (h), (k), (l), or (q), the number assigned to the committee by the Secretary of State shall be listed, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(n) In a campaign statement filed by a candidate who is a candidate in both a state primary and general election, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30

and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name by which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether the committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (k) and 50 percent or more of the business entity is owned by a candidate or person controlling the committee, by an officer or employee of the committee, or by a spouse of any of these individuals, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(s) If a committee primarily formed for the qualification or support of, or opposition to, an initiative or ballot measure is required to report an expenditure to a business entity pursuant to subdivision (k), and a candidate or person controlling the committee, an officer or employee of the committee, or a spouse of any of these individuals is an officer, partner, consultant, or employee of the business entity, the committee's campaign statement shall also contain, in addition to the information required by subdivision (k), that person's name, the relationship of that person to the committee, and a description of that person's ownership interest or position with the business entity.

(t) If the campaign statement is filed by a committee, as defined in subdivision (b) or (c) of Section 82013, information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or his or her principal place of business if the filer is self-employed, and a description of the business activity in which the filer or his or her employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents, including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents.

(4) If the filer is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

History: Amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1980, Ch. 289; (Formerly titled "Consideration of Cumulative Amount"); amended by Stats. 1982, Ch. 377; amended by Stats. 1985, Ch. 899; amended by Stats. 1988, Ch. 704; amended by Stats. 1989, Ch. 1452; amended by Stats. 1990, Ch. 581; amended by Stats. 1991, Ch. 674; amended by Stats. 1993, Ch. 1140; amended by Stats. 2000, Ch. 161; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18229.1, 18401, 18421, 18421.1, 18421.2, 18421.3, 18421.4, 18421.5, 18421.6, 18421.7, 18421.8, 18421.9, 18423, 18428, 18430, 18431, 18435, 18531.5, 18537

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Nielsen (1979) 5 FPPC Ops. 18
In re Buchanan (1979) 5 FPPC Ops. 14
In re Kahn (1976) 2 FPPC Ops. 151
In re Lumsdon (1976) 2 FPPC Ops. 140
In re McCormick (1976) 2 FPPC Ops. 42
In re Burciaga (1976) 2 FPPC Ops. 17
In re Hayes (1975) 1 FPPC Ops. 210
In re Cory (1975) 1 FPPC Ops. 137

*Section 84211 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84212. Forms; Loans.

The forms promulgated by the Commission for disclosure of the information required by this chapter shall provide for the reporting of loans and similar transactions in a manner that does not result in substantial overstatement or understatement of total contributions and expenditures.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Candidates Who Receive and Spend \$200 or Less."); amended by Stats. 1985, Ch. 1456.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18404.2, 18421.2, 18435

§ 84213. Verification.*

(a) A candidate and state measure proponent shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control. The verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each

campaign statement filed by the committee pursuant to Section 81004.

(b) If a committee is required to file a campaign statement or report disclosing an independent expenditure pursuant to this title, a principal officer of the committee or, in the case of a controlled committee, the candidate or state measure proponent or opponent who controls the committee shall sign a verification on a report prescribed by the Commission. Notwithstanding any other provision of this title, the report containing the verification required by this subdivision shall be filed only with the Commission. The verification shall read as follows:

I have not received any unreported contributions or reimbursements to make these independent expenditures. I have not coordinated any expenditure made during this reporting period with the candidate or the opponent of the candidate who is the subject of the expenditure, with the proponent or the opponent of the state measure that is the subject of the expenditure, or with the agents of the candidate or the opponent of the candidate or the state measure proponent or opponent.

History: Former Section 84213, titled "Consolidated Statements; Candidates and Committees," amended by Stats. 1976, Ch. 1106; repealed by Stats. 1980, Ch. 289. Former Section 84209 amended and renumbered Section 84216.5 by Stats. 1979; Section 84216.5 renumbered Section 84213 by Stats. 1980, Ch. 289; amended by Stats. 1983, Ch. 898; amended by Stats. 2012, Ch. 496.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18427, 18430, 18435, 18465.1, 18570

*Section 84213 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84214. Termination.

Committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the Commission which insure that a committee or candidate will have no activity which must be disclosed pursuant to this chapter subsequent to the termination. Such regulations shall not require the filing of any campaign statements other than those required by this chapter. In no case shall a committee which qualifies solely under subdivision (b) or (c) of Section 82013 be required to file any notice of its termination.

History: Repealed and reenacted as amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Late Contributions; Reports.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18404, 18404.1, 18404.2, 18421.2, , 18435, 18537.1

§ 84215. Campaign Reports and Statements; Where to File.*

All candidates and elected officers and their controlled committees, except as provided in subdivisions (d) and (e), shall file one copy of the campaign statements required by Section 84200 with the elections official of the county in which the candidate or elected official is domiciled, as defined in subdivision (b) of Section 349 of the Elections

Code. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, including members of the State Board of Equalization; Members of the Legislature; Supreme Court justices, court of appeal justices, and superior court judges; candidates for those offices and their controlled committees; committees formed or existing primarily to support or oppose these candidates, elected officers, justices and judges, or statewide measures, or the qualification of state ballot measures; and all state general purpose committees and filers not specified in subdivisions (b) to (e), inclusive, shall file a campaign statement by online or electronic means, as specified in Section 84605.

(b) Elected officers in jurisdictions other than legislative districts, State Board of Equalization districts, or appellate court districts that contain parts of two or more counties, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one of these jurisdictions shall file the original and one copy with the elections official of the county with the largest number of registered voters in the jurisdiction.

(c) County elected officers, candidates for these offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (d), and county general purpose committees shall file the original and one copy with the elections official of the county.

(d) City elected officers, candidates for city office, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in one city, and city general purpose committees shall file the original and one copy with the clerk of the city and are not required to file with the local elections official of the county in which they are domiciled.

(e) Elected members of the Board of Administration of the Public Employees' Retirement System, elected members of the Teachers' Retirement Board, candidates for these offices, their controlled committees, and committees formed or existing primarily to support or oppose these candidates or elected members shall file the original and one copy with the Secretary of State, and a copy shall be filed at the relevant board's office in Sacramento. These elected officers, candidates, and committees need not file with the elections official of the county in which they are domiciled.

(f) Notwithstanding any other provision of this section, a committee, candidate, or elected officer is not required to file more than the original and one copy, or one copy, of a campaign statement with any one county elections official or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (a) to (d), inclusive, it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

History: Added by Stats. 1978, Ch. 1408, effective October 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289. (Formerly titled "Combination of Pre-election and Semiannual Statements"); amended by Stats. 1982, Ch. 1060; amended by Stats. 1985, Ch. 1456; amended by Stats. 1986, Ch. 490; amended by Stats. 1990, Ch. 581; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2007, Ch. 54; amended by Stats. 2010, Ch. 18, amended by Stats. 2010, Ch. 633; Amended by Stats. 2017, Ch. 111.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18227, 18401, 18404.1, 18405, 18421.2, 18435, 18451

*Section 84215 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84216. Loans.

(a) Notwithstanding Section 82015, a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes.

(b) A loan, whether or not there is a written contract for the loan, shall be reported as provided in Section 84211 when any of the following apply:

- (1) The loan is a contribution.
- (2) The loan is received by a committee.
- (3) The loan is received by a candidate and is used for political purposes.

History: Added by Stats. 1977, Ch. 1119; amended by Stats. 1980, Ch. 289; amended by Stats. 1982, Ch. 29; repealed and reenacted as amended by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18435

§ 84216.5. Loans Made by a Candidate or Committee.

A loan of campaign funds, whether or not there is a written contract for the loan, made by a candidate or committee shall be reported as provided in Section 84211.

History: Former Section 84216.5 renumbered 84213 by Stats. 1980, Ch. 289; new section added by Stats. 1985, Ch. 899; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18435

§ 84217. Federal Office Candidates; Places Filed.*

When the Secretary of State receives any campaign statement filed pursuant to the Federal Election Campaign Act, (2 U.S.C.A. Section 431 et seq.) the Secretary of State shall send a copy of the statement to the following officers:

(a) Statements of candidates for President, Vice President or United States Senator and committees supporting such candidates - one copy with the Registrar-Recorder of Los Angeles County and one copy with the Registrar of Voters of the City and County of San Francisco;

(b) Statements of candidates for United States Representative in Congress and committees supporting such candidates - one copy with the clerk of the county which contains the largest percentage of the registered voters in the election district which the candidate or any of the candidates

seek nomination or election and one copy with the clerk of the county within which the candidate resides or in which the committee is domiciled, provided that if the committee is not domiciled in California the statement shall be sent to the Registrar-Recorder of Los Angeles County. No more than one copy of each statement need be filed with the clerk of any county.

History: Amended by Stats. 1977, Ch. 1095; amended and renumbered Section 84226 by Stats. 1979, Ch. 779. (Formerly Section 84208); amended and renumbered by Stats. 1980, Ch. 289. (Formerly Section 84226.)

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18435

Opinions: *In re Dennis-Strathmeyer* (1976) 2 FPPC Ops. 61

*Section 84217 was repealed by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84218. Slate Mailer Organization; Campaign Statements.

(a) A slate mailer organization shall file semiannual campaign statements no later than July 31 for the period ending June 30, and no later than January 31, for the period ending December 31.

(b) In addition to the semiannual statements required by subdivision (a), a slate mailer organizations which produces a slate mailer supporting or opposing candidates or measures being voted on in an election shall file the statements specified in Section 84200.8 if, during the period covered by the preelection statement, the slate mailer organization received payments totaling five hundred dollars (500) or more from any person for the support of or opposition to candidates or ballot measures in one or more slate mailers, or expends five hundred dollars (500) or more to produce one or more slate mailers.

(c) A slate mailer organization shall file two copies of its campaign reports with the clerk of the county in which it is domiciled. A slate mailer organization is domiciled at the address listed on its statement of organization unless it is domiciled outside California, in which case its domicile shall be deemed to be Los Angeles County for purposes of this section.

In addition, slate mailer organizations shall file campaign reports as follows:

(1) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in a state election, or in more than one county, shall file campaign reports in the same manner as state general purpose committees pursuant to subdivision (a) of Section 84215.

(2) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or measures voted on in only one county, or in more than one jurisdiction within one county, shall file campaign reports in the same manner as county general purpose committees pursuant to subdivision (c) of Section 84215.

(3) A slate mailer organization which produces one or more slate mailers supporting or opposing candidates or

measures voted on in only one city shall file campaign reports in the same manner as city general purpose committees pursuant to subdivision (d) of Section 84215.

(4) Notwithstanding the above, no slate mailer organization shall be required to file more than the original and one copy, or two copies, of a campaign report with any one county or city clerk or with the Secretary of State.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 2010, Ch. 18; amended by Stats. 2010, Ch. 77; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18401.1, 18421.2

§ 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.*

Whenever a slate mailer organization is required to file campaign reports pursuant to Section 84218, the campaign report shall include the following information:

(a) The total amount of receipts during the period covered by the campaign statement and the total cumulative amount of receipts. For purposes of this section only, “receipts” means payments received by a slate mailer organization for production and distribution of slate mailers.

(b) The total amount of disbursements made during the period covered by the campaign statement and the total cumulative amount of disbursements. For purposes of this section only, “disbursements” means payment made by a slate mailer organization for the production or distribution of slate mailers.

(c) For each candidate or committee that is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) The name of the candidate or committee, identification of the jurisdiction and the office sought or ballot measure number or letter, and if the source is a committee, the committee’s identification number, street address, and the name of the candidate or measure on whose behalf or in opposition to which the payment is made.

(2) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(3) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(d) For each person other than a candidate or committee who is a source of receipts totaling one hundred dollars (\$100) or more during the period covered by the campaign statement:

(1) Identification of the jurisdiction, office or ballot measure, and name of the candidate or measure on whose behalf or in opposition to which the payment was made.

(2) Full name, street address, name of employer, or, if self-employed, name of business of the source of receipts.

(3) The date and amount received for each receipt totaling one hundred dollars (\$100) or more during the period covered by the campaign statement.

(4) The cumulative amount of receipts on behalf of or in opposition to the candidate or measure.

(e) For each candidate or ballot measure not reported pursuant to subdivision (c) or (d), but who was supported or opposed in a slate mailer sent by the slate mailer organization during the period covered by the report, identification of jurisdiction, office or ballot measure, and name of the candidate or measure who was supported or opposed.

(f) The total amount of disbursements made during the period covered by the campaign statement to persons who have received one hundred dollars (\$100) or more.

(g) The total amount of disbursements made during the period covered by the campaign statement to persons who have received less than one hundred dollars (\$100).

(h) For each person to whom a disbursement of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement:

(1) His or her full name.

(2) His or her street address.

(3) The amount of each disbursement.

(4) A brief description of the consideration for which each disbursement was made.

(5) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for a disbursement of five hundred dollars (\$500) or more during the period covered by the campaign statement.

(i) Cumulative disbursements, totaling one thousand dollars (\$1,000) or more, made directly or indirectly to any person listed in the slate mailer organization’s statement of organization. For purposes of this subdivision, a disbursement is made indirectly to a person if it is intended for the benefit of or use by that person or a member of the person’s immediate family, or if it is made to a business entity in which the person or member of the person’s immediate family is a partner, shareholder, owner, director, trustee, officer, employee, consultant, or holds any position of management or in which the person or member of the person’s immediate family has an investment of one thousand dollars (\$1,000) or more. This subdivision shall not apply to any disbursement made to a business entity whose securities are publicly traded.

(j) The full name, street address, and telephone number of the slate mailer organization and of the treasurer.

(k) Whenever a slate mailer organization also qualifies as a general purpose committee pursuant to Section 82027.5, the campaign report shall include, in addition to the information required by this section, the information required by Section 84211.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 2000, Ch. 853.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18401, 18401.1, 18421.2

*Section 84219 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84220. Slate Mailer Organization; Late Payments.

If a slate mailer organization receives a payment of two thousand five hundred dollars (\$2,500) or more for purposes

of supporting or opposing any candidate or ballot measure in a slate mailer, and the payment is received at a time when, if the payment were a contribution it would be considered a late contribution, then the slate mailer organization shall report the payment in the manner set forth in Section 84203 for candidates and committees when reporting late contributions received. The slate mailer organization shall, in addition to reporting the information required by Section 84203, identify the candidates or measures whose support or opposition is being paid for, in whole or in part, by each late payment.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18401.1, 18421.2

§ 84221. Slate Mailer Organization; Termination.

Slate mailer organizations shall terminate their filing obligations in the same manner as applies to committees qualifying under subdivision (a) of Section 82013.

History: Added by Stats. 1987, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2

§ 84222. Multipurpose Organizations.

(a) For purposes of this title, “multipurpose organization” means an organization described in Sections 501(c)(3) to 501(c)(10), inclusive, of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code, a federal or out-of-state political organization, a trade association, a professional association, a civic organization, a religious organization, a fraternal society, an educational institution, or any other association or group of persons acting in concert, that is operating for purposes other than making contributions or expenditures. “Multipurpose organization” does not include a business entity, an individual, or a federal candidate’s authorized committee, as defined in Section 431 of Title 2 of the United States Code, that is registered and filing reports pursuant to the Federal Election Campaign Act of 1971 (Public Law 92-225).

(b) A multipurpose organization that makes expenditures or contributions and does not qualify as a committee pursuant to subdivision (c) may qualify as an independent expenditure committee or major donor committee if the multipurpose organization satisfies subdivision (b) or (c) of Section 82013.

(c) Except as provided in subparagraph (A) of paragraph (5), a multipurpose organization is a recipient committee within the meaning of subdivision (a) of Section 82013 only under one or more of the following circumstances:

(1) The multipurpose organization is a political committee registered with the Federal Election Commission, except as provided in subdivision (a) of this section, or a political committee registered with another state, and the multipurpose organization makes contributions or expenditures in

this state in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013.

(2) The multipurpose organization solicits and receives payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 for the purpose of making contributions or expenditures.

(3) The multipurpose organization accepts payments from donors in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013 subject to a condition, agreement, or understanding with the donor that all or a portion of the payments may be used for making contributions or expenditures.

(4) The multipurpose organization has existing funds from a donor and a subsequent agreement or understanding is reached with the donor that all or a portion of the funds may be used for making contributions or expenditures in an amount equal to or greater than the amount identified in subdivision (a) of Section 82013. The date of the subsequent agreement or understanding is deemed to be the date of receipt of the payment.

(5) The multipurpose organization makes contributions or expenditures totaling more than fifty thousand dollars (\$50,000) in a period of 12 months or more than one hundred thousand dollars (\$100,000) in a period of four consecutive calendar years.

(A) A multipurpose organization shall not qualify as a committee within the meaning of subdivision (a) of Section 82013 pursuant to this paragraph if the multipurpose organization makes contributions or expenditures using only available nondonor funds. A multipurpose organization that makes contributions or expenditures with nondonor funds shall briefly describe the source of the funds used on its major donor or independent expenditure report.

(B) For purposes of this paragraph, “nondonor funds” means investment income, including capital gains, or income earned from providing goods, services, or facilities, whether related or unrelated to the multipurpose organization’s program, sale of assets, or other receipts that are not donations.

(d) A multipurpose organization that is a committee pursuant to paragraph (1) of subdivision (c) shall comply with the registration and reporting requirements of this chapter, subject to the following:

(1) The multipurpose organization is not required to comply with subdivision (k) of Section 84211 for contributions and expenditures made to influence federal or out-of-state elections, which shall instead be reported as a single expenditure and be described as such on the campaign statement.

(2) A multipurpose organization registered with the Federal Election Commission is not subject to subdivisions (d) and (f) of Section 84211 but shall disclose the total amount of contributions received pursuant to subdivision (a) of Section 84211, and shall disclose the multipurpose organization’s name and identification number registered with the Federal Election Commission on the campaign statement.

(e)(1) A multipurpose organization that is a committee pursuant to paragraph (2), (3), (4), or (5) of subdivision

(c) shall comply with the registration and reporting requirements of this chapter, subject to the following, except that if the multipurpose organization is the sponsor of a committee as described in subdivision (f) it may report required information on its sponsored committee statement pursuant to subdivision (f):

(A) The multipurpose organization shall register in the calendar year in which it satisfies any of the criteria in subdivision (c). The statement of organization filed pursuant to Section 84101 shall indicate that the organization is filing pursuant to this section as a multipurpose organization and state the organization's nonprofit tax exempt status, if any. The statement of organization shall also describe the organization's mission or most significant activities, and describe the organization's political activities. A multipurpose organization may comply with the requirement to describe the mission or significant activities and political activities by referencing where the organization's Internal Revenue Service Return of Organization Exempt From Income Tax form may be accessed.

(B) Except as provided in this subparagraph, the registration of a multipurpose organization that meets the criteria of paragraph (5) of subdivision (c) shall terminate automatically on December 31 of the calendar year in which the multipurpose organization is registered. The multipurpose organization shall not be required to file a semiannual statement pursuant to subdivision (b) of Section 84200, unless the multipurpose organization has undisclosed contributions or expenditures to report, in which case termination shall occur automatically upon filing the semiannual statement that is due no later than January 31. After the multipurpose organization's registration has terminated, the multipurpose organization's reporting obligations are complete, unless the organization qualifies as a committee for purposes of subdivision (a) of Section 82013 again in the following calendar year pursuant to subdivision (c) of this section. Notwithstanding this subdivision, a multipurpose organization may elect to remain registered as a committee by submitting written notification to the Secretary of State prior to the end of the calendar year.

(C) A multipurpose organization shall report all contributions received that satisfy the criteria of paragraph (2), (3), or (4) of subdivision (c) of this section in the manner required by subdivision (f) of Section 84211, and for the balance of its contributions or expenditures shall further report contributors based on a last in, first out accounting method.

(2) A multipurpose organization reporting pursuant to this subdivision shall disclose total contributions received in an amount equal to the multipurpose organization's total contributions and expenditures made in the reporting period. When a multipurpose organization reports donors based on the last in, first out accounting method, it shall attribute to and include the information required by subdivision (f) of Section 84211 for any donor who donates one thousand dollars (\$1,000) or more in a calendar year, except for the following:

(A) A donor who designates or restricts the donation for purposes other than contributions or expenditures.

(B) A donor who prohibits the multipurpose organization's use of its donation for contributions or expenditures.

(C) A private foundation, as defined by subdivision (a) of Section 509 of the Internal Revenue Code, that provides a grant that does not constitute a taxable expenditure for purposes of paragraph (1) or (2) of subdivision (d) of Section 4945 of the Internal Revenue Code.

(3) A multipurpose organization that qualifies as a committee pursuant to paragraph (5) of subdivision (c) shall not be required to include contributions or expenditures made in a prior calendar year on the reports filed for the calendar year in which the multipurpose organization qualifies as a committee.

(4) If a multipurpose organization qualifies as a committee solely pursuant to paragraph (5) of subdivision (c) and the committee is required to report donors based on a last in, first out accounting method pursuant to paragraph (1), the multipurpose organization shall not be required to disclose donor information for a donation received by the multipurpose organization prior to July 1, 2014. This paragraph shall not apply with respect to a donation made by a donor who knew that the multipurpose organization would use the donation to support or oppose a candidate or ballot measure in the state by requesting that the donation be used for that purpose or by making the donation in response to a message or solicitation indicating the multipurpose organization's intent to use the donation for that purpose.

(5) A contributor identified and reported in the manner provided in subparagraph (C) of paragraph (1) that is a multipurpose organization and receives contributions that satisfy the criteria in subdivision (c) shall be subject to the requirements of this subdivision.

(6) The commission shall adopt regulations establishing notice requirements and reasonable filing deadlines for donors reported as contributors based on the last in, first out accounting method.

(f) A multipurpose organization that is the sponsor of a committee as defined in Section 82048.7, that is a membership organization, that makes all of its contributions and expenditures from funds derived from dues, assessments, fees, and similar payments that do not exceed ten thousand dollars (\$10,000) per calendar year from a single source, and that elects to report its contributions and expenditures on its sponsored committee's campaign statement pursuant to paragraph (1) of subdivision (e) shall report as follows:

(1) The sponsored committee shall report all contributions and expenditures made from the sponsor's treasury funds on statements and reports filed by the committee. The sponsor shall use a last in, first out accounting method and disclose the information required by subdivision (f) of Section 84211 for any person who pays dues, assessments, fees, or similar payments of one thousand dollars (\$1,000) or more to the sponsor's treasury funds in a calendar year and shall disclose all contributions and expenditures made, as required by subdivision (k) of Section 84211, on the sponsored committee's campaign statements.

(2) The sponsored committee shall report all other contributions and expenditures in support of the committee by the sponsor, its intermediate units, and the members of those

entities. A sponsoring organization makes contributions and expenditures in support of its sponsored committee when it provides the committee with money from its treasury funds, with the exception of establishment or administrative costs. With respect to dues, assessments, fees, and similar payments channeled through the sponsor or an intermediate unit to a sponsored committee, the original source of the dues, assessments, fees, and similar payments is the contributor.

(3) A responsible officer of the sponsor, as well as the treasurer of the sponsored committee, shall verify the committee's campaign statement pursuant to Section 81004.

(g) For purposes of this section, "last in, first out accounting method" means an accounting method by which contributions and expenditures are attributed to the multipurpose organization's contributors in reverse chronological order beginning with the most recent of its contributors or, if there are any prior contributions or expenditures, beginning with the most recent contributor for which unattributed contributions remain.

History: Added by Stats of 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18422, 18422.1, 18427.1

§ 84222.5. Publicly Funded Nonprofit Organizations.

(a) A publicly funded nonprofit organization that makes contributions or expenditures, either directly or through the control of another entity, shall establish and deposit into a separate bank account all funds that will be used to make contributions and expenditures, and those contributions and expenditures shall come from that separate bank account.

(b) In addition to subdivisions (b) and (c) of Section 84222, a publicly funded nonprofit organization is a recipient committee within the meaning of subdivision (a) of Section 82013 if any of the following occur:

(1) It makes contributions or expenditures totaling fifty thousand dollars (\$50,000) or more related to statewide candidates or ballot measures or makes contributions or expenditures totaling two thousand five hundred dollars (\$2,500) or more related to local candidates or ballot measures, either directly or through the control of another entity, during the prior quarter.

(2) By January 31 of each odd-numbered year, it makes contributions or expenditures totaling one hundred thousand dollars (\$100,000) or more related to statewide candidates or ballot measures or makes contributions or expenditures totaling ten thousand dollars (\$10,000) or more related to local candidates or ballot measures, either directly or through the control of another entity, during the previous two years.

(c) If a publicly funded nonprofit organization qualifies as a recipient committee pursuant to subdivision (b), it shall comply with the registration and reporting requirements of Section 84222.

(d) Each publicly funded nonprofit organization that makes contributions or expenditures, either directly or through the control of another entity, shall provide to the

Commission, and display on the organization's Internet Web site, the information it is required to disclose under this section. The information shall be clearly described and identified on a separate Internet Web page that is linked from the homepage of the organization's Internet Web site. The link to this Internet Web page from the homepage shall be as visible as all similar links.

(e) The Commission may require an audit of a publicly funded nonprofit organization that is required to provide records to the Commission pursuant to this section. The Commission shall require an audit of any publicly funded nonprofit organization that makes contributions or expenditures in excess of five hundred thousand dollars (\$500,000) in a calendar year. The publicly funded nonprofit organization shall provide records to the Commission to substantiate the information required to be disclosed by this section.

(f) If the Commission determines at the conclusion of an audit that a publicly funded nonprofit organization has violated this section, the Commission, the Attorney General, or the district attorney for the county in which the organization is domiciled may impose a civil fine upon the organization in an amount up to ten thousand dollars (\$10,000) for each violation.

(g) The definitions in subdivision (b) of Section 54964.5 apply to this section.

History: Added by Stats. 2016, Ch. 825.

§ 84223. Top Ten Contributor Lists.

(a) A committee primarily formed to support or oppose a state ballot measure or state candidate that raises one million dollars (\$1,000,000) or more for an election shall maintain an accurate list of the committee's top 10 contributors, as specified by Commission regulations. A current list of the top 10 contributors shall be provided to the Commission for disclosure on the Commission's internet website, as provided in subdivision (c).

(b)(1) Except as provided in paragraph (4), the list of top 10 contributors shall identify the names of the 10 persons who have made the largest cumulative contributions to the committee, the total amount of each person's contributions, the city and state of the person, the person's committee identification number, if any, and any other information deemed necessary by the Commission. If any of the top 10 contributors identified on the list are committees pursuant to subdivision (a) of Section 82013, the Commission may require, by regulation, that the list also identify the top 10 contributors to those contributing committees.

(2)(A) A committee primarily formed to support or oppose a state ballot measure shall count the cumulative amount of contributions received by the committee from a person for the period beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending with the current date.

(B) A committee primarily formed to support or oppose a state candidate shall count the cumulative amount of contributions received by the committee from a person for the primary and general elections combined.

(3) The aggregation rules of Section 82015.5 and any implementing regulations adopted by the Commission shall apply in identifying the persons who have made the top 10 cumulative contributions to a committee.

(4) A person who makes contributions to a committee in a cumulative amount of less than ten thousand dollars (\$10,000) shall not be identified or disclosed as a top 10 contributor to a committee pursuant to this section.

(c)(1) The Commission shall adopt regulations to govern the manner in which the Commission shall display top 10 contributor lists provided by a committee that is subject to this section, and the Commission shall post the top 10 contributor lists on its internet website in the manner prescribed by those regulations. The Commission shall provide the top 10 contributor lists to the Secretary of State, upon the request of the Secretary of State, for the purpose of additionally posting the contributor lists on the Secretary of State's internet website.

(2) A committee shall provide an updated top 10 contributor list to the Commission when any of the following occurs:

(A) A new person qualifies as a top 10 contributor to the committee.

(B) A person who is an existing top 10 contributor makes additional contributions of five thousand dollars (\$5,000) or more in the aggregate to the committee.

(C) A change occurs that alters the relative ranking order of the top 10 contributors.

(3) The 10 persons who have made the largest cumulative contributions to a committee shall be listed in order from largest contribution amount to smallest amount. If two or more contributors of identical amounts meet the threshold for inclusion in the list of top 10 contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.

(4) The Commission shall post or update a top 10 contributor list within five business days or, during the 16 days before the election, within 48 hours of a contributor qualifying for the list or of any change to the list.

(d) In listing the top 10 contributors, a committee shall use reasonable efforts to identify and state the actual individuals or corporations that are the true sources of the contributions made to the committee from other persons or committees.

(e) In addition to any other lists that the Commission is required to post on its internet website, the Commission shall compile, maintain, and display on its internet website a current list of the top 10 contributors supporting and opposing each state ballot measure, as prescribed by Commission regulations.

(f) This section shall remain in effect only until the Secretary of State certifies an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602 of the Government Code, and as of that date is repealed.

History: Added by Stats. of 2014, Ch. 16, effective July 1, 2014; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18422.5

§ 84224. Behested Payment Disclosure.*

(a) A behested payment described in subdivision (b) shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the behesting officer or member of the Public Utilities Commission with the officer's or member's agency and is a public record subject to inspection and copying pursuant to Section 81008. The report shall contain all of the following information: name of payor; address of payor; amount of the payment or payments; date or dates the payment or payments were made; the name and address of the payee; a brief description of the goods or services provided or purchased, if any; and a description of the specific purpose or event for which the payment or payments were made. Once the five-thousand-dollar (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies, including the Public Utilities Commission, shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(b) The reporting requirement imposed by this section applies to a behested payment that satisfies each of the following:

(1) The payment is made at the behest of an elected officer or member of the Public Utilities Commission.

(2) The behesting elected officer or member of the Public Utilities Commission does not provide full and adequate consideration in exchange for the payment.

(3) The payment is made principally for a legislative, governmental, or charitable purpose.

(4) If made principally for a legislative or governmental purpose, the payment is made by a person other than a state, local, or federal governmental agency.

History: Added by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.3, 18225.7

*Section 84224 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84225. Public Employees' Retirement Board and Teachers' Retirement Board Candidates.

The provisions of this title apply to candidates for election to the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board, and to committees formed or existing primarily to support or oppose those candidates. The Commission may adopt regulations to tailor the reporting and disclosure requirements for

these candidates and committees consistent with the purposes and provisions of this title.

History: Added by Stats. 1998, Ch. 923; amended by Stats. 2010; Ch. 18, repealed and added by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18401, 18421.2

Article 2.5. Campaign Reporting Requirements LAFCO Proposals. § 84250 – 84252

§ 84250.	Applicability to LAFCO Proposals.....	45
§ 84251.	Payment for Political Purposes.....	45
§ 84252.	Campaign Reporting.....	45

§ 84250. Applicability to LAFCO Proposals.

All requirements of this title applicable to a measure, as defined in Section 82043, also apply to a LAFCO proposal, as defined in Section 82035.5, except as set forth in Section 84252.

History: Added by Stats. 2008, Ch. 192.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

§ 84251. Payment for Political Purposes.

A payment made for “political purposes,” as that term is used in Sections 82015 and 82025, includes a payment made for the purpose of influencing or attempting to influence the actions of voters or a local agency formation commission for or against the qualification, adoption, or passage of a LAFCO proposal.

History: Added by Stats. 2008, Ch. 192.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

§ 84252. Campaign Reporting.

A committee primarily formed to support or oppose a LAFCO proposal shall file all statements required under this chapter except that, in lieu of the statements required by Sections 84200 and 84202.3, the committee shall file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot or, if a measure is not placed on the ballot, until the committee is terminated pursuant to Section 84214. The committee shall file an original and one copy of each statement on the 15th day of each calendar month, covering the prior calendar month, with the clerk of the county in which the measure may be voted on. If the petition results in a measure that is placed on the ballot, the committee thereafter shall file campaign statements required by this chapter.

History: Added by Stats. 2008, Ch. 192; amended by Stats. 2019, Ch. 315.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18417

Article 3. Prohibitions. § 84300 – 84310

§ 84300.	Cash and In-Kind Contributions; Cash Expenditures.....	45
§ 84301.	Contributions Made Under Legal Name.....	45
§ 84302.	Contributions by Intermediary or Agent.....	46
§ 84303.	Expenditure by Agent or Independent Contractor.....	46
§ 84304.	Anonymous Contributions; Prohibition.....	46
§ 84305.	Requirements for Mass Mailing.....	46
§ 84305.5.	Slate Mailer Identification and Disclosure Requirements.....	47
§ 84305.7.	Slate Mailer Requirements; Use of Logos or “Public Safety” Names.....	48
§ 84306.	Contributions Received by Agents of Candidates or Committees.....	48
§ 84307.	Commingleing with Personal Funds.....	49
§ 84307.5.	Payments Made to a Spouse or Domestic Partner.....	49
§ 84308.	Contributions to Officers; Disqualification.....	49
§ 84309.	Transmittal of Campaign Contributions in State Office Buildings; Prohibition.....	50
§ 84310.	Identification Requirements for Telephone Calls.....	50

§ 84300. Cash and In-Kind Contributions; Cash Expenditures.

(a) No contribution of one hundred dollars (\$100) or more shall be made or received in cash.

A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

(b) No expenditure of one hundred dollars (\$100) or more shall be made in cash.

(c) No contribution of one hundred dollars (\$100) or more other than an in-kind contribution shall be made unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Section 84302.

(d) The value of all in-kind contributions of one hundred dollars (\$100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

History: Amended by Stats. 1977, Ch. 1213; amended by Stats. 1978, Ch. 650; repealed and reenacted as amended by Stats. 1979, Ch. 779; amended by Stats. 1980, Ch. 759; amended by Stats. 1996, Ch. 898.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2

§ 84301. Contributions Made Under Legal Name.

No contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2

§ 84302. Contributions by Intermediary or Agent.

No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18432.5

§ 84303. Expenditure by Agent or Independent Contractor.

(a) An expenditure of five hundred dollars (\$500) or more shall not be made, other than for overhead or normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of or for the benefit of a candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee.

(b) A subagent or subcontractor who provides goods or services to or for the benefit of a candidate or committee shall make known to the agent or independent contractor all of the information required to be reported by this section, and the agent or independent contractor shall then make known to the candidate or committee all of the information required to be reported by this section no later than three working days prior to the time the campaign statement reporting the expenditure is required to be filed, except that an expenditure that is required to be reported by Section 84203 or 84204 shall be reported to the candidate or committee within 24 hours of the time that it is made.

History: Amended by Stats. 1984, Ch. 161; amended by Stats. 2000, Ch. 853; amended by Stats. 2013, Ch. 9, effective July 1, 2014.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18421.5, 18421.7, 18421.8, 18421.9, 18423, 18431

§ 84304. Anonymous Contributions; Prohibition.

No person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling one hundred dollars (\$100) or more in a calendar year. An anonymous contribution of one hundred dollars (\$100) or more shall not be kept by the intended recipient but instead shall be promptly paid to the Secretary of State for deposit in the General Fund of the state.

History: Amended by Stats. 1978, Ch. 650.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2

§ 84305. Requirements for Mass Mailing.

(a)(1) Except as provided in subdivision (b), a candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the candidate's, candidate controlled committee established for an elective office for the controlling candidate's, or political party committee's address is a matter of public record with the Secretary of State.

(2) Except as provided in subdivision (b), a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass mailing that is not required to include a disclosure pursuant to Section 84504.2 unless the name, street address, and city of the committee is shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the committee's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c)(1) A candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass electronic mailing unless the name of the candidate or committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(2) A committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass electronic mailing that is not required to include a disclosure pursuant to Section 84502 or 84504.3 unless the name of the committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(d) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a) or (c).

(e) For purposes of this section, the following terms have the following meanings:

(1) "Mass electronic mailing" means sending more than 200 substantially similar pieces of electronic mail within a calendar month. "Mass electronic mailing" does not include a communication that was solicited by the recipient,

including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization.

(2) "Sender" means the candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable pursuant to Sections 84200 to 84216.5, inclusive.

(3) To "pay for" a share of the cost of a mass mailing means to make, to promise to make, or to incur an obligation to make, any payment: (A) to any person for the design, printing, postage, materials, or other costs of the mailing, including salaries, fees, or commissions, or (B) as a fee or other consideration for an endorsement or, in the case of a ballot measure, support or opposition, in the mailing.

(f) This section does not apply to a mass mailing or mass electronic mailing that is paid for by an independent expenditure.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1976, Ch. 1106; amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1978, Ch. 1408, effective October 1, 1978; amended by Stats. 1984, Ch. 1368; amended by Stats. 1989, Ch. 764; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 315; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18435

Opinions: *In re Juvinal*, Stull, *Republican Central Committee of Orange County*, Tuteur (1976) 2 FPPC Ops. 110
In re Sobieski (1976) 2 FPPC Ops. 73
In re Valdez (1976) 2 FPPC Ops. 21

§ 84305.5. Slate Mailer Identification and Disclosure Requirements.

(a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State's Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

This document was prepared by (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), not an official political party organization. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

(3) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an *. Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by an *.

The * required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * designation applies except that in no case shall the * be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to appear, requiring the * designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

History: Added by Stats. 1987, Ch. 905; amended by Stats. 1991, Ch. 403; amended by Stats. 1992, Ch. 1143; amended by Stats. 1993, Ch. 472; amended by Stats. 1994, Ch. 923; amended by Stats. 1996, Ch. 893; amended by Proposition 208 of the November 1996 Statewide General Election; Proposition 208 version preliminarily enjoined January 6, 1998; Proposition 208 version permanently enjoined March 1, 2001; pre-Proposition 208 version revived by operation of law; On September 20, 2002, the

Federal District Court for the Eastern District of California issued a preliminary injunction prohibiting the FPPC from enforcing this subdivision against the slate mail organizations which had sought the injunction; repealed and new section added by Stats. 2004, Ch. 478, effective September 10, 2004.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18401, 18401.1, 18421.2, 18435.5

§ 84305.7. Slate Mailer Requirements; Use of Logos or “Public Safety” Names.

(a) If a slate mailer organization sends a slate mailer or other mass mailing that displays a logo, insignia, emblem, or trademark that is identical or substantially similar to the logo, insignia, emblem, or trademark of a governmental agency, and that would reasonably be understood to imply the participation or endorsement of that governmental agency, the slate mailer organization shall obtain express written consent from the governmental agency associated with the logo, insignia, emblem, or trademark prior to using the logo, insignia, emblem, or trademark in the slate mailer or other mass mailing.

(b) If a slate mailer organization sends a slate mailer or other mass mailing that displays a logo, insignia, emblem, or trademark that is identical or substantially similar to the logo, insignia, emblem, or trademark of a nongovernmental organization that represents law enforcement, firefighting, emergency medical, or other public safety personnel, and that would reasonably be understood to imply the participation or endorsement of that nongovernmental organization, the slate mailer organization shall obtain express written consent from the nongovernmental organization associated with the logo, insignia, emblem, or trademark prior to using the logo, insignia, emblem, or trademark in the slate mailer or other mass mailing.

(c) If a slate mailer organization sends a slate mailer or other mass mailing that identifies itself or its source material as representing a nongovernmental organization with a name that includes the term “peace officer,” “reserve officer,” “deputy,” “deputy sheriff,” “sheriff,” “police,” “highway patrol,” “California Highway Patrol,” “law enforcement,” “firefighter,” “fire marshal,” “paramedic,” “emergency medical technician,” “public safety,” or any other term that would reasonably be understood to imply that the nongovernmental organization is composed of, represents, or is affiliated with, law enforcement, firefighting, emergency medical, or other public safety personnel, the slate mailer or mass mailing shall disclose the total number of law enforcement, firefighting, emergency medical, or other public safety members in the nongovernmental organization identified in the slate mailer or mass mailing, as provided in paragraph (1) of subdivision (d). If the slate mailer organization is not composed of or does not represent any members who are law enforcement, firefighting, emergency medical, or other public safety personnel, the slate mailer or mass mailing shall disclose that the slate mailer organization does not represent public safety personnel, as provided in paragraph (2) of subdivision (d).

(d) A disclosure pursuant to subdivision (c) shall include one of the following statements:

(1) If the slate mailer organization represents public safety personnel members: “This organization represents _____ public safety personnel.” The slate mailer organization shall fill in the blank part of the statement with the number of public safety personnel members it represents.

(2) If the slate mailer organization does not represent public safety personnel members: “This organization does not represent any public safety personnel.”

(e) A disclosure pursuant to subdivision (d) shall be in a format that satisfies all of the following:

(1) Printed in roman type that is no less than 14-point font.

(2) Located on the outside of the slate mailer or mass mailing within one-half of an inch of the recipient’s name and address.

(3) Contained in a box with an outline that has a line weight of at least 3.25 pt. The background color of the box shall be in a contrasting color to the background of the slate mailer or mass mailing. The outline of the box shall be in a contrasting color to both the background color of the mailing and the background color of the box. The color of the text of the disclosure shall be in a contrasting color to the background color of the box.

(f)(1) For purposes of subdivision (c), “member” means any of the following:

(A) A person who, pursuant to a specific provision of an organization’s articles or bylaws, may vote directly or indirectly for the election of a director or officer or for the disposition of all or substantially all of the assets of the organization in a merger or dissolution.

(B) A person designated as a member in the articles or bylaws of an organization that is tax exempt under Section 501(c) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)) and who has the right to vote to change the organization’s articles or bylaws or has paid dues to the organization.

(C) Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

History: Added by Stats. 2012, Ch. 865; Amended by Stats. 2017, Ch. 855.

§ 84306. Contributions Received by Agents of Candidates or Committees.

All contributions received by a person acting as an agent of a candidate shall be reported promptly to the candidate or any of his or her designated agents. All contributions received by a person acting as an agent of a committee shall be reported promptly to the committee’s treasurer or any of his or her designated agents. “Promptly” as used in this section means not later than the closing date of any campaign statement the committee or candidate for whom the contribution is intended is required to file.

History: Added by Stats. 1979, Ch. 779.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.1, 18421.2, 18421.3, 18421.31

§ 84307. Commingling with Personal Funds.

No contribution shall be commingled with the personal funds of the recipient or any other person.

History: Added by Stats. 1979, Ch. 779.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2

§ 84307.5. Payments Made to a Spouse or Domestic Partner.

A spouse or domestic partner of an elected officer or a candidate for elective office shall not receive, in exchange for services rendered, compensation from campaign funds held by a controlled committee of the elected officer or candidate for elective office.

History: Added by Stats. 2009, Ch. 360; amended by Stats. 2014, Ch. 902.

§ 84308. Contributions to Officers; Disqualification.

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a

license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

(d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

(e) Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported.

History: Added by Stats. 1982, Ch. 1049; amended by Stats. 1984, Ch. 1681, effective September 30, 1984; amended by Stats. 1989, Ch. 764.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18438.1,
18438.2, 18438.3, 18438.4, 18438.5, 18438.6, 18438.7,
18438.8

Opinions: *In re Curiel* (1983) 8 FPPC Ops. 1

§ 84309. Transmittal of Campaign Contributions in State Office Buildings; Prohibition.

(a) No person shall receive or personally deliver or attempt to deliver a contribution in the State Capitol, in any state office building, or in any office for which the state pays the majority of the rent other than a legislative district office.

(b) For purposes of this section:

(1) “Personally deliver” means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary.

(2) “Receive” includes the receipt of a campaign contribution delivered in person.

History: Added by Stats. 1982, Ch. 920.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18439

§ 84310. Identification Requirements for Telephone Calls.

(a) A candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization shall not expend campaign funds, directly or indirectly, to pay for telephone calls that are similar in nature and aggregate 500 or more in number, made by an individual, or individuals, or by electronic means and that advocate support of, or opposition to, a candidate, ballot measure, or both, unless during the course of each call the name of the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that authorized or paid for the call is disclosed to the recipient of the call. Unless the organization that authorized the call and in whose name it is placed has filing obligations under this title, and the name announced in the call either is the full name by which the organization or individual is identified in any statement or report required to be filed under this title or is the name by which the organization or individual is commonly known, the candidate, candidate controlled committee established for an elective office for the controlling candidate, political party committee, or slate mailer organization that paid for the call shall be disclosed. This section does not apply to telephone calls made by the candidate, the campaign manager, or individuals who are volunteers.

(b) Campaign and ballot measure committees are prohibited from contracting with any phone bank vendor that does not disclose the information required to be disclosed by subdivision (a).

(c) A candidate, committee, or slate mailer organization that pays for telephone calls as described in subdivision (a) shall maintain a record of the script of the call for the period of time set forth in Section 84104. If any of the calls

qualifying under subdivision (a) were recorded messages, a copy of the recording shall be maintained for that period.

(d) This section does not apply to a telephone call that is paid for by an independent expenditure.

History: Added by Stats. 2006, Ch. 439; amended by stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18440

Article 4. Exemptions. § 84400

§ 84400. Exemptions.

Notwithstanding any other provision of the law, the Commission shall have no power to exempt any person, including any candidate or committee, from any of the requirements imposed by the provisions of this chapter.

History: Added by Stats. 1977, Ch. 403.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2

Article 5. Advertisements. § 84501 – 84511

§ 84501.	Advertisement.....	50
§ 84501.1.	Prohibition on Commission Interpretation on Thresholds and Amounts.	51
§ 84502.	Disclosure; Committee Name.	51
§ 84503.	Top Contributor Disclosure.	52
§ 84504.	Disclosure; Radio and Telephone Ads.	52
§ 84504.1.	Disclosure; Video and Television Ads.	52
§ 84504.2.	Disclosure; Print Ads.*	53
§ 84504.3.	Disclosure; Electronic Media Ads.	53
§ 84504.4.	Disclosure; Radio and Television Ads; Political Parties and Candidates.	54
§ 84504.5.	Disclosure; Independent Expenditure Ads; Political Parties and Candidates.	54
§ 84504.6.	Disclosure; Online Platform	55
§ 84504.7.	Disclosure; Text Messages.	56
§ 84505.	Avoidance of Disclosure.....	57
§ 84506.5.	Disclosure; Independent Expenditure Ads; Not Authorized by Candidate.	57
§ 84509.	Amended Disclosures.	57
§ 84510.	Remedies for Article Violations; Civil Action; Fines.	58
§ 84511.	Ballot Measure Ads; Paid Spokesperson Disclosure.	58

§ 84501. Advertisement.

For purposes of this article, the following definitions apply:

(a)(1) “Advertisement” means any general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing a candidate or candidates for elective office or a ballot measure or ballot measures.

(2) Advertisement” does not include any of the following:

(A) A communication from an organization, other than a political party, to its members.

(B) An electronic media communication addressed to recipients, such as email messages or text messages, from an organization to persons who have opted in or asked to receive messages from the organization. **This subparagraph does not apply to a customer who has opted in to receive communications from a provider of goods or services, unless the customer has provided express approval to receive political messages from that provider of goods or services.**

(C) Any communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization, or responses to an electronic message sent by the recipient to the same mobile number or email address.

(D) A campaign button smaller than 10 inches in diameter; a bumper sticker smaller than 60 square inches; or a small tangible promotional item, such as a pen, pin, or key chain, upon which the disclosure required cannot be conveniently printed or displayed.

(E) Wearing apparel.

(F) Sky writing.

(G) Any other type of communication, as determined by regulations of the Commission, for which inclusion of the disclosures required by Sections 84502 to 84509, inclusive, is impracticable or would severely interfere with the committee's ability to convey the intended message due to the nature of the technology used to make the communication.

(b) "Cumulative contributions" means the cumulative amount of contributions received by a committee beginning 12 months before the date of the expenditure and ending seven days before the time the advertisement is sent to the printer or broadcaster.

(c)(1) "Top contributors" means the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of fifty thousand dollars (\$50,000) or more.

(2) A tie between two or more contributors qualifying as top contributors shall be resolved by determining the contributor who made the most recent contribution to the committee, in which case the most recent contributor shall be listed before any other contributor of the same amount.

(3) If a committee primarily formed to support or oppose a state candidate or ballot measure contributes funds to another committee primarily formed to support or oppose the same state candidate or ballot measure and the funds used for the contribution were earmarked to support or oppose that candidate or ballot measure, the committee receiving the earmarked contribution shall disclose the contributors who earmarked their funds as the top contributor or contributors on the advertisement if the definition of top contributor provided for in paragraph (1) is otherwise met. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee primarily formed to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds. The new committee shall disclose the contributor on the new committee's advertisements

if the definition of top contributor provided for in paragraph (1) is otherwise met.

(A) The primarily formed committee making the earmarked contribution shall provide the primarily formed committee receiving the earmarked contribution with the name, address, occupation, and employer, if any, or principal place of business, if self-employed, of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time the contribution is made. If the committee making the contribution received earmarked contributions that exceed the amount contributed or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which top contributors to identify pursuant to this subparagraph, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(B) The committee receiving the earmarked contribution may rely on the information provided pursuant to subparagraph (A) for purposes of complying with the disclosure required by Section 84503 and shall be considered in compliance with Section 84503 if the information provided pursuant to subparagraph (A) is disclosed as otherwise required.

(C) For purposes of this paragraph, funds are considered "earmarked" if any of the circumstances described in subdivision (b) of Section 85704 apply.

(4) If an advertisement paid for by a committee supports or opposes a candidate, the determination of top contributors pursuant to paragraphs (1) and (2) shall not include any nonprofit organization exempt from federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code or any person who has prohibited in writing the use of that person's contributions to support or oppose candidates if the committee does not use such contributions to support or oppose candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; Amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18450.1, 18450.1, 18450.3, 18450.5, 18450.11

§ 84501.1. Prohibition on Commission Interpretation on Thresholds and Amounts.

The Commission shall not, by regulation, policy, opinion, or advice letter, construe or interpret any of Sections 82025, 84305, 84310, 84501 through 84511, inclusive, or Section 85704 as allowing the Commission to establish or maintain any thresholds in quantity or amount that are not specified in those sections. Unless otherwise specified in this title, those sections apply regardless of quantity or amount.

History: Added by Stats. 2018, Ch. 777.

§ 84502. Disclosure; Committee Name.

(a)(1) Any advertisement **not described in subdivision (b) of Section 84504.3 that is** paid for by a committee pursuant to subdivision (a) of Section 82013, other than a

political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(2) Any advertisement **not described in subdivision (b) of Section 84504.3 that is** paid for by a committee pursuant to subdivision (a) of Section 82013 that is a political party committee or a candidate controlled committee established for an elective office of the controlling candidate shall include the words “Ad paid for by” followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 if the advertisement is any of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(C) A radio or television advertisement.

(D) **A text message advertisement that is required to include a disclosure pursuant to Section 84504.7.**

(b) Any advertisement paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words “Ad paid for by” followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, **internet website**, or email message, the text described in subdivisions (a) and (b) may include the words “Paid for by” instead of “Ad paid for by.”

(d) **Notwithstanding subdivisions (a) and (b), if an advertisement is a text message, the text described in subdivisions (a) and (b) may include the words “Paid for by” or “With,” instead of “Ad paid for by.”**

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2004, Ch. 478, effective September 10, 2004, repealed and added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; **amended by Stats. 2019, Ch. 555.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1, **18450.2**

§ 84503. Top Contributor Disclosure.

(a) Any advertisement **not described in subdivision (b) of Section 84504.3 that is** paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words “committee major funding from” followed by the names of the top contributors to the committee paying for the advertisement. If fewer than three contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this section. If there are no contributors that qualify as top contributors, this disclosure is not required.

(b) The disclosure of a top contributor pursuant to this section need not include terms such as “incorporated,” “committee,” “political action committee,” or “corporation,” or abbreviations of these terms, unless the term is part of the contributor’s name in common usage or parlance.

(c) If this article requires the disclosure of the name of a top contributor that is a committee pursuant to subdivision (a) of Section 82013 and is a sponsored committee pursuant to Section 82048.7 with a single sponsor, only the name of the single sponsoring organization shall be disclosed.

(d) This section does not apply to a committee as defined by subdivision (b) or (c) of Section 82013.

History: Added by Proposition 208 of the November 1996 Statewide General Election; preliminarily enjoined January 6, 1998; permanently enjoined March 1, 2001, as applied to slate mailers only; repealed and added by Stats. 2017, Ch. 546; **amended by Stats. 2019, Ch. 558.**

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402, 18421.2, **18450.3**

§ 84504. Disclosure; Radio and Telephone Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated over the radio or by telephonic means shall include the disclosures required by Sections 84502, 84503, and 84506.5 at the beginning or end of the advertisement, read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) Notwithstanding the definition of “top contributors” in paragraph (1) of subdivision (c) of Section 84501, radio and prerecorded telephonic advertisements shall disclose only the top two contributors of fifty thousand dollars (\$50,000) or more unless the advertisement lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor of fifty thousand dollars (\$50,000) or more shall be disclosed.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2

§ 84504.1. Disclosure; Video and Television Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated as a video, including advertisements on television and videos disseminated over the Internet, shall include the disclosures required by Sections 84502 and 84503 at the beginning or end of the advertisement.

(b) The disclosure required by subdivision (a) shall be written and displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(1) The written disclosure required by subdivision (a) shall appear on a solid black background on the entire bottom one-third of the television or video display screen, or bottom one-fourth of the screen if the committee does not have or is otherwise not required to list top contributors, and shall be in a contrasting color in Arial equivalent type, and the type size for the smallest letters in the written disclosure shall be 4 percent of the height of the television or video display screen.

play screen. The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. All disclosure text shall be centered horizontally in the disclosure area. If there are any top contributors, the written disclosures shall be underlined in a manner clearly visible to the average viewer, except for the names of the top contributors, if any.

(2) The name of the top contributor shall not have its type condensed or have the spacing between characters reduced to be narrower than a normal non-condensed Arial equivalent type, unless doing so is necessary to keep the name of the top contributor from exceeding the width of screen.

(c) An advertisement that is an independent expenditure supporting or opposing a candidate shall include the appropriate statement from Section 84506.5 in the solid black background described in paragraph (1) of subdivision (b) below all other text required to appear in that area in a contrasting color and in Arial equivalent type no less than 2.5 percent of the height of the television or video display screen. If including this statement causes the disclosures to exceed one-third of the television or video display screen, then it may instead be printed immediately above the background with sufficient contrast that is easily readable by the average viewer.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1, 18450.4

§ 84504.2. Disclosure; Print Ads.*

(a) A print advertisement designed to be individually distributed, including, but not limited to, a mailer, flyer, or door hanger, that is paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color and centered horizontally in the disclosure area.

(2) The text shall be in an Arial equivalent type with a type size of at least 10-point.

(3) The top of the disclosure area shall include the disclosure required by Sections 84502 and 84503. The text of the disclosure shall be underlined if there are any top contributors.

(4) The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area and shall not be underlined. The names of the top contributors shall not be printed

in a type that is condensed to be narrower than a normal non-condensed Arial equivalent type.

(5) An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include the disclosure required by Section 84506.5, which shall be underlined and on a separate line below any of the top contributors.

(6) A committee subject to Section 84223 shall next include the text “Funding Details At [insert Commission internet website page with top 10 contributor lists],” which shall be underlined and printed on a line separate from any other text at the bottom of the disclosure area.

(7) Notwithstanding the definition of “top contributors” in paragraph (1) of subdivision (c) of Section 84501, newspaper, magazine, or other public print advertisements that are 20 square inches or less shall be required to disclose only the single top contributor of fifty thousand dollars (\$50,000) or more.

(b) A print advertisement that is larger than those designed to be individually distributed, including, but not limited to, a yard sign or billboard, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures pursuant to Section 84502, 84503, and 84506.5 in a printed or drawn box with a solid white background on the bottom of the advertisement that is set apart from any other printed matter. Each line of the written disclosures shall be in a contrasting color in Arial equivalent type no less than 5 percent of the height of the advertisement, and shall not be condensed to be narrower than a normal non-condensed Arial equivalent type. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92, amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

*Section 84504.2 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84504.3. Disclosure; Electronic Media Ads.

(a) This section applies to an electronic media advertisement if either of the following is true:

(1) The advertisement is paid for by a committee other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate.

(2) The advertisement is paid for by a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, and is either of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(b) An electronic media advertisement that is a graphic, image, animated graphic, or animated image that

the online platform hosting the advertisement allows to link to internet website paid for by a committee shall comply with both of the following:

(1) Include the text “Who funded this ad?” “Paid for by,” or “Ad Paid for by” in a contrasting color and a font size that is easily readable by the average viewer for the duration of the advertisement.

(2) The text shall be included or displayed as a hyperlink, icon, button, or tab to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(c) Notwithstanding subdivision (b), the text required by paragraph (1) of subdivision (b) is not required if including the language in an 8-point font would take up more than one-third of the graphic or image. In those circumstances, the advertisement need only include a hyperlink to an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5.

(d) Notwithstanding subdivisions (b) and (c), an email message, or internet website paid for by a committee shall include the disclosures required by Sections 84502, 84503, and 84506.5, printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email message and every publicly accessible page of the internet website.

(e) An internet website that is linked as provided for in paragraph (2) of subdivision (b) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(f) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclaimers in subdivision (b) shall comply with the disclosure requirements for radio advertisements in Section 84504.

(g) An electronic media advertisement that is disseminated as a video shall comply with the disclosure requirements of Sections 84504.1 and 84504.5, depending on the type of committee that paid for it. If the video is longer than 30 seconds, the disclosures required by Sections 84504.1 and 84504.5 shall be made at the beginning of the advertisement.

(h)(1) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee’s profile, landing page, or similar location and shall not be required to include the disclosure required by subdivision (b) on each individual post, comment, or other similar communication. The disclosures specified in this subdivision shall be fully visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media, including, but not limited to, a computer screen, laptop, tablet, or smart phone.

(2) Notwithstanding paragraph (1), if making the disclosures specified in paragraph (1) fully visible on a commonly used electronic device would be impracticable, the cover or header photo of the profile, landing page, or similar location need only include a hyperlink, icon, button, or tab to an internet website containing the disclosures specified in paragraph (1).

(i) The disclosures required by this section do not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92; amended by Stats. 2018, Ch. 754; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.4. Disclosure; Radio and Television Ads; Political Parties and Candidates.

(a) A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(1) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(2) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

(b) An advertisement that is made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 in accordance with subdivision (h) of Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 754.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1, 18450.4

§ 84504.5. Disclosure; Independent Expenditure Ads; Political Parties and Candidates.

An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or opposes a ballot measure and is paid for by a political party

or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds of a broadcast of 30 seconds or less or for less than 10 seconds of a broadcast that lasts longer than 30 seconds.

(c)(1) A print advertisement shall include the required disclosures in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), each line of the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than 5 percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.6. Disclosure; Online Platform

(a) For purposes of this article, the following terms have the following meanings:

(1) "Online platform" means a public-facing internet website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements directly to advertisers. A public-facing internet website, web application, or digital application is not an online platform for purposes of this article to the extent that it displays advertisements that are sold directly to advertisers through another online platform.

(2)(A) "Online platform disclosed advertisement" means either of the following:

(i) A paid electronic media advertisement on an online platform made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform, unless all advertisements on the platform are video advertisements that can comply with Section 84504.1. Individual posts, comments, or other similar communications

are not considered online platform disclosed advertisements if they are posted without payment to the online platform.

(ii) A paid electronic media advertisement on an online platform that is not any of the following:

(I) A graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to hyperlink to an internet website containing required disclosures, as described in subdivision (b) of Section 84504.3.

(II) Video, audio, or email.

(B) Electronic media advertisements that are not online platform disclosed advertisements as defined in subparagraph (A) shall follow disclosure requirements for electronic media advertisements under Section 84504.3.

(b) A committee that disseminates an online platform disclosed advertisement shall do all of the following:

(1) Upon requesting the dissemination, expressly notify the online platform through which the advertisement would be disseminated, using the online platform's chosen notification method, that the advertisement is an advertisement as defined in Section 84501.

(2)(A) Provide the online platform with the disclosure name of the committee.

(B) For purposes of this section, "disclosure name" means the text required by Section 84503, followed by a colon, followed by, surrounded in quotation marks, the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211. If no disclosure text is required by Section 84503, "disclosure name" means the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 or the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(C) If the disclosure name changes due to a change in the top contributors or the name of the committee, the committee shall provide the online platform with an updated disclosure name within five business days.

(3) Provide the online platform with the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(4) Provide the online platform with the name and identification number of the committee that paid for the advertisement.

(c) An online platform that disseminates a committee's online platform disclosed advertisement shall do one of the following:

(1) Display "Paid for by" or "Ad Paid for by" followed by the disclosure name provided by the committee, easily readable to the average viewer, located adjacent to any text stating that the advertisement is an advertisement or is promoted or sponsored. The online platform may display only one hundred or more characters of the disclosure name if it is followed by a "..." that is clearly clickable and that links to a page as described in paragraph (3).

(2) The online platform may instead display a hyperlink, icon, button, or tab with the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by” that is clearly clickable in the same or similar font and in at least the same font size as the online platform’s text, and easily readable to the average viewer, stating that the advertisement is an advertisement or is promoted or sponsored, that links to a page as described in paragraph (3).

(3) Hyperlinks, icons, buttons, or tabs used for the purposes described in paragraphs (1) and (2) shall be linked to the profile or landing page of the committee that paid for the advertisement; to another page to which the average viewer would normally navigate to view additional information about a committee containing the disclosure name in a manner that is easily seen and readable by the average viewer; or to an internet website containing the disclosure required by subdivision (d) of Section 84504.3.

(d) An online platform that disseminates committees’ online platform disclosed advertisements shall meet all of the following requirements:

(1) Maintain, and make available for online public inspection in a machine readable format, a record of any advertisement disseminated on the online platform by a committee that purchased five hundred dollars (\$500) or more in advertisements on the online platform during the preceding 12 months. Each record shall contain all of the following:

(A) A digital copy of the advertisement.

(B) The approximate number of views generated from the advertisement and the date and time that the advertisement was first displayed and last displayed.

(C) Information regarding the range charged or the total amount spent on the advertisement.

(D) The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers.

(E) The name and identification number of the committee that paid for the advertisement, if the committee is assigned an identification number.

(2) The information required under this subdivision shall be made available as soon as practicable and shall be retained by the online platform for no less than four years.

(3)(A) Display a prominent button, icon, tab, or hyperlink with the text “View Ads” or similar text in one of the following locations: (i) near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a position that the average viewer will readily see it upon viewing that page; (ii) on a page that displays the committee’s profile information or biographical information; (iii) or on a page on which the average viewer would normally navigate to view additional information about a committee.

(B) The button, icon, tab, or hyperlink shall link to a page clearly showing all of the advertisement records required by paragraph (1).

(e) An online platform that creates a mechanism for a committee requesting dissemination of an online platform

disclosed advertisement to expressly notify the online platform whether the advertisement is an advertisement as defined in Section 84501 and to provide all information necessary for the online platform to comply with the requirements of this section may rely in good faith on the information provided by the committee to the online platform to satisfy the online platform’s obligations under subdivisions (c) and (d).

History: Added by Stats. 2018, Ch. 754; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18450.1, 18450.2, 18215.1, 18450.3

§ 84504.7. Disclosure; Text Messages.

(a) A candidate or committee shall not authorize or pay for an advertisement that is a text message, unless the disclosures described in subdivision (b) are made, if the text message meets one of the following conditions:

(1) The text message supports or opposes a candidate.

(2) The text message supports or opposes a ballot measure.

(b)(1) A committee, other than a candidate controlled committee established for an elective office of the controlling candidate, subject to subdivision (a) shall include the text “Paid for by” or “With” followed by either the name of the committee, or a hyperlink or Uniform Resource Locator (URL) for an internet website containing the disclosures required by Sections 84502, 84503, and 84506.5. The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than eight-point font. If the word “With” is used, the individual sending the text shall identify themselves in the following manner: “(Name of individual) with (name of committee or hyperlink or URL).” A disclosure using the word “With” may appear anywhere in the text message, including in conversational content, and need not appear as a separate statement apart from the other content of the message.

(2) A candidate controlled committee established for an elective office of the controlling candidate subject to subdivision (a) shall include the text “Paid for by” or “With” followed by the name of the candidate, followed by the word “For,” and followed by the name of the elective office sought. If the word “With” is used, the individual sending the text shall identify themselves in the following manner: “(Name of individual) with (name of candidate) for (name of elective office).” A disclosure using the word “With” may appear anywhere in the text message, including in conversational content, and need not appear as a separate statement apart from the other content of the message.

(3) A committee subject to subdivision (a) that has top contributors, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with the following:

(A) Immediately following the name of the committee or the hyperlink or URL required by paragraph (1), the text message shall also include the text “Top funders:” followed by the names of the top two contributors of fifty thousand dollars (\$50,000) or more to the committee paying for the

advertisement, separated by “&” or “and.”

(B) The names of the top two contributors may be spelled using acronyms, abbreviations, or other shorthand in common usage or parlance. If a top contributor is an individual, their first and last name shall both be used.

(C) Notwithstanding subparagraph (A), if the disclosures required by paragraph (1) and this paragraph would exceed 35 characters, the text message shall disclose only the single top contributor of fifty thousand dollars (\$50,000) or more to the committee paying for the advertisement.

(D) Notwithstanding subparagraph (A), if the text message includes the name of the committee paying for the advertisement in accordance with paragraph (1), and the committee’s name includes the name of one of the top two contributors of fifty thousand dollars (\$50,000) or more to the committee paying for the advertisement, the text message is not required to include the name of that contributor after the text “Top funders:”.

(4) The text required to be included in a text message sent pursuant to this subdivision shall be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.

(c)(1) This section does not apply to a text message that is individually sent without the assistance of mass distribution technology, including a text messaging platform.

(2) If a committee, other than a political party committee or a candidate controlled committee established for an elected office of the controlling candidate, subject to subdivision (a) that has top contributors uses individuals who are unpaid volunteers to send text messages with the assistance of mass distribution technology, including a text message platform, the text messages sent by individuals who are unpaid volunteers are not required to disclose the top two contributors pursuant to paragraph (3) of subdivision (b). Text messages sent by unpaid volunteers shall include a disclosure stating that the text message is being sent by a volunteer. For purposes of this paragraph, receiving payments for food, transportation, or lodging in connection with campaign activity shall not disqualify a person from being classified as an unpaid volunteer.

(d) An internet website that is hyperlinked as provided for in this section shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted on.

(e)(1) If an exchange consists of a sequence of multiple text messages sent on the same day, a candidate or committee shall be deemed in compliance with this section if the candidate or committee sends the disclosures required by subdivision (b) with the first text message in the sequence that meets one of the conditions of subdivision (a).

(2) A committee shall be deemed in compliance with this section if the disclosures required by subdivision (b) are included in the text message in the form the committee intended it to be sent, regardless of the form the carrier relayed it to the recipient.

(3) If a committee includes a hyperlink or URL in the text message sent pursuant to subdivision (b), the committee shall be deemed to be in compliance with subdivision (b)

even if the recipient’s device is incapable of accessing the corresponding internet website.

History: Added by Stats. 2019, Ch. 555.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.1, 18450.1, 18450.2, 18450.3, 18428

§ 84505. Avoidance of Disclosure.

(a) In addition to the requirements of Sections 84502, 84503, and 84506.5, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a top contributor.

(b) Written disclosures required by Sections 84503 and 84506.5 shall not appear in all capital letters, except that capital letters shall be permitted for the beginning of a sentence, the beginning of a proper name or location, or as otherwise required by conventions of the English language.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2007, Ch. 495; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84506.5. Disclosure; Independent Expenditure Ads; Not Authorized by Candidate.

An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that “This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office.”

History: Added by Stats. 2007, Ch. 495; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84509. Amended Disclosures.

If the order of top contributors required to be disclosed pursuant to this article changes or a new contributor qualifies as a top contributor, the disclosure in the advertisement shall be updated as follows:

(a) A television, radio, telephone, electronic billboard, or other electronic media advertisement shall be updated to reflect the new top contributors within five business days. A committee shall be deemed to have complied with this subdivision if the amended advertisement is delivered, containing a request that the advertisement immediately be replaced, to all affected broadcast stations or other locations where the advertisement is placed no later than the fifth business day.

(b) A print media advertisement, including nonelectronic billboards, shall be updated to reflect the new top contributors before placing a new or modified order for additional printing of the advertisement.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1, 18450.5

§ 84510. Remedies for Article Violations; Civil Action; Fines.

(a)(1) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000), a person who violates Section 84503 or 84506.5 is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(2) Notwithstanding paragraph (1), a person who intentionally violates a provision of Sections 84504 to 84504.3, inclusive, or Section 84504.5 or 84504.6, for the purpose of avoiding disclosure is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any of the sections described in paragraph (1) or (2) of subdivision (a) or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 754.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84511. Ballot Measure Ads; Paid Spokesperson Disclosure.

(a) This section applies to a committee that does either of the following:

(1) Makes an expenditure of five thousand dollars (\$5,000) or more to an individual for the individual's appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure.

(2) Makes an expenditure of any amount to an individual for the individual's appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized, documented training as a prerequisite to engage in that occupation.

(b) A committee described in subdivision (a) shall file, within 10 days of the expenditure, a report that includes all of the following:

(1) An identification of the measure that is the subject of the advertisement.

(2) The date of the expenditure.

(3) The amount of the expenditure.

(4) The name of the recipient of the expenditure.

(5) For a committee described in paragraph (2) of subdivision (a), the occupation of the recipient of the expenditure.

(c) An advertisement paid for by a committee described in paragraph (1) of subdivision (a) shall include a disclosure statement stating "(spokesperson's name) is being paid by this campaign or its donors" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message. If the advertisement is a television or video advertisement, the statement shall be shown continuously, except when the disclosure statement required by Section 84504.1 is being shown.

(d)(1) An advertisement paid for by a committee described in paragraph (2) of subdivision (a) shall include a disclosure statement stating "Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations" in highly visible font shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephonic message. If the advertisement is a television or video advertisement, the statement shall be shown continuously, except when the disclosure statement required by Section 84504.1 is being shown.

(2) A committee may omit the disclosure statement required by this subdivision if all of the following are satisfied with respect to each individual identified in the report filed pursuant to subdivision (b) for that advertisement:

(A) The occupation identified in the report is substantially similar to the occupation portrayed in the advertisement.

(B) The committee maintains credible documentation of the appropriate license, certification, or other training as evidence that the individual may engage in the occupation identified in the report and portrayed in the advertisement and makes that documentation immediately available to the Commission upon request.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2014, Ch. 868; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18421.2, 18450.1, 18450.11

Chapter 4.6. Online Disclosure.

§ 84600 – 84615

§ 84600.	Online Disclosure.	59
§ 84601.	Public Access.	59
§ 84602.	Secretary of State's Duties.*	59
§ 84602.3.	Secretary of State's Duties; Disclosure of Local Campaign Finance Information.....	61
§ 84602.5.	Online Index of Identification Numbers.	61
§ 84603.	Acceptance of Reports.	61
§ 84605.	Who Shall File Online.	61
§ 84606.	Operation of Online System.*	62
§ 84607.	Prohibition Against Political or Campaign Use.	62
§ 84612.	Rejection of Electronic Filing; Procedures.* ..	62
§ 84613.	Political Disclosure, Accountability, Transparency, and Access Fund.....	63
§ 84615.	Campaign Reports and Statements – Electronic Filing for Local Agencies.*	63

§ 84600. Online Disclosure.

This chapter may be known and may be cited as the Online Disclosure Act.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 2001, Ch. 917, effective October 14, 2001.

§ 84601. Public Access.

The Legislature finds and declares as follows:

(a) The people of California enacted one of the nation's most comprehensive campaign and lobbying financial disclosure laws when they voted for Proposition 9, the Political Reform Act of 1974, an initiative statute.

(b) Public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate.

(c) Advances in technology have made it necessary for the State of California to develop a new, data-driven online filing and disclosure system that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format.

(d) Members of the public, including voters, journalists, and researchers, should be able to access campaign finance and lobbying information in a robust and flexible manner, including through searches and visual displays such as graphs and maps.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 2016, Ch. 845.

§ 84602. Secretary of State's Duties.*

(a) To implement the Legislature's intent, the Secretary of State, in consultation with the Commission, notwithstanding any other provision of this code, shall do all of the following:

(1) Develop online and electronic filing processes for use by persons and entities specified in Section 84605 that are required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100). Those processes shall each enable a user to comply with all

of the disclosure requirements of this title and shall include, at a minimum, both of the following:

(A) A means or method whereby filers subject to this chapter may submit required filings free of charge. Any means or method developed pursuant to this subparagraph shall not provide any additional or enhanced functions or services that exceed the minimum requirements necessary to fulfill the disclosure provisions of this title.

(B) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in Section 84605 and that conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings before development of the record format or formats as a means to ensure that affected entities have an opportunity to provide input into the development process.

(2) Accept test files from software vendors and others wishing to file reports electronically, for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to paragraph (1) and is compatible with the Secretary of State's system for receiving the data. A list of the software and service providers who have submitted acceptable test files shall be published by the Secretary of State and made available to the public. Acceptably formatted files shall be submitted by a filer in order to meet the requirements of this chapter.

(3) Develop a system that provides for the online or electronic transfer of the data specified in this section using telecommunications technology that ensures the integrity of the data transmitted and that creates safeguards against efforts to tamper with or subvert the data.

(4) Make all the data filed available on the **internet** in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available on the **internet** within 24 hours of receipt. The data made available on the **internet** shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title.

(5) Develop a procedure for filers to comply with the requirement that they sign under penalty of perjury pursuant to Section 81004.

(6) Maintain all filed data online for 10 years after the date it is filed, and then archive the information in a secure format.

(7) Provide assistance to those seeking public access to the information.

(8) Implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(9) Provide the Commission with necessary information to enable it to assist agencies, public officials, and others with the compliance with, and administration of, this title.

(b)(1) To implement the Legislature's intent, as described in Section 84601, the Secretary of State, in consultation with the Commission, shall develop an online filing and disclosure system for use by persons and entities specified in Section 84605 that are required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100). The system shall enable a user to comply with all of the disclosure requirements of this title and shall include, at minimum, all of the following:

(A) A data-driven means or method that allows filers subject to this chapter to submit required filings free of charge in a manner that facilitates public searches of the data and does all of the following:

(i) Enables a filer to comply with all of the disclosure requirements of this title, including by entering or uploading requisite data or by indicating that the filer had no reportable activity during a particular reporting period.

(ii) Retains previously submitted data so that a filer can access that data to amend disclosures or prepare future disclosures. The system shall permit a filer to enter a contribution or independent expenditure transaction once and have the transaction appear on both a transactional report required by Section 84203, 84204, 84204.5, 84309, or 85500 and periodic campaign statement required by this title.

(iii) Ensures the security of data entered and stored in the system.

(iv) To the extent feasible, is compatible with potential future capability to accept statements from filers specified in subdivisions (b) to (e), inclusive, of Section 84215.

(B) The definition of a nonproprietary standardized record format or formats using industry standards for the transmission of the data that is required of those persons and entities specified in Section 84605 and that conforms with the disclosure requirements of this title.

(2) The Secretary of State shall do all of the following with respect to the online filing and disclosure system developed pursuant to this subdivision:

(A) Accept test files from software vendors and others wishing to file reports electronically for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to this subdivision and is compatible with the Secretary of State's system for receiving the data. The Secretary of State shall publish and make available to the public a list of the software and service providers who have submitted acceptable test files. A filer shall submit acceptably formatted files in order to meet the requirements of this chapter.

(B) Make the data filed available on the internet as follows:

(i) In a user-friendly, easily understandable format that provides the greatest public access, including online searches and machine-readable downloads of all data contained in the system, except as specified in clause (iii).

(ii) Free of charge and as soon as possible after receipt, or, in the case of late contribution, late in-kind contribution,

and late independent expenditure reports, as defined by Sections 84203, 84203.3, and 84204, respectively, within 24 hours of receipt.

(iii) Not containing the street name or building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed pursuant to this title, except that a nonresidential address of a committee under Section 82013 may be made available on the internet.

(iv) In a manner that allows the public to track and aggregate contributions from the same contributor across filers using a permanent unique identifier assigned by the Secretary of State for this purpose. The Secretary of State shall assign this identifier to, at minimum, each contributor who makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees that file electronically with the Secretary of State pursuant to subdivision (a) of Section 84215 or who files with the Secretary of State as a major donor committee under subdivision (c) of Section 82013.

(C) Develop a procedure for filers to comply electronically with the requirement to sign under penalty of perjury pursuant to Section 81004.

The electronic signature procedure shall allow the filer to file with the Secretary of State and shall not require an original signature to be filed.

(D) Maintain all filed data online for at least 20 years after the date it is filed, and then archive the information in a secure format.

(E) Provide assistance to those seeking public access to the information.

(F) Implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data.

(G) Provide the Commission with necessary information to enable it to assist agencies, public officials, and others in complying with and administering this title.

(3) The Secretary of State shall do all of the following with respect to developing the online filing and disclosure system and record format pursuant to this subdivision:

(A) Consult with the Assembly Committee on Elections and Redistricting, the Senate Committee on Elections and Constitutional Amendments, the Commission, users, filers, and other stakeholders, as appropriate, about functions of the online filing and disclosure system.

(B) In consultation with the Commission, and no later than July 31, 2017, hold at least one public hearing to receive input about developing the online filing and disclosure system and record format.

(C) No later than December 31, 2017, submit a report to the Assembly Committee on Elections and Redistricting and the Senate Committee on Elections and Constitutional Amendments that includes a plan for the online filing and disclosure system, describes how members of the public will be able to query and retrieve data from the system, and includes a plan for integrating statements as specified in clause (iv) of subparagraph (A) of paragraph (1).

(4) The Secretary of State shall make the online filing and disclosure system developed pursuant to this subdivision available for use no later than February 2021.

(5) The Secretary of State may accept any funds, services, equipment, or grants to further this subdivision, provided that the Secretary of State shall notify the Assembly Committee on Elections and Redistricting and the Senate Committee on Elections and Constitutional Amendments upon accepting any amount valued at one hundred thousand dollars (\$100,000) or more.

(6) Because the provisions of this chapter need to be implemented as expeditiously as possible, the information technology procurement requirements described in Chapter 5.6 (commencing with Section 11545) of Part 1 of Division 3 of Title 2 of this code, and in Section 12100 of the Public Contract Code, do not apply to development of the online filing and disclosure system pursuant to this subdivision. The Secretary of State shall consult with the Department of Technology, as appropriate, in developing the online filing and disclosure system, in order to maximize project success, minimize life-cycle costs, and ensure the security of the system and its data.

(7)(A) Before making the system developed pursuant to this subdivision available for public use, the Secretary of State, in consultation with the Commission, shall test the system to ensure its functionality and then certify that the system meets all the requirements of this subdivision. The Secretary of State may consult with the Department of Technology as needed to fulfill the secretary's duties under this paragraph.

(B) After the system developed pursuant to this subdivision is certified, the system described in subdivision (a) shall no longer accept reports and filings, unless otherwise directed by the Secretary of State and the Commission. The system described in subdivision (a) shall continue to allow public access to past disclosures unless the Secretary of State migrates that data into the system described in this subdivision. To facilitate data conversion during migration, the Secretary of State may make minor technical modifications or corrections to the migrated data.

(c) On or before December 31, 2017, and on or before every April 15, July 15, October 15, and January 15 thereafter, the Secretary of State shall submit to the chairs of the Joint Legislative Budget Committee and the fiscal committees of the Legislature a quarterly report on the progress of the Cal-Access Project. Specifically, the Secretary of State shall certify whether the secretary (1) anticipates making or has made any changes to the project's scope, schedule, or budget and (2) considers any problems to be a risk to the project's completion according to the approved project schedule and budget. This reporting requirement shall end upon the completion or termination of the Cal-Access Project.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2000, Ch. 319; amended by Stats. 2001, Ch. 917, effective October 14, 2001; amended by Stats. 2004, Ch. 816; amended by Stats. 2005, Ch. 22; amended by Stats. 2012, Ch. 503; amended by Stats. 2016, Ch. 845; amended by Stats. 2018, Ch. 662; amended by Stats. 2019, Ch. 30; amended by Stats. 2019, Ch. 315.

*Section 84602 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying

an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84602.3. Secretary of State's Duties; Disclosure of Local Campaign Finance Information.

The Secretary of State shall conspicuously post on his or her Internet Web site hyperlinks to the Internet Web site of any local government agency that contains publicly-disclosed campaign finance information. The Secretary of State shall update these hyperlinks no later than December 31 of each year.

History: Added by Stats. 2017, Ch. 624; Stats. 2018, Ch. 92.

§ 84602.5. Online Index of Identification Numbers.

The Secretary of State shall disclose online pursuant to this chapter an index of the identification numbers, as assigned pursuant to subdivision (a) of Section 84101, of every person, entity, or committee that is obligated to make a disclosure pursuant to Chapter 4. This index shall be updated monthly except for the six-week period preceding any statewide regular or special election, during which period the index shall be updated weekly.

History: Added by Stats. 1999, Ch. 208.

§ 84603. Acceptance of Reports.

The Secretary of State, once all state-mandated development, procurement, and oversight requirements have been met, shall make public their availability to accept reports online or electronically. Any filer may then commence voluntarily filing online or electronically any required report or statement that is otherwise required to be filed with the Secretary of State pursuant to Chapter 4 (commencing with Section 84100) or Chapter 6 (commencing with Section 86100) of this title.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999.

§ 84605. Who Shall File Online.*

(a) The following persons shall file online or electronically with the Secretary of State:

(1) Any candidate, including superior court, appellate court, and Supreme Court candidates and officeholders, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is twenty-five thousand dollars (\$25,000) or more. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, shall be included. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that is first subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title. A committee, as defined in subdivision (c) of Section 82013,

shall file online or electronically if it makes contributions of twenty-five thousand dollars (\$25,000) or more in a calendar year.

(2) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling twenty-five thousand dollars (\$25,000) or more to support or oppose candidates for any elective state office or state measure. For a committee subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a committee that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the committee is first subject to this title.

(3) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of twenty-five thousand dollars (\$25,000) or more. For a slate mailer organization subject to this title prior to January 1, 2000, the beginning date for calculating cumulative totals is January 1, 2000. For a slate mailer organization that first is subject to this title on or after January 1, 2000, the beginning date for calculating cumulative totals is the date the organization is first subject to this title.

(4) Any lobbyist, lobbying firm, lobbyist employer, or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents, provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is two thousand five hundred dollars (\$2,500) or more in a calendar quarter.

(b) The Secretary of State shall also disclose on the Internet any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204, respectively, not covered by paragraph (1), (2), or (3) of subdivision (a) or any other provision of law.

(c) Committees and other persons that are not required to file online or electronically by this section may do so voluntarily.

(d) Once a person or entity is required to file online or electronically, subject to subdivision (a) or (c), the person or entity shall be required to file all subsequent reports online or electronically.

(e) It shall be presumed that online or electronic filers file under penalty of perjury.

(f) The Secretary of State shall maintain at all times a secured, official version of all original online and electronically filed statements and reports required by this chapter, which shall be the official version for audit and other legal purposes.

(g) Except for statements related to a local elective office or a local ballot measure filed by a candidate for local elective office who is also a candidate for elective state office, a copy of a statement, report, or other document filed by online or electronic means with the Secretary of State shall not be filed with a local filing officer.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; amended by Stats. 2007, Ch. 348; amended by Stats. 2010, Ch. 18; Amended by Stats. 2017, Ch. 111

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18450.11, 18451, 18465, 18465.1

*Section 84605 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84606. Operation of Online System.*

The Secretary of State shall determine and publicly disclose when the online and electronic disclosure systems are operating effectively. In making this determination, the Secretary of State shall consult with the Commission, the Department of Information Technology, and any other appropriate public or private entity. The online or electronic disclosure system shall not become operative until the Department of Information Technology approves the system. Upon this determination, filers required by this chapter to file online or electronically will no longer be required to file with local filing officers. Furthermore, the date that a filer transmits an online or electronic report shall be the date the filed report is received by the Secretary of State.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997; amended by Stats. 1999, Ch. 433, effective September 16, 1999; Amended by Stats. 2017, Ch. 111.

*Section 84606 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84607. Prohibition Against Political or Campaign Use.

Pursuant to Section 8314, no employee or official of a state or local government agency shall utilize, for political or campaign purposes, public facilities or resources to retrieve or maintain any of the data produced by the requirements of this chapter.

History: Added by Stats. 1997, Ch. 866, effective October 11, 1997.

§ 84612. Rejection of Electronic Filing; Procedures.*

If the Secretary of State rejects a filing made under this chapter, the Secretary of State shall immediately notify the filer, by electronic mail, of the reason or reasons for rejection using plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The notice shall be written or displayed so that the meaning will be easily understood by those persons directly affected by it.

History: Added by Stats. 2001, Ch. 79.

*Section 84101 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 84613. Political Disclosure, Accountability, Transparency, and Access Fund.

(a) The Political Disclosure, Accountability, Transparency, and Access Fund is hereby established in the State Treasury. Moneys collected pursuant to Section 84101.5 and one-half of the moneys collected pursuant to Section 86102 shall be deposited in the Political Disclosure, Accountability, Transparency, and Access Fund.

(b)(1) Moneys deposited in the Political Disclosure, Accountability, Transparency, and Access Fund are subject to appropriation by the Legislature and shall be expended for the maintenance, repair, and improvement of the online or electronic disclosure program implemented by the Secretary of State pursuant to this chapter.

(2) In addition to paragraph (1), the Secretary of State may also use moneys deposited in the Political Disclosure, Accountability, Transparency, and Access Fund for purposes of implementing the act that added this section.

(c) Any expenditure of moneys from the Political Disclosure, Accountability, Transparency, and Access Fund for the purposes described in paragraph (1) of subdivision (b) is subject to the project approval and oversight process established by the California Technology Agency pursuant to Section 11546.

History: Added by Stats. 2012, Ch. 506.

§ 84615. Campaign Reports and Statements – Electronic Filing for Local Agencies.*

A local government agency may require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than one thousand dollars (\$1,000), and makes expenditures totaling less than one thousand dollars (\$1,000), in a calendar year, to file those statements, reports, or other documents online or electronically with a local filing officer. A local government agency that requires online or electronic filing pursuant to this section shall comply with all of the following:

(a) The legislative body for the local government agency shall adopt an ordinance approving the use of online or electronic filing, which shall include a legislative finding that the online or electronic filing system will operate securely and effectively and would not unduly burden filers. The ordinance adopted by the legislative body for the local government agency may, at the discretion of that legislative body, specify that the electronic or online filing requirements apply only to specifically identified types of filings or are triggered only by identified monetary thresholds. In any instance in which the original statement, report, or other document is required to be filed with the Secretary of State and a copy of that statement, report, or other document is required to be filed with the local government agency, the ordinance may permit, but shall not require, that the copy be filed online or electronically.

(b) The online or electronic filing system shall only accept a filing in the standardized record format that is developed by the Secretary of State pursuant to paragraph (2) of subdivision (a) of Section 84602 and that is compatible with the Secretary of State's system for receiving an online or electronic filing.

(c) The online or electronic filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.

(d)(1) The local filing officer shall issue to a person who files a statement, report, or other document online or electronically an electronic confirmation that notifies the filer that the statement, report, or other document was received. The confirmation shall include the date and the time that the statement, report, or other document was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(2) A copy retained by the filer of a statement, report, or other document that was filed online or electronically and the confirmation issued pursuant to paragraph (1) that shows the filer timely filed the statement, report, or other document shall create a rebuttable presumption that the filer timely filed the statement, report, or other document.

(e) The date of filing for a statement, report, or other document that is filed online or electronically shall be the day that it is received by the local filing officer.

(f) The local filing officer shall make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The local filing officer shall make a complete, unredacted copy of any statement, report, or other document filed pursuant to this section, including any street names, building

numbers, and bank account numbers disclosed by the filer, available to any person upon request.

(g) The online or electronic filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury pursuant to Section 81004.

(h) The local government agency shall enable filers to complete and submit filings free of charge.

(i) The local filing officer shall maintain, for a period of at least 10 years commencing from the date filed, a secured, official version of each online or electronic statement, report, or other document filed pursuant to this section, which shall serve as the official version of that record for purpose of audits and any other legal purpose. Data that has been maintained for at least 10 years may then be archived in a secure format.

(j) Notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this section shall not be required to be filed with the local filing officer in paper format.

History: Added by Stats. 2012, Ch. 126.

*Section 84615 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

Chapter 5. Limitations on Contributions.

§ 85100 – 85802

Article 1. Title of Chapter. § 85100 – 85104.....	64
Article 2. Candidacy. § 85200 – 85201	64
Article 2.5. Applicability of the Political Reform Act of 1974. § 85202 – 85206.....	64
Article 3. Contribution Limitations. § 85300 – 85321.....	65
Article 4. Voluntary Expenditure Ceilings. § 85400 – 85403	72
Article 5. Independent Expenditures. § 85500-85505	73
Article 6. Ballot Pamphlet. § 85600-85601.....	73
Article 7. Additional Contribution Requirements. § 85700- 85706	74
Article 8. Appropriation. § 85802	76

Article 1. Title of Chapter.

§ 85100 – 85104

§ 85100. Chapter Title.

This chapter shall be known as the “Campaign Contribution and Voluntary Expenditure Limits Without Taxpayer Financing Amendments to the Political Reform Act of 1974.”

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Article 2. Candidacy.

§ 85200 – 85201

§ 85200. Statement of Intention to be a Candidate.*	64
§ 85201. Campaign Bank Account.	64

§ 85200. Statement of Intention to be a Candidate.*

Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective state office, as that term is defined by Section 82024, shall file with the Secretary of State an original statement, signed under penalty of perjury, of intention to be a candidate for a specific office.

An individual who intends to be a candidate for any other elective office shall file the statement of intention with the same filing officer and in the same location as the individual would file an original campaign statement pursuant to subdivisions (b), (c), and (d) of Section 84215.

For purposes of this section, “contribution” and “loan” do not include any payments from the candidate’s personal funds for a candidate filing fee or a candidate statement of qualifications fee.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394; amended by Stats. 2000, Ch. 853; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18520, 18521, 18531.5, 18536, 18537.1, 18542

*Section 85200 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 85201. Campaign Bank Account.

(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) As required by subdivision (f) of Section 84102, a candidate who raises contributions of two thousand dollars (\$2,000) or more in a calendar year shall set forth the name and address of the financial institution where the candidate has established a campaign contribution account and the account number on the committee statement of organization filed pursuant to Sections 84101 and 84103.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate’s controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

(f) Subdivisions (d) and (e) do not apply to a candidate’s payment for a filing fee and statement of qualifications from his or her personal funds.

(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than two thousand dollars (\$2,000) in a calendar year to support his or her candidacy. For purposes of this section, a candidate’s payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made.

(h) An individual who raises contributions from others for his or her campaign, but who raises or spends less than two thousand dollars (\$2,000) in a calendar year, and does not qualify as a committee under Section 82013, shall establish a campaign contribution account pursuant to subdivision (a), but is not required to file a committee statement of organization pursuant to Section 84101 or other statement of bank account information.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1990, Ch. 387; amended by Stats. 1991, Ch. 1078; amended by Stats. 1996, Ch. 289; amended by Stats. 1997, Ch. 394; amended by Stats. 2000, Ch. 853; amended by Stats. 2015, Ch. 364, effective January 1, 2016.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215.4, 18520, 18521, 18521.3, 18521.5, 18523, 18523.1, 18524, 18525, 18526, 18531.6, 18531.61, 18537.1

Article 2.5. Applicability of the Political Reform Act of 1974.

§ 85202 – 85206

§ 85202.	Interpretation of Chapter 5.....	65
§ 85203.	Small Contributor Committee.....	65
§ 85204.	Election Cycle for 24-Hour Reports.....	65
§ 85204.5.	Special Election Cycle and Special Runoff Election Cycle.....	65
§ 85205.	Political Party Committee.....	65
§ 85206.	Public Moneys.....	65

§ 85202. Interpretation of Chapter 5.

Unless specifically superseded by the act that adds this section, the definitions and provisions of this title shall govern the interpretation of this chapter.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 1989, Ch. 303. (Formerly titled “Contributions to Candidates; Trust for Specific Office”); repealed by Stats. 1990, Ch. 84. Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Applicability of the Political Reform Act”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 85203. Small Contributor Committee.

“Small contributor committee” means any committee that meets all of the following criteria:

- (a) The committee has been in existence for at least six months.
- (b) The committee receives contributions from 100 or more persons.
- (c) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year.
- (d) The committee makes contributions to five or more candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18503

§ 85204. Election Cycle for 24-Hour Reports.

“Election cycle,” for purposes of Sections 85309 and 85500, means the period of time commencing 90 days prior to an election and ending on the date of the election. For purposes of the Board of Administration of the Public Employees’ Retirement System and the Teachers’ Retirement Board, “the date of the election” is the deadline to return ballots.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Two-Year Period”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2010, Ch. 633.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18425, 18550

§ 85204.5. Special Election Cycle and Special Runoff Election Cycle.

With respect to special elections, the following terms have the following meanings:

(a) “Special election cycle” means the day on which the office becomes vacant until the day of the special election.

(b) “Special runoff election cycle” means the day after the special election until the day of the special runoff election.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 85205. Political Party Committee.

“Political party committee” means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 or 5151 of the Elections Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2013, Ch. 511.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18530.3

§ 85206. Public Moneys.

“Public moneys” has the same meaning as defined in Section 426 of the Penal Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

Article 3. Contribution Limitations.

§ 85300 – 85321

§ 85300.	Use of Public Funds for Seeking Elective Office.*	66
§ 85301.	Limits on Contributions from Persons.*	66
§ 85302.	Limits on Contributions from Small Contributor Committees.....	66
§ 85303.	Limits on Contributions to Committees and Political Parties.....	66
§ 85304.	Legal Defense Fund.....	67
§ 85304.5.	Legal Defense Fund; Local Candidates and Elected Officeholders.....	67
§ 85305.	Restrictions on Contributions by Candidates.*	68
§ 85306.	Transfers Between a Candidate’s Own Committees; Use of Funds Raised Prior to Effective Date.*	68
§ 85307.	Loans.*	68
§ 85308.	Family Contributions.....	68
§ 85309.	Online Disclosure of Contributions.....	69
§ 85310.	Communications Identifying State Candidates.....	69
§ 85312.	Communications to Members of an Organization.....	69
§ 85314.	Special Elections and Special Runoff Elections as Separate Elections.....	70
§ 85315.	Elected State Officer Recall Committees.*	70
§ 85316.	Post-Election Fundraising Restrictions; State Officeholder Accounts.*	70
§ 85317.	Carry Over of Contributions.*	71
§ 85318.	Contributions Received for Primary and General Elections.*	71
§ 85319.	Returning Contributions.....	71

§ 85320.	Foreign Entities.....	71
§ 85321.	Post-Election Fundraising; Elections Held Prior to January 1, 2001.....	71

§ 85300. Use of Public Funds for Seeking Elective Office.*

(a) Except as provided in subdivision (b), a public officer shall not expend, and a candidate shall not accept, any public moneys for the purpose of seeking elective office.

(b) A public officer or candidate may expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter, and both of the following are true:

(1) Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference.

(2) The state or local governmental entity has established criteria for determining a candidate's qualification by statute, ordinance, resolution, or charter.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election; amended by Stats. 2016, Ch. 837.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18530

* Please note that the Commission is enjoined from enforcing the provisions of Statutes 2016, Chapter 837. (See Howard Jarvis Taxpayers Assn. v. Newsom (2019) 39 Cal.App.5th 158.)

§ 85301. Limits on Contributions from Persons.*

(a) A person, other than a small contributor committee or political party committee, shall not make to a candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office shall not accept from a person, a contribution totaling more than three thousand dollars (\$3,000) per election.

(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, shall not make to a candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office shall not accept from a person other than a small contributor committee or a political party committee, a contribution totaling more than five thousand dollars (\$5,000) per election.

(c) A person, other than a small contributor committee or political party committee, shall not make to a candidate for Governor, and a candidate for Governor shall not accept from any person other than a small contributor committee or political party committee, a contribution totaling more than twenty thousand dollars (\$20,000) per election.

(d)(1) A person shall not make to a candidate for elective county or city office, and a candidate for elective county or city office shall not accept from a person, a contribution totaling more than the amount set forth in subdivision (a) per election, as that amount is adjusted by the Commission pursuant to Section 83124. This subdivision does not apply in a jurisdiction in which the county or city imposes a limit on contributions pursuant to Section 85702.5.

(2) This subdivision shall become operative on January 1, 2021.

(e) The provisions of this section do not apply to a candidate's contributions of the candidate's personal funds to the candidates own campaign.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18503, 18521, 18521.5, 18523, 18523.1, 18530.4, 18531, 18531.5, 18531.6, 18531.61, 18533, 18535, 18537, 18544, 18545

*Section 85301 was amended by AB 571 (Stats. 2019, Ch. 556) and new provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85302. Limits on Contributions from Small Contributor Committees.

(a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office, other than a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than six thousand dollars (\$6,000) per election.

(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate for statewide elective office and except for a candidate for Governor, a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than ten thousand dollars (\$10,000) per election.

(c) A small contributor committee may not make to any candidate for Governor, and a candidate for governor may not accept from a small contributor committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Persons to Committees"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18503, 18521, 18521.5, 18523, 18523.1, 18530.4, 18531, 18531.5, 18531.6, 18531.61, 18537, 18544, 18545

§ 85303. Limits on Contributions to Committees and Political Parties.

(a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five thousand dollars (\$5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars

(\$25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state office. Notwithstanding Section 85312, this limit applies to contributions made to a political party used for the purpose of making expenditures at the behest of a candidate for elective state office for communications to party members related to the candidate's candidacy for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Contributions by Committees to Candidates"); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18521.5, 18530.3, 18530.4, 18531, 18531.61, 18531.7, 18533, 18534, 18537, 18544, 18545

§ 85304. Legal Defense Fund.

(a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(d)(1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate

or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e)(1) For purposes of this section and Section 85304.5, "attorney's fees and other related legal costs" includes only the following:

(A) Attorney's fees and other legal costs related to the defense of the candidate or officer.

(B) Administrative costs directly related to compliance with the requirements of this title.

(2) "Attorney's fees and other related legal costs" does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or, except as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Prohibition on Transfers"); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Limitations on Contributions from Political Parties"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18521.5, 18530.4, 18530.45, 18535, 18537

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85304.5. Legal Defense Fund; Local Candidates and Elected Officeholders.

(a) A candidate for elective office other than an elective state office or an elected officer other than an elected state officer may establish a separate account pursuant to subdivision (a) of Section 85304 and may use these funds only to defray attorney's fees and other related legal costs.

(b) A candidate for an elective office other than an elective state office may receive contributions to the separate account subject to any limitations provided by local ordinance. However, all contributions to these separate accounts shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate or elected officer shall dispose of any funds remaining in the separate accounts after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(d)(1) Funds in the account created pursuant to subdivision (a) shall not be used to pay or reimburse the candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses funds in that account for other legal costs and expenses related to claims of those unlawful

practices and is held liable for such a violation, the candidate or elected officer shall reimburse the account for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, “sexual assault” and “sexual abuse” have the same meaning as in Section 11165.1 of the Penal Code and “sexual harassment” has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(e) For purposes of this section, “attorney’s fees and other related legal costs” has the same meaning as in Section 85304.

History: Added by Stats. 2007, Ch. 283; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18530.4, 18530.45

§ 85305. Restrictions on Contributions by Candidates.*

(a) A candidate for elective state office or committee controlled by that candidate shall not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Contribution Limitations During Special or Special Runoff Election Cycles”); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Restrictions on When Contributions Can be Received”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18530.4, 18535, 18536, 18537, 18535

Opinion: *In re Rios* (2017) FPPC Ops. No. O-17-001

*Section 85305 was amended by AB 571 (Stats. 2019, Ch. 556). New provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85306. Transfers Between a Candidate’s Own Committees; Use of Funds Raised Prior to Effective Date.*

(a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate. Contributions transferred shall be attributed to specific contributors using a “last in, first out” or “first in, first out” accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the limits set forth in Section 85301 or 85302.

(b) Notwithstanding subdivision (a), a candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding subdivision (a), a candidate for statewide elective office who possesses campaign funds on

November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(d) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Use of Campaign Funds; Effective Date”); repealed and added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Transfers”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18530.2, 18530.4, 18531.6, 18531.61, 18536, 18537, 18537.1

*Section 85306 was amended by AB 571 (Stats. 2019, Ch. 556). New provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85307. Loans.*

(a) The provisions of this article regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender’s regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) Notwithstanding subdivision (a), a candidate for elective state office shall not personally loan to the candidate’s campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate shall not charge interest on any loan the candidate made to the candidate’s campaign.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled “Loans; Contributions”); repealed and added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 815, effective September 27, 2004; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18530.7, 18530.8, 18537

*Section 85307 was amended by AB 571 (Stats. 2019, Ch. 556). New provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85308. Family Contributions.

(a) Contributions made by a husband and wife may not be aggregated.

(b) A contribution made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18537

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85309. Online Disclosure of Contributions.

(a) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other report required by this title, any committee primarily formed to support or oppose one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(c) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

(d) In addition to any other report required by this title, a committee primarily formed to support or oppose a state ballot measure that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions from Non-individuals"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18117, 18425, 18531.5, 18537

§ 85310. Communications Identifying State Candidates.

(a) Any person who makes a payment or a promise of payment totaling fifty thousand dollars (\$50,000) or more for a communication that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated,

broadcast, or otherwise published within 45 days of an election, shall file online or electronically with the Secretary of State a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.

(b)(1) Except as provided in paragraph (2), if any person has received a payment or a promise of a payment from other persons totaling five thousand dollars (\$5,000) or more for the purpose of making a communication described in subdivision (a), the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

(2) A person who receives or is promised a payment that is otherwise reportable under paragraph (1) is not required to report the payment if the person is in the business of providing goods or services and receives or is promised the payment for the purpose of providing those goods or services.

(c) Any payment received by a person who makes a communication described in subdivision (a) is subject to the limits specified in subdivision (b) of Section 85303 if the communication is made at the behest of the clearly identified candidate.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Aggregate Contributions to All State Candidates"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18521.5, 18225.7, 18531.10, 18537, 18539.2

§ 85312. Communications to Members of an Organization.

For purposes of this title, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. However, payments made by a political party for communications to a member who is registered as expressing a preference for that party on his or her affidavit of registration pursuant to Sections 2150, 2151, and 2152 of the Elections Code that would otherwise qualify as contributions or expenditures shall be reported in accordance with Article 2 (commencing with Section 84200) of Chapter 4, and Chapter 4.6 (commencing with Section 84600), of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Communications Within an Organization"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2012, Ch. 3, effective February 10, 2012.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18215, 18215.2, 18531.7, 18537

Opinions: *In re Olson* (2001) 15 FPPC Ops. 13

§ 85314. Special Elections and Special Runoff Elections as Separate Elections.

The contribution limits of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and voluntary expenditure limits set forth in this chapter.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18537

§ 85315. Elected State Officer Recall Committees.*

(a) Notwithstanding any other provision of this chapter, an elected state officer may establish a committee to oppose the qualification of a recall measure, and the recall election. This committee may be established when the elected state officer receives a notice of intent to recall pursuant to Section 11021 of the Elections Code. An elected state officer may accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter. The voluntary expenditure limits do not apply to expenditures made to oppose the qualification of a recall measure or to oppose the recall election.

(b) After the failure of a recall petition or after the recall election, the committee formed by the elected state officer shall wind down its activities and dissolve. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days after the failure of the recall petition or after the recall election for a purpose specified in subdivision (b) of Section 89519.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18531.5, 18535, 18537

Opinion: *In re Rios* (2017) FPPC Ops. No. O-17-001

*Section 85315 was amended by AB 571 (Stats. 2019, Ch. 556). New provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85316. Post-Election Fundraising Restrictions; State Officeholder Accounts.*

(a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) A person shall not make, and an elected state officer shall not receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) An elected state officer shall not receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that the candidate may seek during the term of office to which the candidate is currently elected, including, but not limited to, reelection to the office the candidate currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The Commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2006, Ch. 624, effective September 29, 2006; amended by Stats. 2007, Ch. 130; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521.5, 18531.6, 18531.61, 18531.62, 18537, 18537.1, 18544, 18545

*Section 85316 was amended by AB 571 (Stats. 2019, Ch. 556). New provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85317. Carry Over of Contributions.*

(a) Notwithstanding subdivision (a) of Section 85306, a candidate for elective state office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.6, 18531.61, 18537, 18537.1

*Section 85317 was amended by AB 571 (Stats. 2019, Ch. 556). New provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85318. Contributions Received for Primary and General Elections.*

(a) A candidate for elective state office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective state office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521, 18531.2, 18531.6, 18531.61, 18536, 18537

*Section 85318 was amended by AB 571 (Stats. 2019, Ch. 556). New provisions will become operative on January 1, 2021. For more information, please refer to Appendix V.

§ 85319. Returning Contributions.

A candidate for state elective office may return all or part of any contribution to the donor who made the contribution at any time, whether or not other contributions are returned, except a contribution that the candidate made for state elective office to his or her own controlled committee.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2002, Ch. 212.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18537

§ 85320. Foreign Entities.

(a) No foreign government or foreign principal shall make, directly or through any other person, any contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(b) No person and no committee shall solicit or accept a contribution from a foreign government or foreign principal in connection with the qualification or support of, or opposition to, any state or local ballot measure.

(c) For the purposes of this section, a “foreign principal” includes the following:

(1) A foreign political party.

(2) A person outside the United States, unless either of the following is established:

(A) The person is an individual and a citizen of the United States.

(B) The person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States.

(3) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(4) A domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the foreign corporation who is neither a citizen of the United States nor a lawfully admitted permanent resident of the United States.

(d) This section shall not prohibit a contribution, expenditure, or independent expenditure made by a lawfully admitted permanent resident.

(e) Any person who violates this section shall be guilty of a misdemeanor and shall be fined an amount equal to the amount contributed or expended.

History: Added by Stats. 1997, Ch. 67; amended by Stats. 2000, Ch. 349.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18537

§ 85321. Post-Election Fundraising; Elections Held Prior to January 1, 2001.

Notwithstanding any other provision of this chapter, if a candidate for elective state office or the candidate’s controlled committee had net debts resulting from an election held prior to January 1, 2001, contributions to that candidate

or committee for that election are not subject to the limits of Sections 85301 and 85302.

History: Added by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.6, 18531.61, 18537

Article 4. Voluntary Expenditure Ceilings. § 85400 – 85403

§ 85400.	Voluntary Expenditure Ceilings.....	72
§ 85401.	Candidate Acceptance or Rejection of Expenditure Ceilings.....	72
§ 85402.	Lifting Expenditure Limits; Opponent's Use of Personal Funds.....	72
§ 85403.	Violations of Voluntary Expenditure Limits...	72

§ 85400. Voluntary Expenditure Ceilings.

(a) A candidate for elective state office, other than the Board of Administration of the Public Employees' Retirement System, who voluntarily accepts expenditure limits shall not make campaign expenditures in excess of the following:

(1) For an Assembly candidate, four hundred thousand dollars (\$400,000) in the primary or special primary election and seven hundred thousand dollars (\$700,000) in the general or special general election.

(2) For a Senate candidate, six hundred thousand dollars (\$600,000) in the primary or special primary election and nine hundred thousand dollars (\$900,000) in the general or special general election.

(3) For a candidate for the State Board of Equalization, one million dollars (\$1,000,000) in the primary election and one million five hundred thousand dollars (\$1,500,000) in the general election.

(4) For a statewide candidate other than a candidate for Governor or the State Board of Equalization, four million dollars (\$4,000,000) in the primary election and six million dollars (\$6,000,000) in the general election.

(5) For a candidate for Governor, six million dollars (\$6,000,000) in the primary election and ten million dollars (\$10,000,000) in the general election.

(b) For purposes of this section, "campaign expenditures" has the same meaning as "election-related activities" as defined in Section 82022.5.

(c) A campaign expenditure made by a political party on behalf of a candidate shall not be attributed to the limitations on campaign expenditures set forth in this section.

History: Added by Proposition 73 of the June 1988 Statewide Primary Election. (Formerly titled "Limitations on Gifts and Honoraria"); repealed by Stats. 1990, Ch. 84; added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001; amended by Stats. 2017, Ch. 749.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18540, 18542, 18543, 18544, 18545

§ 85401. Candidate Acceptance or Rejection of Expenditure Ceilings.

(a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time he or she files the statement of intention specified in Section 85200.

(b) A candidate may, until the deadline for filing nomination papers set forth in Section 8020 of the Elections Code, change his or her statement of acceptance or rejection of voluntary; expenditure limits provided he or she has not exceeded the voluntary expenditure limits. A candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits more than twice after the candidate's initial filing of the statement of intention for that election and office.

(c) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

(d) Notwithstanding Section 81004.5 or any other provision of this title, a candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits other than as provided for by this section and Section 85402.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2004, Ch. 9, effective January 22, 2004; amended by Stats. 2004, Ch. 207.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18542

§ 85402. Lifting Expenditure Limits; Opponent's Use of Personal Funds.

(a) Any candidate for elective state office who has filed a statement accepting the voluntary expenditure limits is not bound by those limits if an opposing candidate contributes personal funds to his or her own campaign in excess of the limits set forth in Section 85400.

(b) The commission shall require by regulation timely notification by candidates for elective state office who make personal contributions to their own campaign.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contribution Limits for Candidates Accepting Expenditure Ceilings"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18540, 18542, 18543

§ 85403. Violations of Voluntary Expenditure Limits.

Any candidate who files a statement of acceptance pursuant to Section 85401 and makes campaign expenditures in excess of the limits shall be subject to the remedies in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000).

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Time Periods for Expenditures"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.4

Article 5. Independent Expenditures. § 85500-85505

§ 85500.	Independent Expenditures; 24-Hour Disclosure; Coordination.	73
§ 85501.	Prohibition on Independent Expenditures by Candidate or Officeholder Controlled Committees.	73
§ 85505.	Internet Display of Independent Expenditures; 24-Hour Disclosure Report.	73

§ 85500. Independent Expenditures; 24-Hour Disclosure; Coordination.

(a) In addition to any other report required by this title, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent expenditures of one thousand dollars (\$1,000) or more during an election cycle in connection with a candidate for elective state office or state ballot measure, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

(b) An expenditure may not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Independent Expenditures"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18116, 18117, 18225.7, 18550

§ 85501. Prohibition on Independent Expenditures by Candidate or Officeholder Controlled Committees.

A controlled committee of a candidate may not make independent expenditures and may not contribute funds to

another committee for the purpose of making independent expenditures to support or oppose other candidates.

History: Added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Opinions: In re St. Croix (2005) 18 FPPC Ops. 1

* Please note that the Commission is enjoined from enforcing Section 85501. (See Reed v. FPPC, Super. Ct. Sacramento County, 2013, No. 34-2013-80001709.)

§ 85505. Internet Display of Independent Expenditures; 24-Hour Disclosure Report.

(a) The Secretary of State shall include on the Internet Web site of the Secretary of State's office, as part of the campaign finance activity that is publicly disclosed, any independent expenditure, as defined in Section 82031, that is reported pursuant to Section 85500 with respect to a candidate for elective state office and a statewide ballot measure. This information shall be linked to the part of the Web site that the Secretary of State maintains concerning that candidate or ballot measure.

(b) It is the intent of the Legislature that all forms created for the purpose of filing the online or electronic report required pursuant to Section 85500 include a separate field for the filer to input the legislative district number and the number or letter of a statewide ballot measure.

History: Added by Stats. 2002, Ch. 511.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18550

Article 6. Ballot Pamphlet. § 85600-85601

§ 85600.	Ballot Pamphlet Designation.	73
§ 85601.	Candidate Access to Ballot Pamphlet Statement.	73

§ 85600. Ballot Pamphlet Designation.

The Secretary of State shall designate in the state ballot pamphlet those candidates for statewide elective office, as defined in Section 82053, who have voluntarily agreed to the expenditure limitations set forth in Section 85400. Local elections officers shall designate in the voter information portion of the sample ballot those candidates for State Senate and Assembly who have voluntarily agreed to the expenditure limitations set forth in Section 85400.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to State Ballot Pamphlet"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

§ 85601. Candidate Access to Ballot Pamphlet Statement.

(a) A candidate for statewide elective office, as defined in Section 82053, who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the state ballot pamphlet that does not

exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets.

(b) Notwithstanding subdivision (e) of Section 88001 of this code or subdivision (e) of Section 9084 of the Elections Code, on and after November 6, 2002, the Secretary of State may not include in the state ballot pamphlet a statement from a candidate who has not voluntarily agreed to the expenditure limitations set forth in Section 85400.

(c) A candidate for State Senate or Assembly who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the voter information portion of the sample ballot that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with the timeframes and procedures set forth in the Elections Code for the preparation of the voter information portion of the sample ballot.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Candidate Access to Local Sample Ballot Materials"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

Article 7. Additional Contribution Requirements. § 85700-85704

§ 85700.	Donor Information Requirements; Return of Contributions.	74
§ 85701.	Laundered Contributions.	74
§ 85702.	Contributions from Lobbyists.	74
§ 85702.5.	Default Contribution Limits for City and County Jurisdictions.	74
§ 85703.	Local Jurisdictions.	74
§ 85704.	Prohibition on Earmarking.	75

§ 85700. Donor Information Requirements; Return of Contributions.

(a) A candidate or committee shall return not later than 60 days of receipt by the candidate or committee any contribution of one hundred dollars (\$100) or more for which the candidate or committee does not have on file in the records of the candidate or committee the name, address, occupation, and employer of the contributor.

(b) A candidate or committee may return a contribution pursuant to subdivision (a) after the date that the candidate or committee has reported the contribution under any provision of this title.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Disclosure of Occupation and Employer"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18570

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85701. Laundered Contributions.

Any candidate or committee that receives a contribution in violation of Section 84301 shall pay to the General Fund of the state the amount of the contribution.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Receipt of Laundered Contributions"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Opinions: *In re Pelham* (2001) 15 FPPC Ops. 1

§ 85702. Contributions from Lobbyists.

An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Bundling of Contributions"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18572

§ 85702.5. Default Contribution Limits for City and County Jurisdictions

(a) A county or city may, by ordinance or resolution, impose a limit on contributions to a candidate for elective county or city office that is different from the limit set forth in subdivision (d) of Section 85301. The limitation may also be imposed by means of a county or city initiative measure.

(b) A county or city that establishes a contribution limit pursuant to subdivision (a) may adopt enforcement standards for a violation of that limit, which may include administrative, civil, or criminal penalties.

(c) The Commission is not responsible for the administration or enforcement of a contribution limit adopted pursuant to subdivision (a).

(d) This section shall become operative on January 1, 2021. A county or city's limit on contributions to a candidate for elective county or city office that is in effect on the operative date of this section shall be deemed to be a limit imposed pursuant to subdivision (a).

History: Added by Stats. 2019, Ch. 556.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.4, 18428, 18503, 18521, 18521.5, 18523, 18523.1, 18530.4, 18531, 18531.5, 18531.6, 18531.61, 18533, 18537, 18544, 18545

§ 85703. Local Jurisdictions.

(a) Nothing in this act shall nullify contribution limitations or prohibitions of any local jurisdiction that apply to elections for local elective office, except that these limitations and prohibitions may not conflict with Section 85312. However, a local jurisdiction shall not impose any contribution limitations or prohibitions on an elected member of, or

a candidate for election to, a county central committee of a qualified political party, or on a committee primarily formed to support or oppose a person seeking election to a county central committee of a qualified political party.

(b) Limitations and prohibitions imposed by a local jurisdiction on payments for a member communication, as defined in subdivision (c), that conflict with Section 85312 and which are thereby prohibited by subdivision (a) include, but are not limited to, any of the following:

(1) Source restrictions on payments for member communications that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(2) Limitations on payments to a political party committee for a member communication that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(3) Limitations on the scope of payments considered directly related to the making of a member communication, including costs associated with the formulation, design, production, and distribution of the communication such as surveys, list acquisition, and consulting fees that are not expressly made applicable to member communications by a state statute or by a regulation adopted by the Commission pursuant to Section 83112.

(c) For purposes of this section, “member communication” means a communication, within the meaning of Section 85312, to members, employees, shareholders, or families of members, employees, or shareholders of an organization, including a communication by a political party to a member who is registered as expressing a preference for that party on his or her affidavit of registration pursuant to Sections 2150, 2151, and 2152 of the Elections Code.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled “Earmarking of Contributions Prohibited”); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2007, Ch. 708; amended by Stats. 2012, Ch. 3, effective February 10, 2012; amended by Stats. 2012, Ch. 502.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.7

§ 85704. Prohibition on Earmarking.

(a) A person shall not make any contribution to a committee or candidate that is earmarked for a contribution to any other particular committee ballot measure, or candidate unless the contribution is fully disclosed pursuant to Section 84302.

(b) For purposes of subdivision (a), a contribution is earmarked if the contribution is made under any of the following circumstances:

(1) The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.

(2) The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(3) After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

(c) Notwithstanding subdivisions (a) and (b), dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars (\$500) per calendar year from a single source for the purpose of making contributions or expenditures shall not be considered earmarked.

(d) The committee making the earmarked contribution shall provide the committee receiving the earmarked contribution with the name, address, occupation, and employer, if any, or principal place of business, if self-employed, of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time it makes the contribution. If the committee making the contribution received earmarked contributions that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify pursuant to this subdivision, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(e) Earmarked contributions shall be disclosed on reports required by Chapter 4 (commencing with Section 84100) as follows:

(1) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee but earmarks the funds to another specifically identified committee pursuant to paragraph (1) or (2) of subdivision (b) shall disclose the specifically identified committee as the recipient of the contribution and the other committee as an intermediary at the time the earmarked contribution is made. The specifically identified committee shall disclose the contributor and intermediary at the time the funds are received from the intermediary. The intermediary committee shall disclose receipt of the funds as a miscellaneous increase to cash at the time the funds are received and shall disclose the expenditure as the transfer of an earmarked contribution from the contributor to the specifically identified committee at the time the funds are transferred to the specifically identified committee.

(2) A contributor who qualifies as a committee pursuant to Section 82013 and who makes a contribution to a committee and subsequently earmarks the funds pursuant to paragraph (3) of subdivision (b) shall include a notation on the contributor’s next statement that the original contribution was subsequently earmarked, including the name of the specifically identified committee, ballot measure, or candidate

supported or opposed. The committee that previously received the funds shall also include a notation on its next statement that the original contribution was subsequently earmarked and shall disclose the original contributor to any new committee to which it transfers the earmarked funds. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(3) A contributor who qualifies as a committee pursuant to Section 82013 and who earmarks a contribution to a specifically identified ballot measure or candidate shall disclose a contribution to the committee that received the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate. Compliance with this paragraph satisfies the contributor's disclosure obligations under this title. The committee receiving the earmarked contribution shall disclose the contributor with a notation that the contribution was earmarked to the specific ballot measure or candidate when the contribution is received. The committee receiving the funds is solely responsible for disclosing the ultimate use of the earmarked contribution, whether by contribution or expenditure, at the time the funds are used. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds for disclosure on the new committee's campaign report. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

(f) A violation of this section shall not be based solely on the timing of contributions made or received.

History: Added by Proposition 208 of the November 1996 Statewide General Election. (Formerly titled "Contributions from Lobbyists"); repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2017, Ch. 546; amended by Stats. 2019, Ch. 558.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18432.5, 18533

Article 8. Appropriation. § 85802

§ 85802. Appropriation to the Fair Political Practices Commission.

There is hereby appropriated from the General Fund of the state to the Fair Political Practices Commission the sum of five hundred thousand dollars (\$500,000) annually above and beyond the appropriations established for the Commission in the fiscal year immediately prior to the effective date of this act, adjusted for cost-of-living changes, for expenditures to support the operations of the Commission pursuant to this act. If any provision of this act is successfully challenged, any attorney's fees and costs shall be paid from the General Fund and the Commission's budget shall not be reduced accordingly.

History: Added by Proposition 208 of the November 1996 Statewide General Election.

Chapter 6. Lobbyists. § 86100-86300

Article 1. Registration and Reporting. § 86100-86118.....	76
Article 2. Prohibitions. § 86200 – 86206.....	83
Article 3. Exemptions. § 86300.....	83

Article 1. Registration and Reporting. § 86100-86118

§ 86100. Registration.....	76
§ 86101. Registration; Time.	77
§ 86102. Registration Fees.	77
§ 86103. Lobbyist Certification; Requirements.	77
§ 86104. Lobbying Firm; Registration Requirements.....	77
§ 86105. Lobbyist Employer, Lobbying Coalition; Registration Requirements.....	78
§ 86106. Renewal of Registration.....	78
§ 86107. Registration Statement; Amendment; Termination.	79
§ 86108. Registration Statement; Publication.	79
§ 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.	79
§ 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.....	79
§ 86110. Recordkeeping.	79
§ 86111. Activity Expense; Agency Official.	80
§ 86112. Activity Expenses; Reporting.	80
§ 86112.3. Invitations.	80
§ 86112.5. Notification to Beneficiary of a Gift.	80
§ 86113. Periodic Reports; Lobbyists; Contents.....	80
§ 86114. Periodic Reports; Lobbying Firms; Contents..	81
§ 86115. Periodic Reports; Employers and Others.	81
§ 86116. Periodic Reports; Employers and Others; Contents.*	81
§ 86116.5. Periodic Reports; State and Local Government Agencies.	82
§ 86117. Periodic Reports; Filing; Time.....	82
§ 86118. Periodic Reports; Where to File.*	82

§ 86100. Registration.

(a) The following persons shall register with the Secretary of State:

(1) Lobbying firms.

(2) Lobbyist employers under subdivision (a) of Section 82039.5 who employ one or more in-house lobbyists.

(3) Lobbying coalitions who employ at least one in-house lobbyist.

(b) Each individual lobbyist shall submit a lobbyist certification under Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee, or as part of the registration of the lobbyist employer that employs the lobbyist.

(c) Lobbyist employers under subdivision (b) of Section 82039.5 who contract only for a lobbying firm's services, lobbying coalitions who contract for a lobbying firm's services and do not employ an in-house lobbyist, and persons

described in subdivision (b) of Section 86115, are not required to register with the Secretary of State, but shall maintain records and file quarterly reports under this chapter.

(d) (1) Except as provided in paragraph (2), a registration statement shall be filed both by online or electronic means and physically, submitting the original statement and one copy, in paper format.

(2) Upon certification by the Secretary of State of an online filing and disclosure system pursuant to paragraph (7) of subdivision (b) of Section 84602, a registration statement shall be filed by online or electronic means.

History: Amended by Stats. 1983, Chapter 209; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration with Secretary of State.") Amended by Stats 2010, Ch. 18; amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18249, 18601, 18616.4

§ 86101. Registration; Time.

Every lobbying firm and lobbyist employer who is required to file a registration statement under this chapter shall register with the Secretary of State no later than 10 days after qualifying as a lobbying firm or lobbyist employer.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Requirement of Registration.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18601

§ 86102. Registration Fees.

(a) The Secretary of State shall charge each lobbying firm and lobbyist employer required to file a registration statement under this chapter a fee of fifty dollars (\$50) per year for each lobbyist required to be listed on its registration statement.

(b) One-half of the moneys collected pursuant to this section shall be deposited in the Political Disclosure, Accountability, Transparency, and Access Fund, and the other one-half of the moneys shall be deposited in the General Fund.

History: Repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985 (Formerly titled "Renewal of Registration."); amended by Stats. 2012, Ch. 506.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18601

§ 86103. Lobbyist Certification; Requirements.*

A lobbyist certification shall include all of the following:

(a) A recent photograph of the lobbyist, the size of which shall be prescribed by the Secretary of State.

(b) The full name, business address, and telephone number of the lobbyist.

(c) A statement that the lobbyist has read and understands the prohibitions contained in Sections 86203 and 86205.

(d)(1) In the case of a lobbyist who filed a completed lobbyist certification in connection with the last regular session of the Legislature, a statement that the lobbyist has

completed, within the previous 12 months or will complete no later than June 30 of the following year, the course described in subdivision (b) of Section 8956. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year, the certification shall be accepted on a conditional basis. Thereafter, if the lobbyist completes the course no later than June 30 of the following year, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating that he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

(2) If, in the case of a new lobbyist certification, the lobbyist has not completed the course within the previous 12 months, the lobbyist certification shall include a statement that the lobbyist will complete a scheduled course within 12 months, and the lobbyist certification shall be accepted on a conditional basis. Following the lobbyist's completion of the ethics course, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the new lobbyist certification states that the lobbyist will complete the course within 12 months and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating he or she has completed the course and the date of completion. It shall be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.

(e) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Amendment; Termination"); amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 391; amended by Stats. 1995, Ch. 346; amended by Stats. 1997, Ch. 574.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18601, 18603.1

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54

*Section 86103 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86104. Lobbying Firm; Registration Requirements.*

The registration of a lobbying firm shall include:

(a) The full name, business address, and telephone number of the lobbying firm.

(b) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.

(c) The lobbyist certification of each lobbyist in the lobbying firm.

(d) For each person with whom the lobbying firm contracts to provide the following lobbying services.

(1) The full name, business address, and telephone number of the person.

(2) A written authorization signed by the person.

(3) The time period of the contract.

(4) Information sufficient to identify the nature and interests of the person including:

(A) If the person is an individual, the name and address of his or her employer, if any, or his or her principal place of business if the person is self-employed, and a description of the business activity in which the person or his or her employer is engaged.

(B) If the person is a business entity, a description of the business activity in which it is engaged.

(C) If the person is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents and, if the association has not more than 50 members, the names of the members.

(D) If the person is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

(5) The lobbying interests of the person.

(6) A list of the state agencies whose legislative or administrative actions the lobbying firm will attempt to influence for the person.

(e) The name and title of a partner, owner, or officer of the lobbying firm who is responsible for filing statements and reports and keeping records required by this chapter on behalf of the lobbying firm, and a statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in Sections 86203 and 86205.

(f) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Amended by Stats. 1976, Ch. 415, effective July 10, 1976; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Registration Statement; Publication."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18601

*Section 86104 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86105. Lobbyist Employer, Lobbying Coalition; Registration Requirements.

The registration for a lobbyist employer that employs lobbyists or a lobbying coalition shall include:

(a) The following information regarding the lobbyist employer or coalition:

(1) The filer's full name, business address, email address, and telephone number.

(2) Information sufficient to identify the nature and interests of the filer, including:

(A) For an individual, the name and address of the filer's employer, if any, or if self-employed, the filer's principal place of business, and a description of the business activity in which the filer or the filer's employer is engaged.

(B) For a business entity, a description of the business activity in which it is engaged.

(C) For an industry, trade, or professional association, a description of the industry, trade, or profession it represents including a specific description of any part or faction of the industry, trade, or profession that the association exclusively or primarily represents and, if the association has 50 or fewer members, the names of the members.

(D) For other persons, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest that the person principally represents or from which its membership or financial support is principally derived.

(3) The lobbying employer's or coalition's lobbying interests.

(4) A list of the state agencies whose legislative or administrative actions the lobbyist employer or coalition will attempt to influence.

(b) The lobbyist employer or coalition shall provide:

(1) A list of the lobbyists who are employed by the lobbyist employer or coalition.

(2) The lobbyist certification of each lobbyist employed.

(c) Any other information required by the Commission consistent with this chapter's purposes and provisions.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Accounts; Designation by Name; Deposits."); amended by Stats. 1987, Ch. 459; repealed and reenacted as amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18117, 18616.4

§ 86106. Renewal of Registration.

Each registered lobbying firm and lobbyist employer which will be conducting activities which require registration shall renew its registration by filing photographs of its lobbyists, authorizations, and a registration statement between November 1 and December 31, of each even-numbered year. Each lobbyist shall renew his or her lobbyist certification in connection with the renewal of registration by the lobbyist's lobbying firm or employer.

History: Repealed by Stats. 1979, Ch. 592; (Formerly titled "Accounts; Payment of Expenses; Petty Cash"); added by Stats. 1985, Ch. 1183 effective September 29, 1985; amended by Stats. 1987, Ch. 936; amended by Stats. 1997, Ch. 574.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18603, 18603.1

§ 86107. Registration Statement; Amendment; Termination.*

(a) If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed both by online or electronic means and physically, submitting the original and one copy of the amendment, in paper format, with the Secretary of State within 20 days after the change. However, if the change includes the name of a person by whom a lobbying firm is retained, the registration statement of the lobbying firm shall be amended and filed to show that change prior to the lobbying firm's attempting to influence any legislative or administrative action on behalf of that person. Lobbying firms and lobbyist employers that, during a regular session of the Legislature, cease all activity that required registration shall file a notice of termination within 20 days after the cessation. Lobbying firms and lobbyist employers that, at the close of a regular session of the Legislature, cease all activity that required registration are not required to file a notice of termination.

(b) If any change occurs in any of the information contained in a lobbyist certification or if a lobbyist terminates all activity that required the certification, the lobbyist shall submit an amended certification or notice of termination to his or her lobbying firm or lobbyist employer for filing with the Secretary of State within the time limits specified in subdivision (a). A lobbyist who, at the close of a regular session of the Legislature, ceases all activity that required certification is not required to file a notice of termination.

(c) Lobbyists and lobbying firms are subject to Section 86203 for the earlier of six months after filing a notice of termination or six months after the close of a regular session of the Legislature at the close of which the lobbyist or lobbying firm ceased all activity that required certification or registration.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Contents of Periodic Reports."); amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 936; amended by Stats. 2010, Ch. 18.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18601, 18603

*Section 86107 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86108. Registration Statement; Publication.*

All information listed on any registration statement and on any amendment, renewal, or notice of termination shall be printed by the Secretary of State and made public within 30 days after filing.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18117

*Section 86108 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86109. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers.*

Within 140 days after the commencement of each regular session of the Legislature, the Secretary of State shall publish a directory of registered individual lobbyists, lobbying firms, and lobbyist employers. The Secretary of State shall publish, from time to time, such supplements to the directory as may be necessary.

History: Amended by Stats. 1984, Ch. 161; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Employers and Others; Contents."); amended by Stats. 1991, Ch. 391.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18117

*Section 86109 was repealed by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86109.5. Directory of Lobbyists, Lobbying Firms, and Lobbyist Employers; Online Version.*

(a) The Secretary of State shall establish and maintain on the Internet an online version of the Directory of Lobbyist, Lobbying Firms, and Lobbying Employers. The Secretary of State shall update the directory weekly.

(b) The Secretary of State shall also display on the Internet a list of the specific changes made to the Directory of Lobbyist, Lobbying Firms, and Lobbying Employers, including new registrations and listings, additions, deletions, and other revisions, during the seven days preceding the update required by subdivision (a).

(c) This section may not be implemented until July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99.

(d) Notwithstanding any other provision of this title, the lobbying data made available on the Internet shall include the street name and building number of the persons or entity representatives listed on all the documents submitted to the Secretary of State pursuant to Chapter 6 (commencing with Section 86100).

History: Added by Stats. 1999, Ch. 855.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18117

*Section 86109.5 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86110. Recordkeeping.

Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments or incur expenses or expect to receive payments, make payments or incur expenses in connection with activities which are reportable

pursuant to this chapter shall keep detailed accounts, records, bills, and receipts as shall be required by regulations adopted by the Commission to expedite the performance of all obligations imposed by this chapter.

History: Amended by Stats. 1979, Ch. 592; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Periodic Reports; Filing; Time.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18610, 18612, 18615

§ 86111. Activity Expense; Agency Official.

(a) "Activity expense" as used in this chapter means any expense incurred or payment made by a lobbyist, lobbying firm, lobbyist employer or a person described in subdivision (b) of Section 86115, or arranged by a lobbyist or lobbying firm, which benefits in whole or in part any elective state official, legislative official, agency official, state candidate, or a member of the immediate family of one of these individuals. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation but do not include campaign contributions.

(b) "Agency official" as used in this chapter means any official of a state agency whose administrative actions the lobbyist, lobbying firm, lobbyist employer, or person described in subdivision (b) of Section 86115 has attempted or is attempting to influence.

History: Added by Stats. 1979, Ch. 592; amended by Stats. 1976, Ch. 415, effective July 10, 1976, repealed former Section 86111 titled "Periodic Reports; Publication"; repealed and reenacted as amended by Stats. 1985, Ch. 1183, effective September 29, 1985. (Formerly titled "Lobbying Reports and Statements; Where to File.")

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18229.1, 18945, 18950

§ 86112. Activity Expenses; Reporting.

When a person is required to report activity expenses pursuant to this article, the following information shall be provided:

(a) The date and amount of each activity expense.

(b) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of benefit.

(c) The full name of the payee of each expense if other than the beneficiary.

(d) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18611, 18613, 18640

§ 86112.3. Invitations.

(a) Each person filing a report pursuant to this article who sends any written or printed invitation to an elected state officer, candidate for elective state office, legislative official or agency official, shall include on the invitation or on a letter attached to the invitation the following typed, printed, or handwritten statement that is at least as large and

readable as 8-point Roman boldface type, in a color or print that contrasts with the background so as to be easily legible: Attendance at this event by a public official will constitute acceptance of a reportable gift.

(b) The notice specified in subdivision (a) shall not be required to appear on any invitation wherein attendance at the event described in the invitation will not constitute acceptance of a reportable gift by an elected state officer, candidate for elective state office, legislative official or agency official, pursuant to paragraph (1) of subdivision (a) of Section 87207.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1993, Ch. 1140.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18117

§ 86112.5. Notification to Beneficiary of a Gift.

(a) Each person filing a report pursuant to this article shall provide each beneficiary of a gift listed within the report the following information:

(1) The date and amount of each gift reportable by the beneficiary.

(2) A description of the goods or services provided to the beneficiary.

(b) The information required to be disclosed pursuant to subdivision (a) shall be provided to the beneficiary within 30 days following the end of each calendar quarter in which the gift was provided. For the purposes of meeting the disclosure requirements of this section, a lobbyist firm or lobbyist employer may provide the beneficiary a copy of the activity expense section of the report submitted to the Secretary of State pursuant to this article.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

History: Added by Stats. 1991, Ch. 322.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18640

§ 86113. Periodic Reports; Lobbyists; Contents.

(a) A lobbyist shall complete and verify a periodic report which contains:

(1) A report of all activity expenses by the lobbyist during the reporting period; and

(2) A report of all contributions of one hundred dollars (\$100) or more made or delivered by the lobbyist to any elected state officer or state candidate during the reporting period.

(b) A lobbyist shall provide the original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18611, 18942

Opinions: *In re Nida* (1976) 2 FPPC Ops. 1
In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147
In re Witt (1975) 1 FPPC Ops. 145
In re Horn (1975) 1 FPPC Ops. 126
In re Morrissey (1975) 1 FPPC Ops. 104
In re Spellman (1975) 1 FPPC Ops. 16

§ 86114. Periodic Reports; Lobbying Firms; Contents.*

(a) Lobbying firms shall file periodic reports containing all of the following:

(1) The full name, address, and telephone number of the lobbying firm.

(2) The full name, business address, and telephone number of each person who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement of expenses, received from the person for lobbying services during the reporting period.

(3) The total amount of payments received for lobbying services during the period.

(4) A periodic report completed and verified by each lobbyist in the lobbying firm pursuant to Section 86113.

(5) Each activity expense incurred by the lobbying firm including those reimbursed by a person who contracts with the lobbying firm for lobbying services. A total of all activity expenses of the lobbying firm and all of its lobbyists shall be included.

(6) If the lobbying firm subcontracts with another lobbying firm for lobbying services:

(A) The full name, address, and telephone number of the subcontractor.

(B) The name of the person for whom the subcontractor was retained to lobby.

(C) The total amount of all payments made to the subcontractor.

(7) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support such officers or candidates. If this contribution is reported by the lobbying firm or by a committee sponsored by the lobbying firm in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee and the identification number of the committee.

(8) Any other information required by the Commission consistent with the purposes and provisions of this chapter.

(b) In addition to the information required by subdivision (a), lobbying firms which qualify pursuant to paragraph (2) of subdivision (a) of Section 82038.5 shall also report the name and title of each partner, owner, officer, and employee of the lobbying firm who, on at least five separate occasions during the reporting period, engaged in direct communication with any elective state official, legislative official, or agency official, for the purpose of influencing legislative or

administrative action on behalf of a person who contracts with the lobbying firm for lobbying services. This does not include individuals whose actions were purely clerical.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18613, 18614, 18616.4

*Section 86114 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86115. Periodic Reports; Employers and Others.

Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86116:

(a) Any lobbyist employer; and

(b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter, unless all of the payments are of the type described in subdivision (c) of Section 82045.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18616, 18616.4

Opinions: *In re Kovall* (1978) 4 FPPC Ops. 95
In re Evans (1978) 4 FPPC Ops. 54
In re Sloan (1976) 2 FPPC Ops. 105
In re Gillies (1975) 1 FPPC Ops. 165
In re Stern (1975) 1 FPPC Ops. 59
In re Witt (1975) 1 FPPC Ops. 1

§ 86116. Periodic Reports; Employers and Others; Contents.*

Every person described in Section 86115 shall file periodic reports containing the following information:

(a) The name, business address, and telephone number of the lobbyist employer or other person filing the report.

(b) The total amount of payments to each lobbying firm.

(c) The total amount of all payments to lobbyists employed by the filer.

(d) A description of the specific lobbying interests of the filer.

(e) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113.

(f) Each activity expense of the filer. A total of all activity expenses of the filer shall be included.

(g) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support the officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the

name of the committee, and the identification number of the committee.

(h) (1) Except as set forth in paragraph (2), the total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

(2) A filer that makes payments to influence a ratemaking or quasi-legislative proceeding before the Public Utilities Commission, as defined in subdivision (b) or (c), respectively, of Section 82002, may, in lieu of reporting those payments pursuant to paragraph (1), report only the portion of those payments made to or for the filer's attorneys for time spent appearing as counsel and preparing to appear as counsel, or to or for the filer's witnesses for time spent testifying and preparing to testify, in this type of Public Utilities Commission proceeding. This alternative reporting of these payments made during a calendar month is not required to include payments made to an attorney or witness who is an employee of the filer if less than 10 percent of his or her compensated time in that month was spent in appearing, testifying, or preparing to appear or testify before the Public Utilities Commission in a ratemaking or quasi-legislative proceeding. For the purposes of this paragraph, time spent preparing to appear or preparing to testify does not include time spent preparing written testimony.

(i) Any other information required by the commission consistent with the purposes and provisions of this chapter.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 905; amended by Stats. 1987, Ch. 459; amended by Stats. 2001, Ch. 921.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18614, 18616, 18616.4

Opinions: *In re Evans* (1978) 4 FPPC Ops. 54
In re Herr (1977) 3 FPPC Ops. 11
In re Sloan (1976) 2 FPPC Ops. 105
In re Nida (1976) 2 FPPC Ops. 1
In re Grunsky (1975) 1 FPPC Ops. 158
In re Atlantic-Richfield Co. (1975) 1 FPPC Ops. 147
In re Witt (1975) 1 FPPC Ops. 145
In re Morrissey (1975) 1 FPPC Ops. 130
In re Carothers (1975) 1 FPPC Ops. 122
In re Wallace (1975) 1 FPPC Ops. 118
In re Gillies (1975) 1 FPPC Ops. 110
In re League of California Milk Producers (1975) 1 FPPC Ops. 13
In re Witt (1975) 1 FPPC Ops. 1

*Section 86116 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

§ 86116.5. Periodic Reports; State and Local Government Agencies.

(a) In addition to the information required pursuant to Section 86116, all state and local agencies that file reports pursuant to Sections 86115 and 86116 shall disclose, except for overhead expenses, all payments of two hundred fifty dollars (\$250) or more made in a reporting period, including, but not limited to, all of the following:

(1) Goods and services used by a lobbyist or used to support or assist a lobbyist in connection with his or her activities as a lobbyist.

(2) Payments of any other expenses which would not have been incurred but for the filer's activities to influence or attempt to influence legislative or administrative action.

(3) Dues or similar payments made to any organization, including a federation, confederation, or trade, labor, or membership organization, that makes expenditures equal to 10 percent of its total expenditures, or fifteen thousand dollars (\$15,000), or more, during any calendar quarter, to influence legislative or administrative action.

(b) Reports required pursuant to this section may be disclosed on a separate schedule and shall include all of the following information:

(1) The name and address of the payee.

(2) The total payments made during the reporting period.

(3) The cumulative amount paid during the calendar year.

(c) All statements required by this section shall be filed as specified by Sections 86117 and 86118.

History: Added by Stats. 1992, Ch. 214.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18616

§ 86117. Periodic Reports; Filing; Time.

(a) Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. The period covered shall be from the first day of January of each new biennial legislative session through the last day of the calendar quarter prior to the month during which the report is filed, except as specified in subdivision (b), and except that the period covered shall not include any information reported in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire legislative session to date.

(b) The period covered by the first report a person is required to file pursuant to Sections 86114 and 86116 shall begin with the first day of the calendar quarter in which the filer first registered or qualified. On the first report a person is required to file, the total amount shall be stated for the entire calendar quarter covered by the first report.

History: Added by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1994, Ch. 1139.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18617

§ 86118. Periodic Reports; Where to File.*

The original and one copy of each report required by Sections 86114 and 86116 shall be filed with the Secretary of State, unless filing in paper format is no longer required by Sections 84605 and 84606.

History: Added by Stats. 1986, Ch. 905; amended by Stats. 2010, Ch. 18.

*Section 86118 was amended by SB 1239 (Stats. 2018, Ch. 662) with a delayed operation date conditioned upon the Secretary of State certifying an online filing and disclosure system under 84602 (b)(7). For more information, please refer to Appendix V.

Article 2. Prohibitions.

§ 86201 – 86206

§ 86201.	Gift.....	83
§ 86203.	Unlawful Gifts.	83
§ 86204.	Receipt of Unlawful Gift.....	83
§ 86205.	Acts Prohibited.	83
§ 86206.	Placement Agent Fees.....	83

§ 86201. Gift.

“Gift” as used in this article means a gift made directly or indirectly to any state candidate, elected state officer, or legislative official, or to an agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18624, 18945, 18946.2

Opinions: *In re Goddard* (1978) 4 FPPC Ops. 1
In re Olson (1975) 1 FPPC Ops. 107
In re Smithers (1975) 1 FPPC Ops. 42

§ 86203. Unlawful Gifts.

It shall be unlawful for a lobbyist, or lobbying firm, to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18624, 18942, 18945, 18946.2

Opinions: *In re Institute for Governmental Advocates* (1982) 7 FPPC Ops. 1
In re Goddard (1978) 4 FPPC Ops. 1
In re Reinhardt (1977) 3 FPPC Ops. 83
In re Zenz (1975) 1 FPPC Ops. 195
In re Horn (1975) 1 FPPC Ops. 126
In re Olson (1975) 1 FPPC Ops. 107
In re Gilchrist (1975) 1 FPPC Ops. 82
In re Smithers (1975) 1 FPPC Ops. 42
In re Blenkle (1975) 1 FPPC Ops. 37

§ 86204. Receipt of Unlawful Gift.

It shall be unlawful for any person knowingly to receive any gift which is made unlawful by Section 86203.

History: Amended by Stats. 1984, Ch. 161.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18941

§ 86205. Acts Prohibited.

No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action.

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or to cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

History: Amended by Stats. 1985, Ch. 1183, effective September 29, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18625

Opinions: *In re Reinhardt* (1977) 3 FPPC Ops. 83

§ 86206. Placement Agent Fees.

Nothing in this article prohibits the payment of fees for contractual services provided to an investment manager by a placement agent, as defined in Section 82047.3, who is registered with the Securities and Exchange Commission and regulated by the Financial Industry Regulatory Authority, except as provided in subdivision (f) of Section 86205.

History: Added by Stats. 2010, Ch. 668

Article 3. Exemptions.

§ 86300

§ 86300. Exemptions.

The provisions of this chapter are not applicable to:

(a) Any elected public official acting in his official capacity, or any employee of the State of California acting within the scope of his employment; provided that, an employee of the State of California, other than a legislative official, who attempts to influence legislative action and who would be required to register as a lobbyist except for the provisions of this subdivision shall not make gifts of more than ten dollars (\$10) in a calendar month to an elected state officer or legislative official.

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisement, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television station or individual, engages in no further or other activities in connection with urging legislative or administrative action other than to appear before a committee of the Legislature or before a state agency in support of or in opposition to such action; or

(c) A person when representing a bona fide church or religious society solely for the purpose of protecting the public right to practice the doctrines of such church.

History: Amended by Stats. 1975, Ch. 1079.

References at the time of publication (see page 2):

Opinions: *In re Herr* (1977) 3 FPPC Ops. 11
In re Morgan (1975) 1 FPPC Ops. 177

Chapter 7. Conflicts of Interests.

§ 87100-87505

Article 1. General Prohibitions. § 87100-87105.....	84
Article 2. Disclosure. § 87200 – 87210	87
Article 3. Conflict of Interest Codes. § 87300 – 87314	90
Article 3.5. Multiagency Filers. § 87350.....	94
Article 4. Disqualification of Former Officers and Employees. § 87400 – 87410.....	94
Article 4.5. Disqualification of State Officers and Employees. § 87450	98
Article 4.6. Loans to Public Officials. § 87460-87462	98
Article 5. Filing. § 87500-87505	99

Article 1. General Prohibitions.

§ 87100-87105

§ 87100. Public Officials; State and Local.....	84
§ 87100.1. Professional Engineers and Surveyors as Consultants.	84
§ 87101. Legally Required Participation in Governmental Decision.	84
§ 87102. Applicability of Enforcement Provisions; Additional Requirements.	84
§ 87102.5. Legislature; Use of Position to Influence Decisions.	85
§ 87102.6. Nongeneral Legislation; Definitions.	85
§ 87102.8. Elected State Officer; Use of Position to Influence Decisions.....	86
§ 87103. Financial Interest.....	86
§ 87103.5. Income from Retail Sales.....	87
§ 87103.6. Source of Income; Payments to Government Agencies.	87
§ 87104. Prohibitions on Public Officials.....	87
§ 87105. Manner of Disqualification.	87

§ 87100. Public Officials; State and Local.

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, **18360.1**, 18700, 18700.2, 18700.3, 18701, 18701.1, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18704, 18705, 18705.1, 18705.2, 18706, 18707, 18730.1, 18940, 18941, 18942, 18944, 18945, 18950.1

Opinions: *In re Hanko* (2002) 16 FPPC Ops. 1
In re Galligan (2000) 14 FPPC Ops. 1

§ 87100.1. Professional Engineers and Surveyors as Consultants.

(a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which he or she is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decisionmaking authority as a contract city or county engineer or surveyor.

(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.

(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:

(1) The engineer has received income of two hundred fifty dollars (\$250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district.

(2) The district includes other parcels in addition to those parcels for which the engineer received the income.

The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

History: Added by Stats. 1991, Ch. 887.

§ 87101. Legally Required Participation in Governmental Decision.

Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make his participation legally required for purposes of this section.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18702, 18702.1, 18704, 18705, 18707, 18708

Opinions: *In re Tobias* (1999) 5 FPPC Ops. 5
In re Brown (1978) 4 FPPC Ops. 19
In re Hudson (1978) 4 FPPC Ops. 13
In re Hopkins (1977) 3 FPPC Ops. 107
In re Maloney (1977) 3 FPPC Ops. 69

§ 87102. Applicability of Enforcement Provisions; Additional Requirements.

The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. Except as provided in Section 87102.5, the remedies provided in Chapters

3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

History: Amended by Stats. 1980, Ch. 1029; amended by Stats. 1990, Ch. 84.

§ 87102.5. Legislature; Use of Position to Influence Decisions.

(a) The remedies provided in Chapter 3 (commencing with Section 83100) shall apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use his or her official position to influence any of the following governmental decisions in which he or she knows or has reason to know that he or she has a financial interest:

(1) Any state governmental decision, other than any action or decision before the Legislature, made in the course of his or her duties as a member.

(2) Approval, modification, or cancellation of any contract to which either house or a committee of the Legislature is a party.

(3) Introduction as a lead author of any legislation that the member knows or has reason to know is nongeneral legislation.

(4) Any vote in a legislative committee or subcommittee on what the member knows or has reason to know is nongeneral legislation.

(5) Any rollcall vote on the Senate or Assembly floor on an item which the member knows is nongeneral legislation.

(6) Any action or decision before the Legislature in which all of the following occur:

(A) The member has received any salary, wages, commissions, or similar earned income within the preceding 12 months from a lobbyist employer.

(B) The member knows or has reason to know the action or decision will have a direct and significant financial impact on the lobbyist employer.

(C) The action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(7) Any action or decision before the Legislature on legislation that the member knows or has reason to know will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the member has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(b) For purposes of this section, all of the following apply:

(1) "Any action or decision before the Legislature" means any vote in a committee or subcommittee, or any rollcall vote on the floor of the Senate or Assembly.

(2) "Financial interest" means an interest as defined in Section 87103.

(3) "Legislation" means a bill, resolution, or constitutional amendment.

(4) "Nongeneral legislation" means legislation that is described in Section 87102.6 and is not of a general nature pursuant to Section 16 of Article IV of the Constitution.

(5) A Member of the Legislature has reason to know that an action or decision will have a direct and significant financial impact on a person with respect to which disqualification may be required pursuant to subdivision (a) if either of the following apply:

(A) With the knowledge of the member, the person has attempted to influence the vote of the member with respect to the action or decision.

(B) Facts have been brought to the member's personal attention indicating that the action or decision will have a direct and significant impact on the person.

(6) The prohibitions specified in subdivision (a) do not apply to a vote on the Budget Bill as a whole, or to a vote on a consent calendar, a motion for reconsideration, a waiver of any legislative rule, or any purely procedural matter.

(7) A Member of the Legislature has reason to know that legislation is nongeneral legislation if facts have been brought to his or her personal attention indicating that it is nongeneral legislation.

(8) Written advice given to a Member of the Legislature regarding his or her duties under this section by the Legislative Counsel shall have the same effect as advice given by the Commission pursuant to subdivision (b) of Section 83114 if both of the following apply:

(A) The member has made the same written request based on the same material facts to the Commission for advice pursuant to Section 83114 as to his or her duties under this section, as the written request and facts presented to the Legislative Counsel.

(B) The Commission has not provided written advice pursuant to the member's request prior to the time the member acts in good faith reliance on the advice of the Legislative Counsel.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18700.3, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18703.4, 18704, 18704.1, 18704.5, 18705, 18705.1, 18705.2, 18706

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87102.6. Nongeneral Legislation; Definitions.

(a) "Nongeneral legislation" means legislation as to which both of the following apply:

(1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.

(2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

(1) "Legislation" means a bill, resolution, or constitutional amendment.

(2) “Public generally” includes an industry, trade, or profession.

(3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.

(4) A legislative district, county, city, or special district constitutes a significant segment of the public.

(5) More than a small number of persons or pieces of real property is a significant segment of public.

(6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.

(7) The Budget Bill as a whole is not nongeneral legislation.

(8) Legislation that contains at least one provision that constitutes nongeneral legislation is nongeneral legislation, even if the legislation also contains other provisions that are general and do not constitute nongeneral legislation.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2006, Ch. 538.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18700.3, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18704, 18704.1, 18704.5, 18705, 18705.1, 18705.2, 18706

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87102.8. Elected State Officer; Use of Position to Influence Decisions.

(a) No elected state officer, as defined in subdivision (f) of Section 14 of Article V of the California Constitution, shall make or participate in the making of, or use his or her official position to influence, any governmental decision before the agency in which the elected state officer serves, where he or she knows or has reason to know that he or she has a financial interest.

(b) An elected state officer knows or has reason to know that he or she has a financial interest in any action by, or a decision before the agency in which he or she serves where either of the following occur:

(1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of “public generally” and “significant segment of the public” contained in Section 87102.6 shall apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) shall apply to violations of this section.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 674.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18232, 18700.1, 18700.2, 18700.3, 18701, 18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18704, 18704.1, 18704.5, 18705, 18705.1, 18705.2, 18706

Opinions: *In re Galligan* (2000) 14 FPPC Ops. 1

§ 87103. Financial Interest.

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the Commission to equal the same amount determined by the Commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official’s agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

History: Amended by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 183; amended by Stats. 1984, Ch. 931; amended by Stats. 1985, Ch. 611; amended by Stats. 1994, Ch. 386; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18229.1, 18232, 18700, 18700.1, 18700.2, 18700.3, 18702.5, 18701,

18701.1, 18702, 18702.1, 18702.2, 18702.3, 18702.4, 18702.5, 18703, 18704, 18704.1, 18704.5, 18705, 18705.1, 18705.2, 18706, 18707, 18730, 18730.1, 18940, 18940.2, 18941, 18942, 18942.1, 18944, 18945, 18946.2, 18950.1

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9
In re Hanco (2002) 16 FPPC Ops. 1
In re Galligan (2000) 14 FPPC Ops. 1
In re Legan (1985) 9 FPPC Ops. 1
In re Nord (1983) 8 FPPC Ops. 6
In re Ferraro (1978) 4 FPPC Ops. 62
In re Callanan, Sands and Hill (1978) 4 FPPC Ops. 33
In re Brown (1978) 4 FPPC Ops. 19
In re Hopkins (1977) 3 FPPC Ops. 107
In re Gillmor (1977) 3 FPPC Ops. 38
In re Moore (1977) 3 FPPC Ops. 33
In re Thomas (1977) 3 FPPC Ops. 30
In re Sherwood (1976) 2 FPPC Ops. 168
In re Sankey (1976) 2 FPPC Ops. 157
In re Owen (1976) 2 FPPC Ops. 77
In re Thorner (1975) 1 FPPC Ops. 198
In re Biondo (1975) 1 FPPC Ops. 54
In re Presley (1975) 1 FPPC Ops. 39

§ 87103.5. Income from Retail Sales.

(a) Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

(b) Notwithstanding subdivision (c) of Section 87103, in a jurisdiction with a population of 10,000 or less which is located in a county with 350 or fewer retail businesses, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official of that jurisdiction who owns a 10-percent or greater interest in the entity, if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer does not exceed one percent of the gross sales revenues that the business entity earned during the 12 months prior to the time the decision is made.

(c) For the purposes of subdivision (b):

(1) Population in a jurisdiction shall be established by the United States Census.

(2) The number of retail businesses in a county shall be established by the previous quarter's Covered Employment and Wages Report (ES-202) of the Labor Market Information Division of the California Employment Development Department.

History: Added by Stats. 1984, Ch. 931; amended by Stats. 2002, Ch. 654.

§ 87103.6. Source of Income; Payments to Government Agencies.

Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to

process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

History: Added by Stats. 1991, Ch. 887.

§ 87104. Prohibitions on Public Officials.

(a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member, officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing his or her employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

History: Added by Stats. 1994, Ch. 414; amended by Stats. 1997, Ch. 145.

§ 87105. Manner of Disqualification.

(a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.

History: Added by Stats. 2002, Ch. 233.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18702, 18702.1, 18702.5, 18707

Article 2. Disclosure. § 87200 – 87210

§ 87200. Applicability. 88

§ 87201.	Candidates.....	88
§ 87202.	Officials - Elected, Appointed and Hold Over.....	88
§ 87203.	Officeholders; Annual Statements.....	88
§ 87204.	Leaving Office.....	88
§ 87205.	Persons Completing and Beginning Term of Office on the Same Day.....	89
§ 87206.	Disclosure of Investment or Interest in Real Property.....	89
§ 87206.5.	Disclosure of Leasehold Interest.....	89
§ 87207.	Disclosure of Income.....	89
§ 87208.	Disclosure of Investments and Interests in Real Property; Incorporation by Reference.....	90
§ 87209.	Business Positions.....	90
§ 87210.	Gifts Made Through Intermediaries and Others - Disclosure Requirements.....	90

§ 87200. Applicability.

This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the High-Speed Rail Authority, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

History: Amended by Stats. 1975, Ch. 797; effective September 16, 1975, operative September 5, 1975; amended by Stats. 1976, Ch. 129, effective May 5, 1976; amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 727, effective July 1, 1985; amended by Stats. 1985, Ch. 611; amended by Stats. 1989, Ch. 403; amended by Stats. 2012, Ch. 626, effective September 27, 2012.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18700.3, 18701, 18702, 18702.1, 18702.5, 18707, 18723, 18724, 18732.5, 18753, 18940.1

§ 87201. Candidates.

Every candidate for an office specified in Section 87200 other than a justice of an appellate court or the Supreme Court shall file no later than the final filing date of a declaration of candidacy, a statement disclosing his or her investments, his or her interests in real property, and any income received during the immediately preceding 12 months.

This statement shall not be required if the candidate has filed, within 60 days prior to the filing of his or her declaration of candidacy, a statement for the same jurisdiction pursuant to Section 87202 or 87203.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1980, Ch. 928; amended by Stats. 1984, Ch. 931; amended by Stats. 1992, Ch. 1141.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18732.5

Opinions: *In re Boreman* (1975) 1 FPPC Ops. 101

§ 87202. Officials - Elected, Appointed and Hold Over.

(a) Every person who is elected to an office specified in Section 87200 shall, within 30 days after assuming the office, file a statement disclosing his or her investments and his or her interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Every person who is appointed or nominated to an office specified in Section 87200 shall file such a statement not more than 30 days after assuming office, provided, however, that a person appointed or nominated to such an office who is subject to confirmation by the Commission on Judicial Appointments or the State Senate shall file such a statement no more than 10 days after the appointment or nomination.

The statement shall not be required if the person has filed, within 60 days prior to assuming office, a statement for the same jurisdiction pursuant to Section 87203.

(b) Every elected state officer who assumes office during the month of December or January shall file a statement pursuant to Section 87203 instead of this section, except that:

(1) The period covered for reporting investments and interests in real property shall begin on the date the person filed his or her declarations of candidacy.

(2) The period covered for reporting income shall begin 12 months prior to the date the person assumed office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1978, Ch. 537; amended by Stats. 1989, Ch. 499; amended by Stats. 1997, Ch. 36.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18722, 18723, 18732.5, 18735

§ 87203. Officeholders; Annual Statements.

Every person who holds an office specified in Section 87200 shall, each year at a time specified by Commission regulations, file a statement disclosing his investments, his interests in real property and his income during the period since the previous statement filed under this section or Section 87202. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

History: Amended by Stats. 1976, Ch. 1161.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18723, 18732.5

Opinions: *In re Sampson* (1975) 1 FPPC Ops. 183

§ 87204. Leaving Office.

Every person who leaves an office specified in Section 87200 shall, within thirty days after leaving the office, file a statement disclosing his investments, his interests in real property, and his income during the period since the previous statement filed under Sections 87202 or 87203. The statement shall include any investments and interests in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18722, 18723, 18732.5

§ 87205. Persons Completing and Beginning Term of Office on the Same Day.

A person who completes a term of an office specified in Section 87200 and within 45 days begins a term of the same office or another such office of the same jurisdiction is deemed not to assume office or leave office.

History: Amended by Stats. 1977, Ch. 1193; amended by Stats. 1997, Ch. 145; amended by Stats. 2005, Ch. 200.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18732.5

§ 87206. Disclosure of Investment or Interest in Real Property.

If an investment or an interest in real property is required to be disclosed under this article, the statement shall contain:

(a) A statement of the nature of the investment or interest.

(b) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.

(c) The address or other precise location of the real property.

(d) A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000), whether it exceeds ten thousand dollars (\$10,000) but does not exceed one hundred thousand dollars (\$100,000), whether it exceeds one hundred thousand dollars (\$100,000), but does not exceed one million dollars (\$1,000,000) or whether it exceeds one million dollars (\$1,000,000).

(e) In the case of a statement filed under Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

(f) For purposes of disclosure under this article, "interest in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.

History: Amended by Stats. 1980, Ch. 1000; amended by Stats. 1984, Ch. 931; amended by Stats. 2000, Ch. 130.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18233, 18729, 18732.5

Opinions: *In re Schabarum* (1975) 1 FPPC Ops. 95

§ 87206.5. Disclosure of Leasehold Interest.

If an official must disclose a leasehold interest, the official shall do all of the following:

(a) Identify the interest as a leasehold interest.

(b) Disclose the number of years remaining on the lease.

(c) Provide the leased property's address or other precise location.

(d) Provide the exact date the lease became effective or

terminated if the lease became effective or terminated during the period covered by the statement.

(e) Disclose the value of the leasehold interest as specified in subdivision (d) of Section 87206.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18233, 18234, 18235, 18702.3, 18729

§ 87207. Disclosure of Income.

(a) If income is required to be reported under this article, the statement shall contain, except as provided in subdivision (b):

(1) The name and street address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred dollars (\$500) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), whether it was greater than ten thousand dollars (\$10,000) but not greater than one hundred thousand dollars (\$100,000), or whether it was greater than one hundred thousand dollars (\$100,000).

(3) A description of the consideration, if any, for which the income was received.

(4) In the case of a gift, the amount and the date on which the gift was received and the travel destination for purposes of a gift that is a travel payment, advance, or reimbursement.

(5) In the case of a loan, the annual interest rate, the security, if any, given for the loan, and the term of the loan.

(b) If the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, street address, and a general description of the business activity of the business entity.

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from that person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

(c) If a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interests. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1995, operative January 7, 1975; amended by Stats. 1979, Ch. 674; superseded by Stats. 1979, Ch. 686; amended by Stats. 1980, Ch. 1000; amended by Stats. 1982, Ch. 29; amended by Stats. 1984, Ch. 931; amended by Stats. 1990,

Ch. 1075; amended by Stats. 1997, Ch. 638; amended by Stats. 2000, Ch. 130; amended by Stats. 2015, Ch. 757; amended by Stats. 2016, Ch. 86; amended by Stats. 2019, Ch. 102.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18704, 18728.5, 18730.1, 18732.5, 18740, 18940, 18941, 18942, 18942.1, 18942.2, 18942.3, 18944, 18945, 18945.2, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5, 18946.6, 18950, 18950.1

Opinions: *In re Riemer* (2013) 21 FPPC Ops. 1
In re Rosenstiel (2012) 20 FPPC Ops. 1
In re Taylor (2004) 17 FPPC Ops. 1
In re Hopkins (1977) 3 FPPC Ops. 107
In re Carey (1977) 3 FPPC Ops. 99
In re Gutierrez (1977) 3 FPPC Ops. 44
In re Thomas (1977) 3 FPPC Ops. 30
In re Cory (1976) 2 FPPC Ops. 48
In re Hayes (1975) 1 FPPC Ops. 210
In re Russel (1975) 1 FPPC Ops. 191
In re Cory (1975) 1 FPPC Ops. 153
In re Brown (1975) 1 FPPC Ops. 67

§ 87208. Disclosure of Investments and Interests in Real Property; Incorporation by Reference.

Except in statements required by Section 87203, investments and interests in real property which have been disclosed on a statement of economic interests filed in the same jurisdiction within the previous 60 days may be incorporated by reference.

History: Added by Stats. 1976, Ch. 1161.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18732.5

§ 87209. Business Positions.

When a statement is required to be filed under this article, every person specified in Section 87200 shall disclose any business positions held by that person. For purposes of this section, “business position” means any business entity in which the filer is a director, officer, partner, trustee, employee, or holds any position of management, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction or has done business in the jurisdiction at any time during the two years prior to the date the statement is required to be filed.

History: Added by Stats. 1997, Ch. 455, effective September 24, 1997.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18230, 18732.5

§ 87210. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

No person shall make a gift totaling fifty dollars (\$50) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full

name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1982, Ch. 29.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18945

Article 3. Conflict of Interest Codes. § 87300 – 87314

§ 87300.	Agency Requirement.	90
§ 87301.	Formulation.	90
§ 87302.	Required Provisions.	91
§ 87302.3.	Disclosure by Candidates for Elective Office.	91
§ 87302.6.	Disclosure by Members of Boards and Commissions of Newly Created Agencies.	92
§ 87303.	Submission; Code Reviewing Body.	92
§ 87304.	Failure to Submit, Adopt or Amend a Proposed Code.	92
§ 87305.	Order to Adopt; Superior Court.	92
§ 87306.	Amendments for Changed Circumstances.	92
§ 87306.5.	Conflict of Interest Code; Local Agency Review.	93
§ 87307.	Amendments to Code by Agency; Failure to Act.	93
§ 87308.	Judicial Review.	93
§ 87309.	Requirements for Approval.	93
§ 87310.	Designated Employee; Broad or Indefinable Duties.	93
§ 87311.	Review and Preparation; Administrative Procedure Act.	93
§ 87311.5.	Review and Preparation; Judicial Branch Agencies.	93
§ 87312.	Commission Assistance.	93
§ 87313.	Gifts Made Through Intermediaries and Others - Disclosure Requirements.	94
§ 87314.	Code Requirement for Public Pension and Retirement System Agencies.	94

§ 87300. Agency Requirement.

Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18351, 18730, 18730.1, 18732.5, 18750, 18751, 18754, 18755, 18940.1

Opinions: *In re Vonk* (1981) 6 FPPC Ops. 1
In re Leach (1978) 4 FPPC Ops. 48
In re Siegel (1977) 3 FPPC Ops. 62

§ 87301. Formulation.

It is the policy of this act that Conflict of Interest Codes shall be formulated at the most decentralized level possible, but without precluding intra-departmental review. Any question of the level of a department which should be deemed an “agency” for purposes of Section 87300 shall be resolved by the code reviewing body.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18730, 18732.5, 18751, 18754

§ 87302. Required Provisions.

Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making,

participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 12 months following initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

(1) File a written resignation with the appointing power.

(2) File a written statement with the filing officer on a form prescribed by the Commission and signed under penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

History: Amended by Stats. 1978, Ch. 537; amended by Stats. 1979, Ch. 674; amended by Stats. 1980, Ch. 765; amended by Stats. 1987, Ch. 1188; amended by Stats. 1989, Ch. 499; amended by Stats. 1991, Ch. 857; amended by Stats. 1992, Ch. 441.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18329.5, 18351, 18700.3, 18704, 18722, 18730, 18730.1, 18732, 18732.5, 18733, 18734, 18735, 18736, 18736.1, 18737, 18751, 18754, 18940, 18940.1, 18941, 18942, 18944, 18945, 18946, 18946.1, 18946.2, 18946.3, 18946.4, 18946.5, 18946.6, 18950, 18950.1

Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77

§ 87302.3. Disclosure by Candidates for Elective Office.

(a) Every candidate for an elective office that is designated in a conflict of interest code shall file a statement disclosing his or her investments, business positions, interests in real property, and income received during the immediately preceding 12 months, as enumerated in the disclosure requirements for that position. The statement shall be filed with the election official with whom the candidate's declaration of candidacy or other nomination documents to appear on the ballot are required to be filed and shall be filed no later than the final filing date for the declaration or nomination documents.

(b) This section does not apply to either of the following:

(1) A candidate for an elective office designated in a conflict of interest code who has filed an initial, assuming office, or annual statement pursuant to that conflict of interest code within 60 days before the deadline specified in subdivision (a).

(2) A candidate for an elective office who has filed a statement for the office pursuant to Section 87302.6 within 60 days before the deadline specified in subdivision (a).

History: Added by Stats. 2007, Ch. 348.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18751

§ 87302.6. Disclosure by Members of Boards and Commissions of Newly Created Agencies.

Notwithstanding Section 87302, a member of a board or commission of a newly created agency shall file a statement at the same time and in the same manner as those individuals required to file pursuant to Section 87200. A member shall file his or her statement pursuant to Section 87302 once the agency adopts an approved conflict-of-interest code.

History: Added by Stats. 2002, Ch. 264.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18117, 18329.5, 18732.5, 18751, 18754

§ 87303. Submission; Code Reviewing Body.

No conflict of interest code shall be effective until it has been approved by the code reviewing body. Each agency shall submit a proposed conflict of interest code to the code reviewing body by the deadline established for the agency by the code reviewing body. The deadline for a new agency shall be not later than six months after it comes into existence. Within 90 days after receiving the proposed code or receiving any proposed amendments or revisions, the code reviewing body shall do one of the following:

- (a) Approve the proposed code as submitted.
- (b) Revise the proposed code and approve it as revised.
- (c) Return the proposed code to the agency for revision and resubmission within 60 days. The code reviewing body shall either approve the revised code or revise it and approve it. When a proposed conflict of interest code or amendment is approved by the code reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

History: Amended by Stats. 1997, Ch. 455.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18351, 18732.5, 18750, 18751, 18755

§ 87304. Failure to Submit, Adopt or Amend a Proposed Code.

If any agency fails to submit a proposed conflict of interest code or amendments, or if any state agency fails to report amendments pursuant to subdivision (b) of Section 87306 within the time limits prescribed pursuant to Section 87303 or 87306, the code reviewing body may issue any appropriate order directed to the agency or take any other ap-

propriate action, including the adoption of a conflict of interest code for the agency. If the code reviewing body does not issue an appropriate order or take other action within 90 days of the deadline imposed on the agency as prescribed in Section 87303 or 87306, the Commission may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. The Commission shall consult with the agency before ordering the adoption of a conflict of interest code for the agency.

History: Amended by Stats. 1988, Ch. 923; amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18732.5, 18751

§ 87305. Order to Adopt; Superior Court.

If after six months following the deadline for submission of the proposed Conflict of Interest Code to the code reviewing body no Conflict of Interest Code has been adopted and promulgated, the superior court may, in an action filed by the Commission, the agency, the code reviewing body, any officer, employee, member or consultant of the agency, or any resident of the jurisdiction, prepare a Conflict of Interest Code and order its adoption by the agency or grant any other appropriate relief. The agency and the code reviewing body shall be parties to any action filed pursuant to this section.

History: Amended by Stats. 1980, Ch. 765.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18732.5, 18751

§ 87306. Amendments for Changed Circumstances.

(a) Every agency shall amend its Conflict of Interest Code, subject to the provisions of Section 87303, when change is necessitated by changed circumstances, including the creation of new positions which must be designated pursuant to subdivision (a) of Section 87302 and relevant changes in the duties assigned to existing positions. Amendments or revisions shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. If after nine months following the occurrence of those changes the Conflict of Interest Code has not been amended or revised, the superior court may issue any appropriate order in an action brought under the procedures set forth in Section 87305.

(b) Notwithstanding subdivision (a), every state agency shall submit to the code reviewing body a biennial report identifying changes in its code, including, but not limited to, all new positions designated pursuant to subdivision (a) of Section 87302, changes in the list of reportable sources of income, and relevant changes in the duties assigned to existing positions. These reports shall be submitted no later than March 1 of each odd-numbered year.

History: Amended by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 491.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18329.5, 18351, 18732.5, 18736, 18750, 18751, 18755

§ 87306.5. Conflict of Interest Code; Local Agency Review.

(a) No later than July 1 of each even-numbered year, the code reviewing body shall direct every local agency which has adopted a Conflict of Interest Code in accordance with this title to review its Conflict of Interest Code and, if a change in its code is necessitated by changed circumstances, submit an amended Conflict of Interest Code in accordance with subdivision (a) of Section 87302 and Section 87303 to the code reviewing body.

(b) Upon review of its code, if no change in the code is required, the local agency head shall submit a written statement to that effect to the code reviewing body no later than October 1 of the same year.

History: Added by Stats. 1990, Ch. 1075.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18736.1, 18751

§ 87307. Amendments to Code by Agency; Failure to Act.

An agency may at any time amend its Conflict of Interest Code, subject to the provisions of Section 87303, either upon its own initiative or in response to a petition submitted by an officer, employee, member or consultant of the agency, or a resident of the jurisdiction. If the agency fails to act upon such a petition within ninety days, the petition shall be deemed denied. Within thirty days after the denial of a petition, the petitioner may appeal to the code reviewing body. The code reviewing body shall either dismiss the appeal or issue an appropriate order to the agency within ninety days.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18737, 18751

§ 87308. Judicial Review.

Judicial review of any action of a code reviewing body under this chapter may be sought by the Commission, by the agency, by an officer, employee, member or consultant of the agency, or by a resident of the jurisdiction.

History: Amended by Stats. 1980, Ch. 765.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18751

§ 87309. Requirements for Approval.

No Conflict of Interest Code or amendment shall be approved by the code reviewing body or upheld by a court if it:

(a) Fails to provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented;

(b) Fails to provide to each affected person a clear and specific statement of his duties under the Code; or

(c) Fails to adequately differentiate between designated employees with different powers and responsibilities.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730.1, 18732.5, 18751

Opinions: *In re Alperin* (1977) 3 FPPC Ops. 77

§ 87310. Designated Employee; Broad or Indefinable Duties.

If the duties of a designated employee are so broad or indefinable that the requirements of Section 87309 cannot be complied with, the Conflict of Interest Code shall require the designated employee to comply with the requirements of Article 2 of this chapter.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18751

§ 87311. Review and Preparation; Administrative Procedure Act.

The review of proposed Conflict of Interest Codes by the Commission and by the Attorney General and the preparation of proposed Conflict of Interest Codes by state agencies shall be subject to the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by local government agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18351, 18732.5

§ 87311.5. Review and Preparation; Judicial Branch Agencies.

(a) Notwithstanding the provisions of Section 87311, the review of the Conflict of Interest Code of an agency in the judicial branch of government shall not be subject to the provisions of the Administrative Procedure Act. The review and preparation of Conflict of Interest Codes by these agencies shall be carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views.

(b) Conflict of Interest Codes of the Judicial Council, the Commission on Judicial Performance, and the Board of Governors and designated employees of the State Bar of California shall not be subject to the provisions of subdivision (c) of Section 87302.

History: Added by Stats. 1984, Ch. 727, effective July 1, 1985.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18732.5

§ 87312. Commission Assistance.

The Commission shall, upon request, provide technical assistance to agencies in the preparation of Conflict of Interest Codes. Such assistance may include the preparation of model provisions for various types of agencies. Nothing in this section shall relieve each agency of the responsibility for adopting a Conflict of Interest Code appropriate to its individual circumstances.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18732.5

§ 87313. Gifts Made Through Intermediaries and Others - Disclosure Requirements.

No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

History: Added by Stats. 1978, Ch. 640; amended by Stats. 1984, Ch. 931.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18945

§ 87314. Code Requirement for Public Pension and Retirement System Agencies.

(a) A board, commission, or agency of a public pension or retirement system shall attach to its Conflict of Interest Code an appendix entitled "Agency Positions that Manage Public Investments for Purposes of Section 87200 of the Government Code." The appendix shall list each position with the board, commission, or agency for which an individual occupying the position is required to file a Statement of Economic Interests as a public official who manages public investments within the meaning of Section 87200. The board, commission, or agency shall post the appendix on its Internet Web site in a manner that makes it easily identifiable and accessible by persons who view that Web site.

(b) (1) For purposes of this section, "public official who manages public investments" includes a salaried or unsalaried member of a committee, board, commission, or other entity that exists as, or within, a governmental agency and that possesses decisionmaking authority.

(2) A committee, board, commission, or other entity possesses decisionmaking authority for purposes of this section if any of the following apply:

(A) The entity may make a final governmental decision.

(B) The entity may compel a governmental decision or prevent a governmental decision, either by virtue of possessing exclusive power to initiate the decision or by having veto authority that may not be overridden.

(C) The entity makes substantive recommendations that are, and over an extended period of time have been, regularly approved, without significant amendment or modification, by another public official or governmental agency.

(3) A committee, board, commission, or other entity does not possess decisionmaking authority for purposes of this section if it is formed for the sole purpose of researching a subject and preparing a report or recommendation for submission to another governmental entity that has final decisionmaking authority.

History: Added by Stats. 2010, Ch. 702.

**Article 3.5. Multiagency Filers.
§ 87350**

§ 87350. Multiagency Filers.

Notwithstanding any other provision of this title, a person required to file more than one assuming office statement, statement of economic interests, or leaving office statement, due to his or her status as a designated employee for more than one joint powers insurance agency, may elect to file a multiagency statement disclosing all investments in entities doing business in the state, all interests in real property located within the state, and all income received during the applicable time period, in lieu of filing the disclosure statements for each agency.

The filer shall notify the Commission of his or her decision to become a multiagency filer. This status shall continue until revoked by the filer.

History: Added by Stats. 1990, Ch. 69.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18732.5, 18735.5

**Article 4. Disqualification of Former
Officers and Employees.
§ 87400 – 87410**

§ 87400.	Definitions.	94
§ 87401.	Restrictions on Activities of Former State Officers.	95
§ 87402.	Restrictions on Activities of Former State Officers; Assisting Others.	95
§ 87403.	Exemptions.	95
§ 87404.	Proceedings to Exclude Former State Officers. ...	95
§ 87405.	Application of Requirements.	95
§ 87406.	Milton Marks Postgovernmental Employment Restrictions Act.	96
§ 87406.1.	Postgovernmental Employment Restrictions for Districts and District Boards.	96
§ 87406.3.	Postgovernmental Employment Restrictions for Local Officials.	97
§ 87407.	Influencing Prospective Employment.	97
§ 87408.	Postgovernmental Employment Restrictions for Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.	97
§ 87409.	Restrictions on Activities of Former Investment Officials; Assisting Others.	97
§ 87410.	Postgovernmental Ban on Placement Agent Activities.	98

§ 87400. Definitions.

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this section shall govern the interpretation of this article.

(a) "State administrative agency" means every state office, department, division, bureau, board and commission, but does not include the Legislature, the courts or any agency in the judicial branch of government.

(b) "State administrative official" means every member, officer, employee or consultant of a state administrative

agency who as part of his or her official responsibilities engages in any judicial, quasi-judicial or other proceeding in other than a purely clerical, secretarial or ministerial capacity.

(c) “Judicial, quasi-judicial or other proceeding” means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency, including but not limited to any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(d) “Participated” means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information as an officer or employee, but excluding approval, disapproval or rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

History: Added by Stats. 1980, Ch. 66.

§ 87401. Restrictions on Activities of Former State Officers.

No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:

(a) The State of California is a party or has a direct and substantial interest.

(b) The proceeding is one in which the former state administrative official participated.

History: Added by Stats. 1980, Ch. 66; amended by Stats. 1985, Ch. 775.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18741.1, 18746.2, 18746.4

Opinions: *In re Lucas* (2000) 14 FPPC Ops. 14

§ 87402. Restrictions on Activities of Former State Officers; Assisting Others.

No former state administrative official, after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

History: Added by Stats. 1980, Ch. 66.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18741.1, 18746.4

Opinions: *In re Lucas* (2000) 14 FPPC Ops. 14

§ 87403. Exemptions.

The prohibitions contained in Sections 87401 and 87402 shall not apply:

(a) To prevent a former state administrative official from making or providing a statement, which is based on the former state administrative official’s own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses; or

(b) To communications made solely for the purpose of furnishing information by a former state administrative official if the court or state administrative agency to which the communication is directed makes findings in writing that:

(1) The former state administrative official has outstanding and otherwise unavailable qualifications;

(2) The former state administrative official is acting with respect to a particular matter which requires such qualifications; and

(3) The public interest would be served by the participation of the former state administrative official; or

(c) With respect to appearances or communications in a proceeding in which a court or state administrative agency has issued a final order, decree, decision or judgment but has retained jurisdiction if the state administrative agency of former employment gives its consent by determining that:

(1) At least five years have elapsed since the termination of the former state administrative official’s employment or term of office; and

(2) The public interest would not be harmed.

History: Added by Stats. 1980, Ch. 66.

§ 87404. Proceedings to Exclude Former State Officers.

Upon the petition of any interested person or party, the court or the presiding or other officer, including but not limited to a hearing officer serving pursuant to Section 11512 of the Government Code, in any judicial, quasi-judicial or other proceeding, including but not limited to any proceeding pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this article from further participation, or from assisting or counseling any other participant, in the proceeding then pending before such court or presiding or other officer.

History: Added by Stats. 1980, Ch. 66.

§ 87405. Application of Requirements.

The requirements imposed by this article shall not apply to any person who left government service prior to the effective date of this article except that any such person who returns to government service on or after the effective date of this article shall thereafter be covered thereby.

History: Added by Stats. 1980, Ch. 66.

§ 87406. Milton Marks Postgovernmental Employment Restrictions Act.

(a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b)(1) Except as provided in paragraph (2), a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(2) A Member of the Legislature who resigns from office, for a period commencing with the effective date of the resignation and concluding one year after the adjournment sine die of the session in which the resignation occurred, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) An elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board.

(d)(1) A designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position that entails the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, and a member of a state administrative agency, for a period of one year after leaving office or employment, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance,

amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board. The prohibition of this paragraph only applies to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) do not apply to any individual subject to this section who is or becomes either of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1993, Ch. 230; amended by Stats. 1999, Ch. 10, effective April 15, 1999; Amended by Stats. 2017, Ch. 800.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18746.1, 18746.2, 18746.4

§ 87406.1. Postgovernmental Employment Restrictions for Districts and District Boards.

(a) For purposes of this section, "district" means an air pollution control district or air quality management district and "district board" means the governing body of an air pollution control district or an air quality management district.

(b) No former member of a district board, and no former officer or employee of a district who held a position which entailed the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, shall, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that district board, or any committee, subcommittee, or present member of that district board, or any officer or employee of the district, if the appearance or communication is made for the purpose of influencing regulatory action.

(c) Subdivision (b) shall not apply to any individual who is, at the time of the appearance or communication, a board member, officer, or employee of another district or an employee or representative of a public agency.

(d) This section applies to members and former members of district hearing boards.

History: Added by Stats. 1994, Ch. 747.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18746.2

§ 87406.3. Postgovernmental Employment Restrictions for Local Officials.

(a) A local elected official, chief administrative officer of a county, city manager, or general manager or chief administrator of a special district who held a position with a local government agency as defined in Section 82041 shall not, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) (1) Subdivision (a) does not apply to an individual who is, at the time of the appearance or communication, a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

(2) Subdivision (a) applies to an individual who is, at the time of the appearance or communication, an independent contractor of a local government agency or a public agency and is appearing or communicating on behalf of that agency.

(c) This section does not preclude a local government agency from adopting an ordinance or policy that restricts the appearance of a former local official before that local government agency if that ordinance or policy is more restrictive than subdivision (a).

(d) Notwithstanding Sections 82002 and 82037, the following definitions apply for purposes of this section only:

(1) "Administrative action" means the proposal, drafting, development, consideration, amendment, enactment, or defeat by any local government agency of any matter, including any rule, regulation, or other action in any regulatory proceeding, whether quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.

(2) "Legislative action" means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the legislative body of a local government agency or by any committee or subcommittee thereof, or by a member or employee of the legislative body of the local government agency acting in his or her official capacity.

History: Added by Stats. 2005, Ch. 680, operative July 1, 2006; Amended by Stats. 2017, Ch. 196.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18746.2, 18746.3, 18746.4

§ 87407. Influencing Prospective Employment.

No public official shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2003, Ch. 778.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18747

§ 87408. Postgovernmental Employment Restrictions for Board of Administration of the Public Employees' Retirement System and Teachers' Retirement Board.

(a) A member of the Board of Administration of the Public Employees' Retirement System, an individual in a position designated in subdivision (a) or (e) of Section 20098, or an information technology or health benefits manager with a career executive assignment designation with the Public Employees' Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the Public Employees' Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) A member of the Teachers' Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers' Retirement System, for a period of four years after leaving that office or position, shall not, for compensation, act as an agent or attorney for, or otherwise represent, any other person, except the state, by making a formal or informal appearance before, or an oral or written communication to, the State Teachers' Retirement System, or an officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing an action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

History: Added by Stats. 2011, Ch. 551.

§ 87409. Restrictions on Activities of Former Investment Officials; Assisting Others.

(a) A member of the Board of Administration of the Public Employees' Retirement System, an individual in a position designated in subdivision (a) or (e) of Section 20098, or an information technology or health benefits manager with a career executive assignment designation with the

Public Employees' Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the Public Employees' Retirement System.

(b) A member of the Teachers' Retirement Board, an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, or an information technology manager with a career executive assignment designation with the State Teachers' Retirement System, for a period of two years after leaving that office or position, shall not, for compensation, aid, advise, consult with, or assist a business entity in obtaining the award of, or in negotiating, a contract or contract amendment with the State Teachers' Retirement System.

(c) For purposes of this section, "business entity" has the same meaning as set forth in Section 82005, and includes a parent or subsidiary of a business entity.

History: Added by Stats. 2011, Ch. 551.

§ 87410. Postgovernmental Ban on Placement Agent Activities.

(a) A member of the Board of Administration of the Public Employees' Retirement System or an individual in a position designated in subdivision (a) or (e) of Section 20098, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the Public Employees' Retirement System or the State Teachers' Retirement System.

(b) A member of the Teachers' Retirement Board or an individual in a position designated in subdivision (a) or (d) of Section 22212.5 of the Education Code, for a period of 10 years after leaving that office or position, shall not accept compensation for providing services as a placement agent in connection with investments or other business of the State Teachers' Retirement System or the Public Employees' Retirement System.

History: Added by Stats. 2011, Ch. 551.

Article 4.5. Disqualification of State Officers and Employees. § 87450

§ 87450. Restrictions in Participation of State Officers in Decisions Relating to Contracts.

(a) In addition to the provisions of Article 1 (commencing with Section 87100), no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family, has engaged in any business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods

or services totaling in value one thousand dollars (\$1,000) or more within 12 months prior to the time the official action is to be performed.

(b) As used is subdivision (a), "state administrative official" has the same meaning as defined in Section 87400.

History: Added by Stats. 1986, Ch. 653.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229.1

Article 4.6. Loans to Public Officials. § 87460-87462

§ 87460.	Loans to Public Officials.	98
§ 87461.	Loan Terms.	99
§ 87462.	Personal Loans.	99

§ 87460. Loans to Public Officials.

(a) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(b) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(c) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(d) No public official who is required to file a statement of economic interests pursuant to Section 87200 and no public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other

financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(e) This section shall not apply to the following:

(1) Loans made to the campaign committee of an elected officer or candidate for elective office.

(2) Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans from a person which, in the aggregate, do not exceed two hundred fifty dollars (\$250) at any given time.

(4) Loans made, or offered in writing, before the operative date of this section.

History: Added by Stats. 1997, Ch. 638.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 87461. Loan Terms.

(a) Except as set forth in subdivision (b), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(b) This section shall not apply to the following types of loans:

(1) Loans made to the campaign committee of the elected officer.

(2) Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

(3) Loans made, or offered in writing, before the operative date of this section.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18229

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 87462. Personal Loans.

(a) Except as set forth in subdivision (b), a personal loan shall become a gift to the debtor for the purposes of this title in the following circumstances:

(1) If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

(2) If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

(A) The date the loan was made.

(B) The date the last payment of one hundred dollars (\$100) or more was made on the loan.

(C) The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(b) This section shall not apply to the following types of loans:

(1) A loan made to the campaign committee of an elected officer or a candidate for elective office.

(2) A loan that would otherwise not be a gift as defined in this title.

(3) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor has taken reasonable action to collect the balance due.

(4) A loan that would otherwise be a gift as set forth under paragraph (a), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

(5) A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(c) Nothing in this section shall exempt any person from any other provisions of this title.

History: Added by Stats. 1997, Ch. 638.

Article 5. Filing.

§ 87500-87505

§ 87500.	Statements of Economic Interests – Where to File.....	99
§ 87500.2.	Statements of Economic Interests – Electronic Filing.....	100
§ 87500.3.	Statements of Economic Interests – Development of Electronic Filing System for the Commission.	101
§ 87500.4.	Statements of Economic Interests – Specifying Persons Authorized to File Electronically with the Commission.	102
§ 87505.	Web Site Notification.	102

§ 87500. Statements of Economic Interests – Where to File.

Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer – one original with the agency, which shall make and retain a copy and forward the original to the Commission. The Commission shall be the filing officer.

(b) Candidates for statewide elective office – one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the Commission. The Commission shall be the filing officer.

(c) Members of the Legislature and State Board of Equalization – one original with the agency, which shall make and retain a copy and forward the original to the Commission. The Commission shall be the filing officer.

(d) Candidates for the Legislature or the State Board of Equalization – one original and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the Commission. The Commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, county treasurer, and member of the board of supervisors – one original with the county clerk, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city treasurer, city attorney, and mayor – one original with the city clerk, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission – one original with the agency, which shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(h) Persons appointed to other state boards, commissions, or similar multimember bodies of the state—one original with the respective board, commission, or body. The original shall be handled as set forth in the Conflict of Interest Code of the respective board, commission, or body. If the board, commission, or body is not required by its Conflict of Interest Code to send the original to the Commission, it shall forward a copy to the Commission.

(i) Members of the Fair Political Practices Commission – one original with the Commission, which shall make and retain a copy and forward the original to the office of the Attorney General, which shall be the filing officer.

(j) Judges and court commissioners – one original with the clerk of the court, who shall make and retain a copy and forward the original to the Commission, which shall be the filing officer. Original statements of candidates for the office of judge shall be filed with the person with whom the candidate's declaration of candidacy is filed, who shall retain a copy and forward the original to the Commission, which shall be the filing officer.

(k) Except as provided for in subdivision (l), heads of agencies, members of boards or commissions not under a department of state government, and members of boards or commissions not under the jurisdiction of a local legislative body – one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body, which shall be the filing officer. The code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(l) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body – one original to the agency or board or commission, which shall be the filing officer, unless, at its discretion, the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency, board, or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(m) Designated employees of the Legislature – one original with the house of the Legislature by which the designated employee is employed. Each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the Commission, and that no copies be retained by that house.

(n) Designated employees under contract to more than one joint powers insurance agency and who elect to file a multiagency statement pursuant to Section 87350 – the original of the statement with the Commission, which shall be the filing officer, and, with each agency with which they are under contract, a statement declaring that their statement of economic interests is on file with the Commission and available upon request.

(o) Members of a state licensing or regulatory board, bureau, or commission – one original with the agency, which shall make and retain a copy and forward the original to the Commission, which shall be the filing officer.

(p) Persons not mentioned above – one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

History: Added by Stats. 1979, Ch. 674; amended by Stats. 1983, Ch. 214; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 611; amended by Stats. 1988, Ch. 708; amended by Stats. 1990, Ch. 69; amended by Stats. 1992, Ch. 405; amended by Stats. 1993, Ch. 1140; amended by Stats. 1996, Ch. 289; amended by Stats. 2005, Ch. 200; amended by Stats. 2007, Ch. 348; amended by Stats. 2011, Ch. 252.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18115, 18227, 18732.5, 18735.5, 18753

§ 87500.2. Statements of Economic Interests – Electronic Filing.

(a) An agency may permit the electronic filing of a statement of economic interests required by Article 2 (commencing with Section 87200) or Article 3 (commencing with Section 87300), including amendments, in accordance with regulations adopted by the Commission.

(b) In consultation with interested agencies, the Commission shall use common database integration features in developing database design requirements for all electronic filings that may be used.

(c)(1) An agency that intends to permit electronic filing of a statement of economic interests shall submit a proposal, which shall include a description of the electronic filing system that the agency proposes to use, to the Commission for approval and certification. An agency that submits a proposal shall include a fee of one thousand dollars (\$1,000) that is payable to the Commission for the costs of approving and certifying the proposal.

(2) An agency shall not charge a person to electronically file a statement of economic interests.

(3) The Commission shall review an agency's proposal for compliance with the system requirement regulations adopted pursuant to subdivisions (a) and (b) and the requirements of subdivision (d). If the proposed system complies with these requirements, the Commission shall approve and certify the agency's electronic filing system as soon as practicable after receiving the agency's submitted proposal.

(d) An agency's proposed electronic filing system shall meet the following requirements:

(1) A statement of economic interests filed electronically shall include an electronic transmission that is submitted under penalty of perjury and that conforms to subdivision (b) of Section 1633.11 of the Civil Code.

(2)(A) The agency's filing officer shall issue to a person who electronically files **their** statement of economic interests or amendment an electronic confirmation that notifies the filer that **their** statement of economic interests or amendment was received. The confirmation shall include the date and the time that the statement of economic interests or amendment was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(B) A copy retained by the filer of a statement of economic interests or amendment that was electronically filed and the confirmation issued pursuant to subparagraph (A) that shows that the filer timely filed **their** statement of economic interests or amendment shall create a rebuttable presumption that the filer timely filed **their** statement of economic interests or amendment.

(3) The agency shall utilize an electronic filing system that includes layered security to ensure data integrity. The system shall have the capability to uniquely identify a filer electronically when **the filer** accesses the electronic filing system. The operational process for the system shall include industry best practices to ensure that the security and integrity of the data and information contained in the statement of economic interests are not jeopardized or compromised.

(4) The agency shall provide the public with a copy of an official's statement of economic interests upon request, in accordance with Section 81008. The copy of the electronically filed statement of economic interests shall be identical to the statement of economic interests published by the

Commission and shall include the date that the statement was filed.

(e) The Commission may adopt regulations to require that an agency redact information on a statement of economic interests prior to posting the statement of economic interests on the **internet**.

(f) The Commission may conduct discretionary audits of an agency's approved and certified electronic filing system to evaluate its performance and compliance with the requirements of this section.

(g) The Commission shall accept an electronic copy of a statement of economic interests that is forwarded to it by an agency that has received an electronically filed statement from a filer pursuant to this section.

(h) A city or county shall not continue to use an electronic filing system if the Commission does not approve and certify that electronic filing system as complying with the requirements of the Commission's regulations and the other requirements of this section.

History: Added by Stats. 2012, Ch. 500, effective September 24, 2012; amended by Stats. 2019, Ch. 315.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18756

§ 87500.3. Statements of Economic Interests – Development of Electronic Filing System for the Commission.

(a) The Commission may develop and operate an online system for filing statements of economic interests required by Article 2 (commencing with Section 87200) and Article 3 (commencing with Section 87300). Consistent with Section 87500.4, the online system shall enable a filer to comply with the requirements of this chapter relating to the filing of statements of economic interests and shall include, but not be limited to, both of the following:

(1) A means or method whereby a filer may electronically file, free of charge, a statement of economic interests that includes an electronic transmission that is submitted under penalty of perjury in conformity with Section 81004 of this code and subdivision (b) of Section 1633.11 of the Civil Code.

(2) Security safeguards that include firewalls, data encryption, secure authentication, and all necessary hardware and software and industry best practices to ensure that the security and integrity of the data and information contained in each statement of economic interests are not jeopardized or compromised.

(b)(1) A system developed pursuant to subdivision (a) shall issue to a person who electronically files his or her statement of economic interests, or an amendment to a statement of economic interests, an electronic confirmation that notifies the filer that his or her statement of economic interests or amendment was received. The confirmation shall include the date and the time that the statement of economic interests or amendment was received and the method by which the filer may view and print the data received.

(2) A paper copy retained by the filer of a statement of economic interests or amendment that was electronically filed and the confirmation issued pursuant to paragraph (1) that shows that the filer timely filed his or her statement of economic interests or amendment shall create a rebuttable presumption that the filer filed his or her statement of economic interests or amendment on time.

(c) If the Commission develops an online system pursuant to subdivision (a), it shall conduct public hearings to receive input on the implementation of that system, maintain ongoing coordination among affected state and local agencies as necessary, and develop training and assistance programs for state and local filing officers and filers regarding use of the online system for filing statements of economic interests.

(d)(1) Except as provided in paragraph (2), the Commission may make all the data filed on a system developed pursuant to subdivision (a) available on the Commission's Internet Web site in an easily understood format that provides the greatest public access, and shall provide assistance to those seeking public access to the information.

(2) The Commission shall redact private information, including, but not limited to, the signatures of filers, from the data that is made available on the Internet pursuant to this subdivision. The Commission shall develop and implement a policy regarding redaction of private information for the purposes of this paragraph, and shall conduct one or more public hearings to receive input on the development of that policy.

History: Added by Stats. 2013, Ch. 643, effective October 8, 2013.

§ 87500.4. Statements of Economic Interests – Specifying Persons Authorized to File Electronically with the Commission.

(a) If the Commission establishes an online system pursuant to Section 87500.3, the Commission shall specify which categories of persons described in Section 87500 may file statements of economic interests electronically through the online system established by the Commission.

(b)(1) If the Commission, pursuant to subdivision (a), specifies that persons described in Section 87500 may file statements of economic interests electronically through the online system established by the Commission, the Commission, upon authorization by the filing officer designated by Section 87500, shall assume the duties of the filing officer for each filer within each category of filers authorized to file electronically through the online system, irrespective of whether the filer elects to file his or her statement of economic interests electronically or on paper with the Commission. A filing officer who does not authorize the Commission to assume his or her duties as described in this paragraph shall continue to perform the duties prescribed in Section 81010. The filing officer duties assumed by the Commission with respect to each filer in each authorized category shall include, but not be limited to, all of the following:

(A) Notifying the filer of his or her filing obligation.

(B) Receiving the filer's statement of economic interests.

(C) Ensuring compliance with filing requirements in the event the filer fails to file in a timely manner or is required to amend his or her statement of economic interests.

(D) Distributing to filing officers copies of the completed statement of economic interests of a person who is required by this chapter to file more than one statement of economic interests for each period, and who, despite being authorized to file the statement with the Commission electronically, elects to file the statement with the Commission using a paper form.

(2) If the Commission assumes the duties of a filing officer pursuant to this subdivision, the filing officer whose duties are assumed shall provide to the Commission, in a manner prescribed by the Commission, the name and contact information for each filer in the filing officer's jurisdiction.

(c) The Commission shall notify a filing officer who may be affected by a determination of the Commission pursuant to this section to authorize a category of filers to file electronically, no later than six months before the implementation of that determination, in order to allow adequate preparation for implementation.

(d) A person who is required by this chapter to file more than one statement of economic interests for each reporting period and who files his or her statements of economic interests with the Commission electronically after being authorized to do so pursuant to Section 87500.3 is not required to file a statement of economic interests with any other person or agency. If a filer authorized to file electronically with the Commission files with the Commission on paper, the Commission shall distribute copies of the statement to any other filing officers pursuant to subparagraph (D) of paragraph (1) of subdivision (b).

(e)(1) After the Commission makes an initial determination pursuant to subdivision (a) regarding which categories of persons described in Section 87500 are permitted to file statements of economic interests electronically through the online system established by the Commission, the Commission may subsequently revise its determination at any time.

(2) In accordance with Section 87500.3, the Commission shall continue to conduct public hearings and receive input on the implementation of the online system, and that input shall inform any decision by the Commission to revise, pursuant to paragraph (1), its determination of which categories of persons described in Section 87500 are permitted to file statements of economic interests electronically through the online system established by the Commission.

History: Added by Stats. 2013, Ch. 643, effective October 8, 2013.

§ 87505. Web Site Notification.

Each city clerk or county clerk who maintains an Internet Web site shall post on that Internet Web site a notification that includes all of the following:

(a) A list of the elected officers identified in Section 87200 who file statements of economic interests with that city clerk or county clerk pursuant to Section 87500.

(b) A statement that copies of the statements of economic interests filed by the elected officers described in subdivision (a) may be obtained by visiting the offices of the Commission or that city clerk or county clerk, as appropriate. The statement shall include the physical address for the Commission's office and the city clerk's office or the county clerk's office, as appropriate.

(c) A link to the Commission's Internet Web site and a statement that statements of economic interests for some state and local government agency elected officers may be available in an electronic format on the Commission's Internet Web site.

History: Added by Stats. 2012, Ch. 498.

Chapter 8. Ballot Pamphlet.

§ 88000-88007

§ 88000. Responsibility.	103
§ 88001. Contents.	103
§ 88002. Format.	103
§ 88002.5. Summary.	104
§ 88003. Duties of Legislative Analyst.	104
§ 88004. Manner, Form of Printing Measures.	104
§ 88005. Printing Specifications.	104
§ 88005.5. Duties of Legislative Counsel.	104
§ 88006. Public Examination of Pamphlet.	104
§ 88007. Amendment of Chapter by Legislature.	105

§ 88000. Responsibility.

There shall be a state ballot which shall be prepared by the Secretary of State.

§ 88001. Contents.

The ballot pamphlet shall contain all of the following:

- (a) A complete copy of each state measure.
- (b) A copy of the specific constitutional or statutory provision, if any, that would be repealed or revised by each state measure.
- (c) A copy of the arguments and rebuttals for and against each state measure.
- (d) A copy of the analysis of each state measure.
- (e) Tables of contents, indexes, art work, graphics and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.
- (f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.
- (g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.
- (h) The Voter Bill of Rights pursuant to Section 2300 of the Elections Code.
- (i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may

purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.

(j) If the ballot contains a question as to the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's Internet Web site for information about candidates for the offices of President and Vice President of the United States.

(l) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and non-partisan offices as required by Section 9083.5 of the Elections Code.

(m) A written explanation of the top 10 contributor lists required by Section 84223, including a description of Internet Web sites where those lists are available to the public.

History: Amended by Stats. 1977, Ch. 520; amended by Stats. 1991, Ch. 491; amended by Stats. 1994, Ch. 923; amended by Stats. 2008, Ch. 137; amended by Stats. 2009, Ch. 1; amended by Stats. 2014, Ch. 16, effective July 1, 2014.

References at the time of publication (see page 2):

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26
In re Bunyan (1976) 2 FPPC Ops. 10

§ 88002. Format.

The ballot pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

(a) Upon the top portion of the first page and not exceeding one-third of the page shall appear:

- (1) The identification of the measure by number and title.
- (2) The official summary prepared by the Attorney General.
- (3) The total number of votes cast for and against the measure in both the State Senate and Assembly if the measure was passed by the Legislature.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst, provided that the analysis fits on single page. If it does not fit on a single page, then the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Immediately below the analysis prepared by the Legislative Analyst shall appear a printed statement that refers voters to the Secretary of State's Internet Web site for a list of committees primarily formed to support or oppose a ballot measure, and information on how to access the committee's top 10 contributors.

(d) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the page on which the analysis of the Legislative Analyst

ends. The rebuttals shall be placed immediately below the arguments.

(e) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis.

(f) The complete text of each measure shall appear at the back of the pamphlet. The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(g) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency."

History: Amended by Stats. 1990, Ch. 1430; amended by Stats. 2014, Ch. 920.

§ 88002.5. Summary.

(a) The ballot pamphlet shall also contain a section, located near the front of the pamphlet, that provides a concise summary of the general meaning and effect of "yes" and "no" votes on each state measure.

(b) The summary statements required by this section shall be prepared by the Legislative Analyst. These statements are not intended to provide comprehensive information on each measure. The Legislative Analyst shall be solely responsible for determining the contents of these statements. The statements shall be available for public examination and amendment pursuant to Section 88006.

History: Added by Stats. 1993, Ch. 156; amended by Stats. 1999, Ch. 312.

§ 88003. Duties of Legislative Analyst.

The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Any estimate of increased cost to local governments shall be set out in boldface print in the ballot pamphlet. The analysis shall be written in clear and concise terms which will easily be understood by the average voter, and shall avoid the use of technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information which the average voter needs to understand the measure adequately. The Legislative Analyst may contract with professional writers, educational specialists or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The Legislative Analyst may also request the assistance of any state department, agency, or official in preparing his or her analysis. Prior to submission of the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons appointed by the Legislative Analyst for the

purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one shall be bilingual, and one shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make such recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section. The title and summary of any measure which appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government financial impact. For state bond measures that are submitted to the voters for their approval or rejection, the summary of the Legislative Analyst's estimate of the net state and local government fiscal impact shall include an explanatory table of the information in the summary.

History: Amended by Stats. 1975, Ch. 486, effective September 2, 1975; amended by Stats. 1992, Ch. 232; amended by Stats. 2011, Ch. 453.

§ 88004. Manner, Form of Printing Measures.

Measures shall be printed in the ballot pamphlet, so far as possible, in the same order, manner and form in which they are designated upon the ballot.

§ 88005. Printing Specifications.

The ballot pamphlet shall be printed according to the following specifications:

(a) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in 8-point type;

(b) It shall be of a size and printed on a quality and weight of paper which in the judgment of the Secretary of State best serves the voters;

(c) The pamphlet shall contain a certificate of correctness by the Secretary of State.

History: Amended by Stats. 2008, Ch. 133.

References at the time of publication (see page 2):

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26.

§ 88005.5. Duties of Legislative Counsel.

The Legislative Counsel shall prepare and proofread the texts of all measures and the provisions which are repealed or revised.

§ 88006. Public Examination of Pamphlet.

Not less than 20 days before he or she submits the copy for the ballot pamphlet to the State Printer, the Secretary of State shall make the copy available for public examination. Any elector may seek a writ of mandate requiring the copy

to be amended or deleted from the ballot pamphlet. A peremptory writ of mandate shall issue only upon clear and convincing proof that the copy in question is false, misleading or inconsistent with the requirements of this chapter or the Elections Code, and that issuance of the writ will not substantially interfere with the printing and distribution of the ballot pamphlet as required by law. Venue for a proceeding under this section shall be exclusively in Sacramento County. The Secretary of State shall be named as the respondent and the State Printer and the person or official who authored the copy in question shall be named as real parties in interest. If the proceeding is initiated by the Secretary of State, the State Printer shall be named as the respondent.

History: Amended by Stats. 1996, Ch. 724.

§ 88007. Amendment of Chapter by Legislature.

Notwithstanding the provisions of Section 81012, the Legislature may without restriction amend this chapter to add to the ballot pamphlet information regarding candidates or any other information.

Chapter 9. Incumbency. **§ 89000-89003**

§ 89000.	Order of Names on Ballot.	105
§ 89001.	Newsletter or Mass Mailing.	105
§ 89002.	Mass Mailings Sent at Public Expense.	105
§ 89003.	Mass Mailings Sent at Public Expense; Temporal Prohibition.	107

§ 89000. Order of Names on Ballot.

Any provision of law to the contrary notwithstanding, the order of names of candidates on the ballot in every election shall be determined without regard to whether the candidate is an incumbent.

§ 89001. Newsletter or Mass Mailing.

No newsletter or other mass mailing shall be sent at public expense.

History: Amended by Stats. 1986, Ch. 654; amended by Stats. 1987, Ch. 230; amended by Prop. 73 of the June 1988 statewide primary election, effective June 8, 1988.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18901.1

Opinions: *In re Miller* (1978) 4 FPPC Ops. 26

§ 89002. Mass Mailings Sent at Public Expense.

(a) Except as provided in subdivision (b), a mailing is prohibited by Section 89001 if all of the following criteria are met:

(1) An item sent is delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box. The item delivered to the recipient must be a tangible item, such as a videotape, record, or button, or a written document.

(2) The item sent either:

(A) Features an elected officer affiliated with the agency that produces or sends the mailing.

(B) Includes the name, office, photograph, or other reference to an elected officer affiliated with the agency that produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer.

(3) Any of the costs of distribution are paid for with public money or the costs of design, production, and printing exceeding fifty dollars (\$50) are paid with public moneys, and the design, production, or printing is done with the intent of sending the item other than as permitted by this section.

(4) More than 200 substantially similar items are sent in a single calendar month, excluding any item sent in response to an unsolicited request and any item described in subdivision (b).

(b) Notwithstanding subdivision (a), a mass mailing of the following items is not prohibited by Section 89001:

(1) An item in which the elected officer's name appears only in the letterhead or logotype of the stationery, forms, including "For Your Information" or "Compliments of" cards or stamps, and envelopes of the agency sending the mailing, or of a committee of the agency, or of the elected officer, or in a roster listing containing the names of all elected officers of the agency. For purposes of this section, the return address portion of a self-mailer is considered the envelope. In any such item, the names of all elected officers must appear in the same type size, typeface, type color, and location. The item shall not include the elected officer's photograph, signature, or any other reference to the elected officer, except as specifically permitted by this section. The item may, however, include the elected officer's office or district number and the elected officer's name or district number in his or her Internet Web site address or electronic mail address.

(2) A press release sent to members of the media.

(3) An item sent in the normal course of business from one governmental entity or officer to another governmental entity or officer, including all local, state, and federal officers or entities.

(4) An intra-agency communication sent in the normal course of business to employees, officers, deputies, and other staff.

(5) An item sent in connection with the payment or collection of funds by the agency sending the mailing, including tax bills, checks, and similar documents, in any instance in which use of the elected officer's name, office, title, or signature is necessary to the payment or collection of the funds. The item shall not include the elected officer's photograph, signature, or any other reference to the elected officer, except as specifically permitted by this section.

(6) Any item sent by an agency responsible for administering a government program, to persons subject to that program, in any instance in which the mailing of the item is essential to the functioning of the program, the item does not include the elected officer's photograph, and use of the elected officer's name, office, title, or signature is necessary to the functioning of the program.

(7) Any legal notice or other item sent as required by law, court order, or order adopted by an administrative

agency pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), and in which use of the elected officer's name, office, title, or signature is necessary in the notice or other mailing. For purposes of this paragraph, inclusion of an elected officer's name on a ballot as a candidate for elective office, and inclusion of an elected officer's name and signature on a ballot argument, shall be considered necessary to that notice or other item.

(8) A telephone directory, organization chart, or similar listing or roster which includes the names of elected officers as well as other individuals in the agency sending the mailing, in which the name of each elected officer and individual listed appears in the same type size, typeface, and type color. The item shall not include an elected officer's photograph, name, signature, or any other reference to an elected officer, except as specifically permitted by this section.

(9)(A) An announcement of any meeting or event of either of the following:

(i) An announcement sent to an elected officer's constituents concerning a public meeting that is directly related to the elected officer's incumbent governmental duties, is to be held by the elected officer, and that the elected officer intends to attend.

(ii) An announcement of any official agency event or events for which the agency is providing the use of its facilities or staff or other financial support.

(B) Any announcement provided for in this paragraph shall not include the elected officer's photograph or signature and may include only a single mention of the elected officer's name except as permitted elsewhere in this section.

(10) An agenda or other writing that is required to be made available pursuant to Sections 11125.1 and 54957.5, or a bill, file, history, journal, committee analysis, floor analysis, agenda of an interim or special hearing of a committee of the Legislature, or index of legislation, published by the Legislature.

(11) A business card that does not contain the elected officer's photograph or more than one mention of the elected officer's name.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Elected officer affiliated with the agency" means an elected officer who is a member, officer, or employee of the agency, or of a subunit thereof such as a committee, or who has supervisory control over the agency or appoints one or more members of the agency.

(2) "Features an elected officer" means that the item mailed includes the elected officer's photograph or signature or singles out the elected officer by the manner of display of his or her name or office in the layout of the document, such as by headlines, captions, type size, typeface, or type color.

(3) "Substantially similar" is defined as follows:

(A) Two items are "substantially similar" if any of the following applies:

(i) The items are identical, except for changes necessary to identify the recipient and his or her address.

(ii) The items are intended to honor, commend, congratulate, or recognize an individual or group, or individuals or groups, for the same event or occasion, are intended to celebrate or recognize the same holiday, or are intended to congratulate an individual or group, or individuals or groups, on the same type of event, such as birthdays or anniversaries.

(iii) Both of the following apply to the items mailed:

(I) Most of the bills, legislation, governmental action, activities, events, or issues of public concern mentioned in one item are mentioned in the other.

(II) Most of the information contained in one item is contained in the other.

(B) Enclosure of the same informational materials in two items mailed, such as copies of the same bill, public document, or report, shall not, by itself, mean that the two items are "substantially similar." The informational materials shall not include the elected officer's name, photograph, signature, or any other reference to the elected officer except as permitted elsewhere in this section.

(C) An item is only considered substantially similar to other items sent by the same official, not to items sent by other officials in the same agency.

(4) "Unsolicited request" is defined as follows:

(A) A written or oral communication, including a petition, that specifically requests a response and is not requested or induced by the recipient elected officer or by any third person acting at his or her behest. However, an unsolicited oral or written communication, including a petition, that does not contain a specific request for a response shall be deemed to constitute an unsolicited request for a single written response.

(B) An unsolicited request for continuing information on a subject shall be deemed an unsolicited request for multiple responses directly related to that subject for a period of time not to exceed 24 months. An unsolicited request to receive a regularly published agency newsletter shall be deemed an unsolicited request for each issue of that newsletter.

(C) A previously unsolicited request to receive an agency newsletter or mass mailing on an ongoing basis shall not be deemed to have become solicited by the sole fact that the requestor responds to an agency notice indicating that, in the absence of a response, his or her name will be purged from the mailing list for that newsletter or mass mailing. A notice in the following language shall be deemed to meet this standard:

"The law does not permit this office to use public funds to keep you updated on items of interest unless you specifically request that it do so."

Inclusion of a similar notice in other items does not constitute a solicitation under this section.

(D) A communication sent in response to an elected officer's participation at a public forum or press conference, or to his or her issuance of a press release, shall be deemed an unsolicited request.

(E) A person who subscribes to newspapers or other periodicals published by persons other than elected officers shall be deemed to have made unsolicited requests for materials published in those subscription publications.

History: Added by Stats. 2017, Ch. 827

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18901.1

**§ 89003. Mass Mailings Sent at Public Expense;
Temporal Prohibition.**

Notwithstanding subdivision (b) of Section 89002, a mass mailing, as defined in Section 82041.5, that meets the criteria of subdivision (a) of Section 89002 shall not be sent within the 60 days preceding an election by or on behalf of a candidate whose name will appear on the ballot at that election, except as provided in paragraphs (2) to (8), inclusive, and paragraph (10) of subdivision (b) of Section 89002.

History: Added by Stats. 2017, Ch. 827

Chapter 9.5. Ethics.
§ 89500-89522

Article 1.	Honoraria. § 89500-89502	107
Article 2.	Gifts. § 89503	108
Article 3.	Travel. § 89506	108
Article 4.	Campaign Funds. § 89510 – 89522	109

Article 1. Honoraria.
§ 89500-89502

§ 89500.	Chapter Title	107
§ 89501.	Honoraria	107
§ 89502.	Honorarium	107

§ 89500. Chapter Title.

This chapter shall be known and may be cited as the Ethics in Government Act of 1990.

History: Added by Stats. 1990, Ch. 84.

§ 89501. Honoraria.

(a) For purposes of this chapter, “honorarium” means, except as provided in subdivision (b), any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

(b) The term “honorarium” does not include:

(1) Earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches. The Commission shall adopt regulations to implement this subdivision.

(2) Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the State Controller for donation to the General Fund, or in the case of a public official for local government agency, delivered to his or her agency for donation to an equivalent fund, without being claimed as a deduction from income for tax purposes.

(c) Section 89506 shall apply to all payments, advances, or reimbursements for travel and related lodging and subsistence.

History: Repealed and new section added by Stats. 1995, Ch. 690.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18930, 18931.1, 18931.2, 18931.3, 18932, 18932.1, 18932.2, 18932.3, 18932.4, 18932.5, 18933, 18940, 18944, 18945.1, 18946.2, 18946.5, 18946.6, 18950, 18950.1, 18950.2

§ 89502. Honorarium.

(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept any honorarium.

(b) (1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept any honorarium. A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission and no designated employee of a state or local government agency shall accept an honorarium from any source if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

History: Added by Stats. 1990, Ch. 84; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18736, 18930, 18931.1, 18931.2, 18931.3, 18932, 18932.1, 18932.2, 18932.3, 18932.4, 18932.5, 18933, 18940, 18944, 18945.1, 18946.2, 18946.5, 18946.6, 18950, 18950.1, 18950.2

Article 2. Gifts.
§ 89503-89503.5

§ 89503. Gift Limits.

(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).

(b)(1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250). A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election, after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty (\$250) if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

(e) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506.

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(f) Beginning on January 1, 1993, the Commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10).

(g) The limitations in this section are in addition to the limitations on gifts in Section 86203.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1993, Ch. 769; repealed and new section added by Stats. 1995, Ch. 690; amended by Stats. 1996, Ch. 1056.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18730, 18730.1, 18736, 18932.4, 18940, 18940.2, 18941, 18942, 18942.1, 18942.2, 18942.3, 18944, 18945, 18945.1, 18946, 18946.2, 18946.4, 18946.5, 18946.6, 18950, 18950.1, 18950.2

Opinions: *In re Solis* (2000) 14 FPPC Ops. 7

§ 89503.5. Gift; Received and Accepted.

A gift is both “received” and “accepted” when the public official, or the official’s immediate family member,

knowingly takes actual possession of the gift, is provided the benefit of the gift, or takes any action exercising direction or control of the gift.

History: Added by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18700, 18941, 18944

Article 3. Travel. § 89506

§ 89506. Travel Payments, Advances and Reimbursements.

(a) Payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following applies:

(1) The travel is in connection with a speech given by the elected state officer, local elected officeholder, candidate for elective state office or local elective office, an individual specified in Section 87200, member of a state board or commission, or designated employee of a state or local government agency, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States who substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Gifts of travel not described in subdivision (a) are subject to the limits in Section 89503.

(c) Subdivision (a) applies only to travel that is reported on the recipient’s statement of economic interests.

(d) For purposes of this section, a gift of travel does not include any of the following:

(1) Travel that is paid for from campaign funds, as permitted by Article 4 (commencing with Section 89510), or that is a contribution.

(2) Travel that is provided by the governmental agency of a local elected officeholder, an elected state officer, member of a state board or commission, an individual specified in Section 87200, or a designated employee.

(3) Travel that is reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in Sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches.

(4) Travel that is excluded from the definition of a gift by any other provision of this title.

(e) This section does not apply to payments, advances, or reimbursements for travel and related lodging and subsistence permitted or limited by Section 170.9 of the Code of Civil Procedure.

(f)(1) A nonprofit organization that regularly organizes and hosts travel for elected officials and that makes payments, advances, or reimbursements that total more than ten thousand dollars (\$10,000) in a calendar year, or that total more than five thousand dollars (\$5,000) in a calendar year for a single person, for travel by an elected state officer or local elected officeholder as described in subdivision (a) shall disclose to the Commission the names of donors who did both of the following in the preceding year:

(A) Donated one thousand dollars (\$1,000) or more to the nonprofit organization.

(B) Accompanied an elected state officer or local elected officeholder, either personally or through an agent, employee, or representative, for any portion of travel described in subdivision (a).

(2) For purposes of this subdivision, a nonprofit organization “regularly organizes and hosts travel for elected officials” if the sum of the nonprofit organization’s expenses that relate to any of the following types of activities with regard to elected officials was greater than one-third of its total expenses reflected on the nonprofit organization’s Internal Revenue Service Form 990, or the equivalent, filed most recently within the last 12 months:

(A) Travel.

(B) Study tours.

(C) Conferences, conventions, and meetings.

(3) This subdivision does not preclude a finding that a nonprofit organization is acting as an intermediary or agent of the donor. If the nonprofit organization is acting as an intermediary or agent of the donor, all of the following apply:

(A) The donor to the nonprofit organization is the source of the gift.

(B) The donor shall be identified as a financial interest under Section 87103.

(C) The gift shall be reported as required by Section 87207.

(D) The gift shall be subject to the limitations on gifts specified in Section 89503.

(4) For purposes of this subdivision, a nonprofit organization includes an organization that is exempt from taxation under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 674; amended by Stats. 1994, Ch. 1105; amended by Stats. 1995, Ch. 690; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2015, Ch. 757; amended by Stats. 2016, Ch. 86

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18930, 18931.1, 18931.2, 18931.3, 18932, 18932.1, 18932.2, 18932.3, 18932.4, 18932.5, 18933, 18940, 18940.2, 18944, 18945.1, 18946.2, 18946.5, 18946.6, 18950, 18950.1, 18950.2

Article 4. Campaign Funds. § 89510 – 89522

§ 89510.	Contributions Held in Trust.	109
§ 89511.	Campaign Funds Held by Candidates and Committees.	109
§ 89511.5.	Use of Personal Funds for Incumbent Elected Officers.	110
§ 89512.	Expenditures Associated with Seeking or Holding Office.	110
§ 89512.5.	Expenditures by Committees not Controlled by Candidates.	110
§ 89513.	Use of Campaign Funds for Specific Activities. .	111
§ 89514.	Use of Campaign Funds for Attorney’s Fees.	112
§ 89515.	Use of Campaign Funds for Donations and Loans.	112
§ 89516.	Use of Campaign Funds for Vehicle Expenses. ..	112
§ 89517.	Use of Campaign Funds for Real Property, Appliances or Equipment.	113
§ 89517.5.	Use of Campaign Funds for Security System.	113
§ 89517.6	Use of Campaign Funds for Cybersecurity of Electronic Devices.	113
§ 89518.	Use of Campaign Funds for Compensation. .	113
§ 89519.	Use of Surplus Campaign Funds.	114
§ 89519.5.	Use of Campaign Funds Held by an Officeholder Convicted of Certain Felonies of the Election Code.	114
§ 89520.	Violations.	114
§ 89521.	Unlawful Honorarium, Gift or Expenditure. .	115
§ 89522.	Campaign Funds; Prohibited Use Under Elections Code.	115

§ 89510. Contributions Held in Trust.

(a) A candidate for elective state office may only accept contributions within the limits provided in Chapter 5 (commencing with Section 85100).

(b) All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2001, Ch. 241, effective September 4, 2001.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.7

§ 89511. Campaign Funds Held by Candidates and Committees.

(a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b)(1) For purposes of this chapter, “campaign funds” includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, “committee” means a controlled committee, ballot measure committee, committee

opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(3) For purposes of this chapter, “substantial personal benefit” means an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

(4) For purposes of this article, “household” includes the candidate’s or elected officer’s spouse, dependent children, and parents who reside with the candidate or elected officer.

(5)(A) For purposes of this article, “attorney’s fees and other costs” includes only the following:

(i) Attorney’s fees and other legal costs related to the defense of the candidate or officer.

(ii) Administrative costs directly related to compliance with the requirements of this title.

(B) “Attorney’s fees and other costs” does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or, except as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 2000, Ch. 130; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229, 18229.1, 18421.7, 18521.5, 18960

Opinions: *In re Roberts* (2004) 17 FPPC Ops. 9

§ 89511.5. Use of Personal Funds for Incumbent Elected Officers.

(a) An incumbent elected officer may utilize his or her personal funds for expenditures authorized by subdivision (b) of Section 89510 without first depositing those funds in his or her controlled committee’s campaign bank account, if both of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The treasurer of the committee is provided with a dated receipt and a written description of the expenditure.

(b) An incumbent elected officer may be reimbursed for expenditures of his or her personal funds, from either the controlled committee campaign bank account established pursuant to Section 85201 with respect to election to the incumbent term of office, or from a controlled committee campaign bank account established pursuant to Section 85201 with respect to election to a future term of office, if all of the following conditions are met:

(1) The expenditures are not campaign expenses.

(2) The incumbent elected officer, prior to reimbursement, provides the treasurer of the committee with a dated receipt and a written description of each expenditure.

(3) Reimbursement is paid within 90 days of the expenditure, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included,

in the case of an expenditure charged to a credit card or charge account.

(c) When the elected officer’s controlled committee is notified that expenditures totaling one hundred dollars (\$100) or more in a fiscal year have been made by the incumbent elected officer, the committee shall report, pursuant to subdivision (k) of Section 84211, the expenditures on the campaign statement for the period in which the expenditures were made and the reimbursements on the campaign statement for the period in which the reimbursements were made.

(d) If reimbursement is not paid within the time authorized by this section, the expenditure shall be reported on the campaign statement as a nonmonetary contribution received on the 90th day after the expenditure is paid, in the case of a cash expenditure, or within 90 days of the end of the billing period in which it was included, in the case of an expenditure charged to a credit card or charge account.

(e) This section shall not be construed to authorize an incumbent elected officer to make expenditures from any campaign bank account for expenses other than those expenses associated with his or her election to the specific office for which the account was established and expenses associated with holding that office.

History: Added by Stats. 1990, Ch. 1075; amended by Stats. 2007, Ch. 348.

§ 89512. Expenditures Associated with Seeking or Holding Office.

(a) An expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. An expenditure associated with holding office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a legislative or governmental purpose. Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.

(b) Except as expressly authorized by this article, an expenditure for a fine, penalty, judgment, or settlement is not within the lawful execution of the trust imposed by Section 89510.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 2014, Ch. 884..

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18421.7

§ 89512.5. Expenditures by Committees not Controlled by Candidates.

(a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.

History: Added by Stats. 1991, Ch. 546.

§ 89513. Use of Campaign Funds for Specific Activities.

This section governs the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that this section guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth in this section.

(a)(1) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee, or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(2) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(3) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, **the candidate or elected officer's** representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by Section 84211.

(5) Whenever campaign funds are used to pay or reimburse for travel expenses and necessary accommodations, any mileage credit that is earned or awarded pursuant to an airline bonus mileage program shall be deemed personally earned by or awarded to the individual traveler. **The** earning or awarding of mileage credit **and** the redeeming of credit for actual **travel are not** subject to reporting pursuant to Section 84211.

(b)(1) Campaign funds shall not be used to pay for or reimburse the cost of professional services unless the services are directly related to a political, legislative, or governmental purpose.

(2) Expenditures by a committee to pay for professional services reasonably required by the committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(3) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of **their households**. "Health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychi-

atrists, psychologists, or counselors **and** expenses for medications, treatments, medical equipment, hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

(c)(1) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

(A) Parking citations incurred in the performance of an activity that was directly related to a political, legislative, or governmental purpose.

(B) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title. However, campaign funds shall not be used to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in either of the following:

(i) A personal benefit to the candidate or officer if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose.

(ii) A substantial personal benefit to the candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay a restitution fine imposed under Section 86 of the Penal Code.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, if this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e)(1) Except **as** otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, or **the candidate or elected officer's** immediate family, or an officer, director, employee, or staff of the committee or the elected officer's governmental agency.

(2) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected officer, or members of **the candidate or elected officer's** immediate family, or an officer, director, employee, or staff of the committee, unless their attendance at the event is directly related to a political, legislative, or governmental purpose.

(3) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or **the candidate or elected officer's** immediate family are governed by subdivision (f).

(f)(1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. The refund of a campaign contribution does not constitute the making of a gift.

(2) **This section does not** prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or committee

while on vacation, leave, or otherwise outside of compensated public time.

(3) An election victory celebration or similar campaign event, or gifts with a total cumulative value of less than two hundred fifty dollars (\$250) in a single year made to an individual employee, a committee worker, or an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose. For purposes of this paragraph, a gift to a member of a person's immediate family shall be deemed to be a gift to that person.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 89515, or, unless otherwise prohibited, to a candidate for elective office, political party, or committee.

(h)(1) Campaign funds shall not be used to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding. If a candidate or elected officer uses campaign funds for other legal costs and expenses related to claims of those unlawful practices and is held liable for such a violation, the candidate or elected officer shall reimburse the campaign for all funds used in connection with those other legal costs and expenses.

(2) For the purpose of this subdivision, "sexual assault" and "sexual abuse" have the same meaning as in Section 11165.1 of the Penal Code and "sexual harassment" has the same meaning as in subdivision (j) of Section 12940 of the Government Code.

(i)(1) For purposes of this subdivision, "childcare expenses" include the reasonable costs of professional daycare services, babysitting, nanny services, food and beverages, transportation to and from the location of a childcare services provider, before and after school programs, summer day camps, and preschool. Additional qualifying expenses include costs related to a nurse, home care provider, or other care provider for a disabled dependent child. "Childcare expenses" do not include private school tuition, medical expenses, tutoring services, or payments to a relative, within the third degree of consanguinity, of a child, unless the relative owns or operates a professional daycare or babysitting service and the cost of the service is no greater than the relative would otherwise charge.

(2) Campaign funds may be used to pay or reimburse a candidate for reasonable and necessary childcare expenses for a dependent child resulting directly from the candidate engaging in campaign activities. For purposes of this paragraph, "directly" means that the candidate would not have incurred the childcare expenses if the candidate did not engage in the campaign activities.

(3) This section shall not be construed to limit the use of campaign funds to pay for childcare expenses resulting from an officeholder engaging in a campaign activity with both political and legislative or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1990, Ch. 1075; amended by Stats. 1991, Ch. 546; amended by Stats. 2006, Ch. 155; amended by Stats. 2006, Ch. 538; amended by Stats. 2007, Ch. 130;

amended by Stats. 2014, Ch. 881 and 884; amended by Stats. 2019, Ch. 384; amended by Stats. 2019, Ch. 564.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18421.7

§ 89514. Use of Campaign Funds for Attorney's Fees.

Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

§ 89515. Use of Campaign Funds for Donations and Loans.

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family, and where the donation or loan bears a reasonable relation to a political, legislative, or governmental purpose.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18521.5

§ 89516. Use of Campaign Funds for Vehicle Expenses.

Notwithstanding Sections 89512 and 89513, this section governs the use of campaign funds for vehicle expenses.

(a) Campaign funds shall not be used to purchase a vehicle unless both of the following apply:

(1) Title to the vehicle is held by the committee and not the candidate, elected officer, campaign treasurer, or any other individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or a member of his or her immediate family.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(b) Campaign funds shall not be used to lease a vehicle unless both of the following apply:

(1) The lessee is the committee, or a state or local government agency and not the candidate, elected officer, or a member of his or her immediate family; or the lessor is a state or local government agency.

(2) The use of the vehicle is directly related to a political, legislative, or governmental purpose.

(c) Campaign funds may be used to pay for or reimburse the operating costs, including, but not limited to, insurance, maintenance, and repairs, for any vehicle for which campaign funds may be spent pursuant to this section.

(d) Campaign funds may be used to reimburse a candidate, elected officer, his or her immediate family, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or an employee or member of the staff of the committee or of the elected officer's governmental agency, for the use of his or her vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

(e) For the purposes of this section, use of a vehicle is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18961

§ 89517. Use of Campaign Funds for Real Property, Appliances or Equipment.

(a) Campaign funds shall not be used for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or member of his or her immediate family.

(b) Campaign funds shall not be used to purchase real property. Except as prohibited by subdivision (a), campaign funds may be used to lease real property for up to one year at a time where the use of that property is directly related to political, legislative, or governmental purposes.

(c) For the purposes of this section, real property, appliance, or equipment is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18961

§ 89517.5. Use of Campaign Funds for Security System.

Notwithstanding Section 89517, campaign funds may be used to pay, or reimburse the state, for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the Commission. The report to the Commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. The candidate or elected officer shall reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.

History: Added by Stats. 1993, Ch. 1143.

§ 89517.6 Use of Campaign Funds for Cybersecurity of Electronic Devices

Notwithstanding Section 89517, campaign funds may be used to pay for, or reimburse the state for, the costs of installing and monitoring hardware, software, or services related to the cybersecurity of electronic devices of a candidate, elected officer, or campaign worker. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission in the candidate's or elected officer's campaign statements filed pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of this title.

History: Added by Stats. 2019, Ch. 46.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18225.4, 18421.9, 18428, 18550, 18951, 18960

§ 89518. Use of Campaign Funds for Compensation.

(a) Campaign funds shall not be used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

(b) Campaign funds shall not be used to compensate any individual or individuals with authority to approve the expenditure of campaign funds for the performance of political, legislative, or governmental activities, except as pro-

vided in subdivision (b) of Section 89513 and for reimbursement of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18521.5

§ 89519. Use of Surplus Campaign Funds.

(a) Upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds under the control of the former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100).

(b) Surplus campaign funds shall be used only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(3) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(4) Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined in Section 82048.3.

(5) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

(6) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation that arises directly out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

(c) For purposes of this section, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed an outstanding campaign debt or elected officer's expense, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission

shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and the telephone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds become surplus campaign funds. The candidate or elected officer shall reimburse the surplus fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds became surplus campaign funds. The campaign funds become surplus campaign funds upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

History: Added by Stats. 1990, Ch. 84; amended by Stats. 1991, Ch. 546; amended by Stats. 1993, Ch. 1143; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election]; amended by Stats. 2013, Ch. 9, effective July 1, 2014; amended by Stats. 2014, Ch. 884.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18229.1, 18530.4, 18531.2, 18951

Opinions: *In re Pirayou* (2006) 19 FPPC Ops. 1

§ 89519.5. Use of Campaign Funds Held by an Officeholder Convicted of Certain Felonies of the Election Code.

(a) An officeholder who is convicted of a felony enumerated in Section 20 of the Elections Code, and whose conviction has become final, shall use funds held by the officeholder's candidate controlled committee only for the following purposes:

(1) The payment of outstanding campaign debts or elected officer's expenses.

(2) The repayment of contributions.

(b) Six months after the conviction becomes final, the officeholder shall forfeit any remaining funds subject to subdivision (a), and these funds shall be deposited in the General Fund.

(c) This section does not apply to funds held by a ballot measure committee or in a legal defense fund formed pursuant to Section 85304.

History: Added by Stats. 2016, Ch. 837.

§ 89520. Violations.

The remedies provided in Chapter 11 (commencing with Section 91000) shall not apply to violations of this chapter.

History: Added by Stats. 1990, Ch. 84.

§ 89521. Unlawful Honorarium, Gift or Expenditure.

Any person who makes or receives an honorarium, gift, or expenditure in violation of this chapter is liable in a civil action brought by the Commission for an amount of up to three times the amount of the unlawful honorarium, gift, or expenditure.

History: Added by Stats. 1990, Ch. 84.

§ 89522. Campaign Funds; Prohibited Use Under Elections Code.

This chapter shall not be construed to permit an expenditure of campaign funds prohibited by Section 18680 of the Elections Code.

History: Added by Stats. 1991, Ch. 546; amended by Stats. 1994, Ch. 923

Chapter 10. Auditing.
§ 90000-90009

§ 90000.	Responsibility.	115
§ 90001.	Mandatory Audits and Investigations.	115
§ 90002.	Audits and Investigations; Time.	116
§ 90003.	Discretionary Audits.	116
§ 90004.	Periodic Reports; Public Documents.	116
§ 90005.	Confidentiality; Exception.	116
§ 90006.	Audit and Investigation by Commission.	117
§ 90007.	Auditing Guidelines and Standards.	117
§ 90008.	Preelection Auditing.	117
§ 90009.	Injunction to Compel Disclosure.	117

§ 90000. Responsibility.

Except as provided in Section 90006, the Franchise Tax Board shall make audits and field investigations with respect to the following:

(a) Reports and statements filed with the Secretary of State under Chapter 4 (commencing with Section 84100), Chapter 5 (commencing with Section 85100), and Chapter 6 (commencing with Section 86100).

(b) Local candidates and their controlled committees selected for audit pursuant to subdivision (i) of Section 90001.

History: Amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 483.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18994, 18995, 18998

§ 90001. Mandatory Audits and Investigations.

Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbying firm and each lobbyist employer who employs one or more lobbyists shall be subject to an audit on a random basis with these lobbying firms or lobbyist employers having a 25-percent chance of being audited. When a lobbying firm or lobbyist employer is audited, the individual lobbyists who are employed by the lobbying firm or the lobbyist employer shall also be audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars (\$25,000) or more in contributions have been raised or twenty-five thousand dollars (\$25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of his or her candidacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars (\$25,000) shall be subject to an audit on a random basis of 10 percent of the number of such candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been received or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy. Random selection shall be made of 25 percent of the Senate districts, 25 percent of the Assembly districts and 25 percent of the judicial offices contested in an election year.

(d) Each candidate for the Legislature in a special primary or special runoff election for whom it is determined that fifteen thousand dollars (\$15,000) or more in contributions have been raised or fifteen thousand dollars (\$15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy.

(e) Each controlled committee of any candidate who is being audited pursuant to subdivision (b), (c), or (d).

(f) Each committee, other than a committee specified in subdivision (c) of Section 82013, primarily supporting or opposing a candidate who is being audited pursuant to subdivision (b), (c), or (d) if it is determined that the committee has expended more than ten thousand dollars (\$10,000).

(g) Each committee, other than a committee specified in subdivision (c) of Section 82013, whose participation is primarily in support of or in opposition to a state measure or state measures if it is determined that the committee has expended more than ten thousand dollars (\$10,000) on such measure or measures.

(h) Each committee, other than a committee defined in subdivision (c) of Section 82013, a controlled committee or a committee primarily supporting or opposing a state candidate or measure, if it is determined that the committee has raised or expended more than ten thousand dollars (\$10,000) supporting or opposing state candidates or state measures during any calendar year, except that if the Commission determines from an audit report that a committee is in substantial compliance with the provisions of the act, the committee thereafter shall be subject to an audit on a random basis with each such committee having a 25-percent chance of being audited.

(i)(1) With respect to local candidates and their controlled committees, the Commission shall promulgate regulations which provide a method of selection for these audits.

(2) With respect to candidates for the Board of Administration of the Public Employees' Retirement System, the Commission shall promulgate regulations that provide a method for selection of these audits. The Public Employees' Retirement System shall reimburse the Commission for all reasonable expenses incurred pursuant to this section.

(j) In accordance with subdivisions (a), (b), (c), and (h), the Fair Political Practices Commission shall select by lot the persons or districts to be audited on a random basis. For campaign audits the selection shall be made in public after the last date for filing the first report or statement following the general or special election for which the candidate ran, or following the election at which the measure was adopted or defeated. For lobbying firm and lobbyist employer audits, the selection shall be made in public in February of odd-numbered years.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1979, Ch. 551; amended by Stats. 1984, Ch. 1368; amended by Stats. 1985, Ch. 1183, effective September 29, 1985; amended by Stats. 1986, Ch. 835; amended by Stats. 1994, Ch. 1139; amended by Stats. 1998, Ch. 923.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18601, 18991, 18992, 18993, 18994, 18995, 18997, 18998

§ 90002. Audits and Investigations; Time.

(a) The scope of audits and investigations under Section 90001 is as follows:

(1) Audits and investigations of lobbying firms and employers of lobbyists shall be conducted biennially covering reports filed during the previous two-year period. If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(2) For campaign statements or reports of a candidate, controlled committee, or committee primarily supporting or opposing a candidate, the audit or investigation shall cover all campaign statements and reports filed for the primary and general election, or a special or runoff election, as well as any previous campaign statements or reports filed since the last election for that office. The audit or investigation shall not include statements or reports previously audited under Section 90001 or 90003.

(3) For campaign statements or reports of a committee primarily supporting or opposing a measure, the audit or investigation shall cover all campaign statements and reports filed by the committee in connection with the measure.

(4) For all other committees, the audit or investigation shall cover all campaign statements and reports filed during the previous two calendar years.

(b) The audit or investigation periods may be extended to include any transaction that relates to or is connected with the election being audited or investigated or the two-year period.

(c) An audit or investigation conducted under Section 90001 shall not include campaign statements or reports filed in conjunction with an election for any other office.

(d) This section shall not be interpreted to act as a limit on the Franchise Tax Board or the Commission in undertaking a discretionary audit under Section 90003.

History: Amended by Stats. 2014, Ch. 9; repealed and reenacted as amended by Stats. 2019, Ch. 312.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18521, 18531.62, 18534, 18991, 18994, 18996, 18997, 18998

§ 90003. Discretionary Audits.

In addition to the audits and investigations required by Section 90001, the Franchise Tax Board and the Commission may make investigations and audits with respect to any reports or statements required by this title.

History: Amended by Stats. 2004, Ch. 483; amended by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18994, 18996, 18998

§ 90004. Periodic Reports; Public Documents.

(a) The Franchise Tax Board shall periodically prepare reports, which, except as otherwise provided in this section, shall be sent to the Commission, the Secretary of State, and the Attorney General. If the reports relate to candidates for or committees supporting or opposing candidates for the office of Attorney General, the reports shall be sent to the Commission, the Secretary of State, and the District Attorneys of the Counties of Los Angeles, Sacramento, and San Francisco. If the reports relate to local candidates and their controlled committees, the reports shall be sent to the Commission, the local filing officer with whom the candidate or committee is required to file the originals of campaign reports pursuant to Section 84215, and the district attorney for the candidate's county of domicile.

(b) The Franchise Tax Board shall complete its report of any audit conducted on a random basis pursuant to Section 90001 within two years after the person or entity subject to the audit is selected by the Commission to be audited.

(c) The reports of the Franchise Tax Board shall be public documents and shall contain in detail the Franchise Tax Board's findings with respect to the accuracy and completeness of each report and statement reviewed and its findings with respect to any report or statement that should have been but was not filed. The Secretary of State and the local filing officer shall place the audit reports in the appropriate campaign statement or lobbying files.

History: Amended by Stats. 1976, Ch. 564; amended by Stats. 1979, Ch. 531; amended by Stats. 1987, Ch. 230; amended by Stats. 2004, Ch. 591; amended by Stats. 2005, Ch. 22; amended by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18994, 18995, 18998

§ 90005. Confidentiality; Exception.

A member, employee or agent of the Franchise Tax Board or the Commission shall not divulge or make known in any manner the particulars of any record, documents, or information that he or she receives by virtue of this chapter, except in furtherance of the work of the Franchise Tax Board

or the Commission or in connection with a court proceeding or the lawful investigation of any agency.

History: Amended by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.62, 18994, 18998

§ 90006. Audit and Investigation by Commission.

Audits and field investigations of candidates for Controller and member of the Board of Equalization and of committees supporting such candidates shall be made by the Commission instead of the Franchise Tax Board.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18531.62, 18994, 18998

§ 90007. Auditing Guidelines and Standards.

(a) The Commission shall adopt auditing guidelines and standards which shall govern audits and field investigations conducted under Section 90001. The guidelines and standards shall be formulated to accomplish the following purposes:

(1) The audits should encourage compliance and detect violations of this title;

(2) The audits should be conducted with maximum efficiency in a cost-effective manner; and

(3) The audits should be as unobtrusive as possible consistent with the foregoing purposes.

(b) In adopting its guidelines and standards the Commission shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

History: Added by Stats. 1978, Ch. 779, effective September 18, 1978.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18531.62, 18993, 18994, 18995, 18998

§ 90008. Preelection Auditing.

It is the intent of the Legislature that the people of California have timely access to information concerning the campaign contributions and expenditures of all committees, corporations, and individuals, and that this information be provided before the election, when it is relevant, in accordance with the requirements of this title. It is the further intent of the Legislature that the Commission ensure that these disclosures are being made, and that this title be liberally construed and any judicial process be expedited to achieve this purpose.

(b) The Commission, and the Franchise Tax Board at the direction of the Commission, may audit any record required to be maintained under this title to ensure compliance with this title prior to an election, even if the record is a report or statement that has not yet been filed.

History: Added by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18994, 18998

§ 90009. Injunction to Compel Disclosure.

(a) To further the purposes of this title, the Commission may seek injunctive relief in a superior court to compel disclosure consistent with this title.

(b) A court shall grant expedited review to an action filed pursuant to subdivision (a) as follows:

(1) The court shall conduct an expedited hearing with an opportunity for the defendant to respond.

(2) Briefs of the parties shall be required pursuant to an expedited schedule.

(c) A superior or appellate court may, at its discretion, grant a stay of an order granting relief pursuant to subdivision (a).

History: Added by Stats. 2014, Ch. 9.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18994, 18998

Chapter 11. Enforcement. **§ 91000-91014**

§ 91000.	Violations; Criminal.....	117
§ 91000.5.	Administrative Proceedings.	118
§ 91001.	Responsibility for Enforcement.	118
§ 91001.5.	Authority of City Attorneys of Charter Cities.....	118
§ 91002.	Effect of Conviction.....	118
§ 91003.	Injunction.....	118
§ 91003.5.	Conflicts of Interest Violation.....	118
§ 91004.	Violations of Reporting Requirements; Civil Liability.	119
§ 91005.	Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.	119
§ 91005.5.	Civil Penalties.	119
§ 91006.	Joint and Several Liability.	119
§ 91007.	Procedure for Civil Actions.	119
§ 91008.	Judgment on the Merits; Precedence; Dismissal.	120
§ 91008.5.	Civil Action Precluded by Commission Order....	120
§ 91009.	Considerations; Liability.....	120
§ 91010.	Campaign Disclosure Violations; Request to Civil Prosecutor.	120
§ 91011.	Statute of Limitations.....	120
§ 91012.	Costs; Attorney Fees; Bond.	120
§ 91013.	Late Filing of Statement or Report; Fees.	120
§ 91013.5.	Collection of Penalties.	120
§ 91013.7.	Judgment for Collection of Penalties.	121
§ 91014.	Applicability of Other State Law.	121

§ 91000. Violations; Criminal.

(a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 91000.5. Administrative Proceedings.

No administrative action brought pursuant to Chapter 3 (commencing with Section 83100) alleging a violation of any of the provisions of this title shall be commenced more than five years after the date on which the violation occurred.

(a) The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.

(b) If the person alleged to have violated this title engages in the fraudulent concealment of his or her acts or identity, the five-year period shall be tolled for the period of concealment. For purposes of this subdivision, “fraudulent concealment” means the person knows of material facts related to his or her duties under this title and knowingly conceals them in performing or omitting to perform those duties, for the purpose of defrauding the public of information to which it is entitled under this title.

(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under Chapter 3 (commencing with Section 83100), the person alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date of the documents are produced.

History: Added by Stats. 1997, Ch. 179.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18610, 18612, 18615

§ 91001. Responsibility for Enforcement.

(a) The Attorney General is responsible for enforcing the criminal provisions of this title with respect to state agencies, lobbyists and state elections. The district attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General.

(b) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this title. The civil prosecutor is the Commission with respect to the state or any state agency, except itself. The Attorney General is the civil prosecutor with respect to the Commission. The district attorneys are the civil prosecutors with respect to any other agency. The civil prosecutor may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Upon written authorization from a district attorney, the Commission may bring any civil action under this title which could be brought by a voter or resident of the jurisdiction. Under such circumstances, Section 91007 shall not apply to the Commission.

(c) Whether or not a violation is inadvertent, negligent or deliberate, and the presence or absence of good faith shall

be considered in applying the remedies and sanctions of this title.

History: Amended by Stats. 1976, Ch. 1161; repealed and reenacted as amended by Stats. 1977, Ch. 230, effective July 7, 1977; amended by Stats. 1979, Ch. 357.

§ 91001.5. Authority of City Attorneys of Charter Cities.

In any case in which a district attorney could act as the civil or criminal prosecutor under the provisions of this title, the elected city attorney of any charter city may act as the civil or criminal prosecutor with respect to any violations of this title occurring within the city.

History: Added by Stats. 1976, Ch. 594, effective August 26, 1976.

§ 91002. Effect of Conviction.

No person convicted of a misdemeanor under this title shall be a candidate for any elective office or act as a lobbyist for a period of four years following the date of the conviction unless the court at the time of the sentencing specifically determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section. Any person violating this section is guilty of a felony.

§ 91003. Injunction.

(a) Any person residing in the jurisdiction may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this title. The court may in its discretion require any plaintiff other than the Commission to file a complaint with the Commission prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his costs of litigation, including reasonable attorney’s fees.

(b) Upon a preliminary showing in an action brought by a person residing in the jurisdiction that a violation of Article 1 (commencing with Section 87100), Article 4 (commencing with Section 87400), or Article 4.5 (commencing with Section 87450) of Chapter 7 of this title or of a disqualification provision of a Conflict of Interest Code has occurred, the court may restrain the execution of any official action in relation to which such a violation occurred, pending final adjudication. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void. The official actions covered by this subsection include, but are not limited to orders, permits, resolutions and contracts, but do not include the enactment of any state legislation. In considering the granting of preliminary or permanent relief under this subsection, the court shall accord due weight to any injury that may be suffered by innocent persons relying on the official action.

History: Amended by Stats. 1976, Ch. 1161; amended by Stats. of 1987, Ch. 628.

§ 91003.5. Conflicts of Interest Violation.

Any person who violates a provision of Article 2 (commencing with Section 87200), 3 (commencing with Section 87300), or 4.5 (commencing with Section 87450) of Chapter

7 is subject to discipline by his or her agency, including dismissal, consistent with any applicable civil service or other personnel laws, regulations and procedures.

History: Amended by Stats. 1986, Ch. 653.

§ 91004. Violations of Reporting Requirements; Civil Liability.

Any person who intentionally or negligently violates any of the reporting requirements of this title shall be liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount not more than the amount or value not properly reported.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18427

§ 91005. Civil Liability for Campaign, Lobbyist, Conflict of Interest Violation.

(a) Any person who makes or receives a contribution, gift, or expenditure in violation of Section 84300, 84304, 86203, or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to one thousand dollars (\$1,000) or three times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(b) Any designated employee or public official specified in Section 87200, except an elected state officer, who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a conflict of interest code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

History: Amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2000, Ch. 130.

§ 91005.5. Civil Penalties.

Any person who violates any provision of this title, except Sections 84305, 84307, and 89001, for which no specific civil penalty is provided, shall be liable in a civil action brought by the commission or the district attorney pursuant to subdivision (b) of Section 91001, or the elected city attorney pursuant to Section 91001.5, for an amount up to five thousand dollars (\$5,000) per violation.

No civil action alleging a violation of this title may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000.

The provisions of this section shall be applicable only as to violations occurring after the effective date of this section.

History: Amended by Stats. 1982, Ch. 727; amended by Proposition 208 of the November 1996 Statewide General Election; Repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

§ 91006. Joint and Several Liability.

If two or more persons are responsible for any violation, they shall be jointly and severally liable.

History: Amended by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2000, Ch. 102 [Proposition 34 of the November Statewide General Election].

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18316.6

§ 91007. Procedure for Civil Actions.

(a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The civil prosecutor shall respond to the person in writing, indicating whether he or she intends to file a civil action.

(1) If the civil prosecutor responds in the affirmative and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(2) If the civil prosecutor responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the civil prosecutor. If, pursuant to this subdivision, the civil prosecutor does not respond within 120 days, the civil prosecutor shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.

(3) The time period within which a civil action shall be commenced, as set forth in Section 91011, shall be tolled from the date of receipt by the civil prosecutor of the written request to either the date that the civil action is dismissed without prejudice, or the date of receipt by the person of the negative response from the civil prosecutor, but only for a civil action brought by the person who requested the civil prosecutor to commence the action.

(b) Any person filing a complaint, cross-complaint or other initial pleading in a civil action pursuant to Section 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

(1) The full title and number of the case.

(2) The court in which the case is pending.

(3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

History: Amended by Stats. 1985, Ch. 1200; amended by Stats. 1999, Ch. 577; amended by Stats. 2000, Ch. 135.

§ 91008. Judgment on the Merits; Precedence; Dismissal.

Not more than one judgment on the merits with respect to any violation may be obtained under Sections 91004 and 91005. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Such actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the civil prosecutor or any plaintiff in an action based on the same violation.

§ 91008.5. Civil Action Precluded by Commission Order.

No civil action may be filed under Section 91004, 91005, or 91005.5 with regard to any person for any violations of this title after the Commission has issued an order pursuant to Section 83116 against that person for the same violation.

History: Added by Stats. 1984, Ch. 670.

§ 91009. Considerations; Liability.

In determining the amount of liability under Sections 91004 or 91005, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought under Section 91004 or 91005, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the General Fund of the state. In an action brought by the civil prosecutor, the entire amount recovered shall be paid to the general fund or treasury of the jurisdiction.

§ 91010. Campaign Disclosure Violations; Request to Civil Prosecutor.

No request to the civil prosecutor pursuant to Section 91007 shall be made or filed in connection with a report or statement required by Chapter 4 (commencing with Section 84100) until the time when an audit and investigation could be begun under subdivision (c) Section 90002.

History: Amended by Stats. 1992, Ch. 405.

§ 91011. Statute of Limitations.

(a) No civil action alleging a violation in connection with a report or statement required by Chapter 4 (commencing with Section 84100) shall be filed more than four years after an audit could begin as set forth in subdivision (c) of Section 90002, or more than one year after the Franchise Tax Board forwards its report to the commission, pursuant to Section 90004, of any audit conducted of the alleged violator, whichever period is less.

(b) No civil action alleging a violation of any provisions of this title, other than those described in subdivision

(a), shall be filed more than four years after the date the violation occurred.

History: Amended by Stats. 1978, Ch. 1411; amended by Stats. 1980, Ch. 742; amended by Stats. 1997, Ch. 455, effective September 24, 1997; amended by Stats. 2004, Ch. 591.

§ 91012. Costs; Attorney Fees; Bond.

The court may award to a plaintiff or defendant other than an agency, who prevails in any action authorized by this title his costs of litigation, including reasonable attorney's fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs.

§ 91013. Late Filing of Statement or Report; Fees.

(a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars (\$10) per day, starting 10 days, or five days in the case of a campaign statement required to be filed 12 days before an election, after the officer has sent specific written notice of the filing requirement and until the statement is filed.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he or she is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative January 7, 1975; amended by Stats. 1977, Ch. 555; amended by Stats. 1985, Ch. 1200; amended by Stats. 1993, Ch. 1140.

References at the time of publication (see page 2):

Opinions: *In re Wood* (2000) 13 FPPC Ops. 21
In re Layton (1975) 1 FPPC Ops. 113
In re Rundstrom (1975) 1 FPPC Ops. 188

§ 91013.5. Collection of Penalties.

(a) In addition to any other available remedies, the commission or the filing officer may bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid monetary penalties, fees, or civil penalties imposed pursuant to this title. The action may be filed

as a small claims, limited civil, or unlimited civil case, depending on the jurisdictional amount. The venue for this action shall be in the county where the monetary penalties, fees, or civil penalties were imposed by the commission or the filing officer. In order to obtain a judgment in a proceeding under this section, the commission or filing officer shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(1) That the monetary penalties, fees, or civil penalties were imposed following the procedures set forth in this title and implementing regulations.

(2) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the monetary penalties, fees, or civil penalties.

(3) That a demand for payment has been made by the commission or the filing officer and full payment has not been received.

(b) A civil action brought pursuant to subdivision (a) shall be commenced within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

History: Added by Stats. 1984, Ch. 670; amended by Stats. 2004, Ch. 483.

§ 91013.7. Judgment for Collection of Penalties.

If the time for judicial review of a final Commission order or decision has lapsed, or if all means of judicial review of the order or decision have been exhausted, the Commission may apply to the clerk of the court for a judgment to collect the penalties imposed by the order or decision, or the order as modified in accordance with a decision on judicial review.

The application, which shall include a certified copy of the order or decision, or the order as modified in accordance with a decision on judicial review, and proof of service of the order or decision, constitutes a sufficient showing to warrant issuance of the judgment to collect the penalties. The clerk of the court shall enter the judgment immediately in conformity with the application.

An application made pursuant to this section shall be made to the clerk of the superior court in the county where the monetary penalties, fees, or civil penalties were imposed by the Commission.

A judgment entered in accordance with this section has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action and may be enforced in the same manner as any other judgment of the court in which it is entered.

The Commission may bring an application pursuant to this section only within four years after the date on which the monetary penalty, fee, or civil penalty was imposed.

The remedy available under this section is in addition to those available under Section 91013.5 or any other law.

History: Added by Stats. 2013, Ch. 645.

§ 91014. Applicability of Other State Law.

Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state.

2022 GOVERNMENT CODE: PUBLIC RECORDS ACT

6250.

In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

(Amended by Stats. 1970, Ch. 575. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6251.

This chapter shall be known and may be cited as the California Public Records Act.

(Added by Stats. 1968, Ch. 1473. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6252.

As used in this chapter:

(a) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(b) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(f) (1) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(2) Notwithstanding paragraph (1) or any other law, "state agency" shall also mean the State Bar of California, as described in Section 6001 of the Business and Professions Code.

(g) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

(Amended by Stats. 2015, Ch. 537, Sec. 20. (SB 387) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6252.5.

Notwithstanding the definition of "member of the public" in Section 6252, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

This section does not constitute a change in, but is declaratory of, existing law.
(Added by Stats. 1998, Ch. 620, Sec. 3. Effective January 1, 1999. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6252.6.

Notwithstanding paragraph (2) of subdivision (a) of Section 827 of the Welfare and Institutions Code, after the death of a foster child who is a minor, the name, date of birth, and date of death of the child shall be subject to disclosure by the county child welfare agency pursuant to this chapter.

(Added by Stats. 2003, Ch. 847, Sec. 3. Effective January 1, 2004. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6252.7.

Notwithstanding Section 6252.5 or any other provision of law, when the members of a legislative body of a local agency are authorized to access a writing of the body or of the agency as permitted by law in the administration of their duties, the local agency, as defined in Section 54951, shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available.

(Added by Stats. 2008, Ch. 63, Sec. 2. Effective January 1, 2009. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or their designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.

(1) A requester who inspects a disclosable record on the premises of the agency has the right to use the requester's equipment on those premises, without being charged any fees or costs, to photograph or otherwise copy or reproduce the record in a manner that does not require the equipment to make physical contact with the record, unless the means of copy or reproduction would result in either of the following:

(A) Damage to the record.

(B) Unauthorized access to the agency's computer systems or secured networks by using software, equipment, or any other technology capable of accessing, altering, or compromising the agency's electronic records.

(2) The agency may impose any reasonable limits on the use of the requester's equipment that are necessary to protect the safety of the records or to prevent the copying of records from being an unreasonable burden to the orderly function of the agency and its employees. In addition, the agency may impose any limit that is necessary to maintain the integrity of, or ensure the long-term preservation of, historic or high-value records.

(3) The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

(f) In addition to maintaining public records for public inspection during the office hours of the public agency, a public agency may comply with subdivision (a) by posting any public record on its internet website and, in response to a request for a public record posted on the internet website, directing a member of the public to the location on the internet website where the public record is posted. However, if after the public agency directs a member of the public to the internet website, the member of the public requesting the public record requests a copy of the public record due to an inability to access or reproduce the public record from the internet website, the public agency shall promptly provide a copy of the public record pursuant to subdivision (b).

(Amended by Stats. 2019, Ch. 695, Sec. 1. (AB 1819) Effective January 1, 2020. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.1.

(a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable

effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Section 6253.

(d) This section shall not apply to a request for public records if any of the following applies:

(1) The public agency makes available the requested records pursuant to Section 6253.

(2) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 6254.

(3) The public agency makes available an index of its records.

(Added by Stats. 2001, Ch. 355, Sec. 3. Effective January 1, 2002. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.2.

(a) Notwithstanding any other provision of this chapter, information regarding persons paid by the state to provide in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or personal care services pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code, and information about persons who have completed the form described in subdivision (a) of Section 12305.81 of the Welfare and Institutions Code for the provider enrollment process, is not subject to public disclosure pursuant to this chapter, except as provided in subdivision (b).

(b) Copies of names, addresses, home telephone numbers, written or spoken languages, if known, personal cellular telephone numbers, and personal email addresses of persons described in subdivision (a) shall be made available, upon request, to an exclusive bargaining agent and to any labor organization seeking representation rights pursuant to subdivision (c) of Section 12301.6 or Section 12302.25 of the Welfare and Institutions Code or Chapter 10 (commencing with Section 3500) of Division 4. This information shall not be used by the receiving entity for any purpose other than the employee organizing, representation, and assistance activities of the labor organization.

(c) This section applies solely to individuals who provide services under the In-Home Supportive Services Program (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code), the Personal Care Services Program pursuant to Section 14132.95 of the Welfare and Institutions Code, the In-Home Supportive Services Plus Option Program pursuant to Section 14132.952 of the Welfare and Institutions Code, the Community First Choice Option Program pursuant to Section 14132.956 of the Welfare and Institutions Code, or the Waiver Personal Care Services Program pursuant to Section 14132.97 of the Welfare and Institutions Code.

(d) This section does not alter the rights of parties under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4) or any other labor relations law.

(Amended by Stats. 2020, Ch. 11, Sec. 3. (AB 79) Effective June 29, 2020. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.21.

(a) Notwithstanding any other provision of this chapter to the contrary, information regarding family childcare providers, as defined in subdivision (b) of Section 10421 of the Welfare and Institutions Code, shall not be subject to public disclosure pursuant to this chapter, except as provided in subdivisions (b) and (c).

(b) Consistent with Section 10422 of the Welfare and Institutions Code, copies of names, home and mailing addresses, county, home, if known, work, and cellular telephone numbers, and

email addresses of persons described in subdivision (a) shall be made available, upon request, to provider organizations that have been determined to be a provider organization pursuant to subdivision (a) of Section 10422 of the Welfare and Institutions Code. Information shall be made available consistent with the deadlines set in Section 10422 of the Welfare and Institutions Code. This information shall not be used by the receiving entity for any purpose other than for purposes of organizing, representing, and assisting family childcare providers.

(c) Consistent with Section 10422 of the Welfare and Institutions Code, copies of names, home and mailing addresses, county, home, if known, work, and cellular telephone numbers, and email addresses of persons described in subdivision (a) shall be made available to a certified provider organization, as defined in subdivision (a) of Section 10421 of the Welfare and Institutions Code. Information shall be made available consistent with the deadlines set in Section 10422 of the Welfare and Institutions Code. This information shall not be used by the receiving entity for any purpose other than for purposes of organizing, representing, and assisting family childcare providers.

(d) This section does not prohibit or limit the disclosure of information otherwise required to be disclosed by the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70) of, Chapter 3.5 (commencing with Section 1596.90) of, and Chapter 3.6 (commencing with Section 1597.30) of, Division 2 of the Health and Safety Code), or to an officer or employee of another state public agency for performance of their official duties under state law.

(e) All confidentiality requirements applicable to recipients of information pursuant to Section 1596.86 of the Health and Safety Code shall apply to protect the personal information of providers of small family childcare homes, as defined in Section 1596.78 of the Health and Safety Code, that is disclosed pursuant to subdivisions (b) and (c).

(f) A family childcare provider, as defined by subdivision (b) of Section 10421 of the Welfare and Institutions Code, may opt out of disclosure of their home and mailing address, home, work, and cellular telephone numbers, and email address from the lists described in subdivisions (c) and (d) of Section 10422 of the Welfare and Institutions Code by complying with the procedure set forth in subdivision (k) of Section 10422 of the Welfare and Institutions Code.

(Amended by Stats. 2021, Ch. 116, Sec. 237. (AB 131) Effective July 23, 2021. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.3.

A state or local agency may not allow another party to control the disclosure of information that is otherwise subject to disclosure pursuant to this chapter.

(Added by Stats. 2008, Ch. 62, Sec. 1. Effective January 1, 2009. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.31.

Notwithstanding any contract term to the contrary, a contract entered into by a state or local agency subject to this chapter, including the University of California, that requires a private entity to review, audit, or report on any aspect of that agency shall be public to the extent the contract is otherwise subject to disclosure under this chapter.

(Added by Stats. 2008, Ch. 62, Sec. 2. Effective January 1, 2009. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.4.

(a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

(b) The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

- (1) Department of Motor Vehicles
- (2) Department of Consumer Affairs
- (3) Transportation Agency
- (4) Bureau of Real Estate
- (5) Department of Corrections and Rehabilitation
- (6) Division of Juvenile Justice
- (7) Department of Justice
- (8) Department of Insurance
- (9) Department of Business Oversight
- (10) Department of Managed Health Care
- (11) Secretary of State
- (12) State Air Resources Board
- (13) Department of Water Resources
- (14) Department of Parks and Recreation
- (15) San Francisco Bay Conservation and Development Commission
- (16) State Board of Equalization
- (17) State Department of Health Care Services
- (18) Employment Development Department
- (19) State Department of Public Health
- (20) State Department of Social Services
- (21) State Department of State Hospitals
- (22) State Department of Developmental Services
- (23) Public Employees' Retirement System
- (24) Teachers' Retirement Board
- (25) Department of Industrial Relations
- (26) Department of General Services
- (27) Department of Veterans Affairs
- (28) Public Utilities Commission
- (29) California Coastal Commission
- (30) State Water Resources Control Board
- (31) San Francisco Bay Area Rapid Transit District
- (32) All regional water quality control boards
- (33) Los Angeles County Air Pollution Control District
- (34) Bay Area Air Pollution Control District
- (35) Golden Gate Bridge, Highway and Transportation District
- (36) Department of Toxic Substances Control
- (37) Office of Environmental Health Hazard Assessment

(c) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

(Amended by Stats. 2018, Ch. 92, Sec. 88. (SB 1289) Effective January 1, 2019. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.5.

(a) Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

(b) If the proponents of a petition are permitted to examine the petition and memoranda pursuant to subdivision (a), the examination shall commence not later than 21 days after certification of insufficiency, and the county elections officials shall retain the documents as prescribed in Section 17200 of the Elections Code.

(c) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(d) As used in this section, "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official.

(3) For recall measures, the person or persons defined in Section 343 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

(Amended by Stats. 2017, Ch. 354, Sec. 2. (AB 1729) Effective January 1, 2018. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.6.

(a) Notwithstanding the provisions of Sections 6252 and 6253, information compiled by public officers or public employees revealing the identity of persons who have requested bilingual ballots or ballot pamphlets, made in accordance with any federal or state law, or other data that would reveal the identity of the requester, shall not be deemed to be public records and shall not

be provided to any person other than public officers or public employees who are responsible for receiving those requests and processing the same.

(b) Nothing contained in subdivision (a) shall be construed as prohibiting any person who is otherwise authorized by law from examining election materials, including, but not limited to, affidavits of registration, provided that requests for bilingual ballots or ballot pamphlets shall be subject to the restrictions contained in subdivision (a).

(Amended by Stats. 1985, Ch. 1129, Sec. 1. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.8.

(a) Every final enforcement order issued by an agency listed in subdivision (b) under any provision of law that is administered by an entity listed in subdivision (b), shall be displayed on the entity's Internet website, if the final enforcement order is a public record that is not exempt from disclosure pursuant to this chapter.

(b) This section applies to the California Environmental Protection Agency and to all of the following entities within the agency:

(1) The State Air Resources Board.

(2) The California Integrated Waste Management Board.

(3) The State Water Resources Control Board, and each California regional water quality control board.

(4) The Department of Pesticide Regulation.

(5) The Department of Toxic Substances Control.

(c) (1) Except as provided in paragraph (2), for purposes of this section, an enforcement order is final when the time for judicial review has expired on or after January 1, 2001, or when all means of judicial review have been exhausted on or after January 1, 2001.

(2) In addition to the requirements of paragraph (1), with regard to a final enforcement order issued by the State Water Resources Control Board or a California regional water quality control board, this section shall apply only to a final enforcement order adopted by that board or a regional board at a public meeting.

(d) An order posted pursuant to this section shall be posted for not less than one year.

(e) The California Environmental Protection Agency shall oversee the implementation of this section.

(f) This section shall become operative April 1, 2001.

(Added by Stats. 2000, Ch. 783, Sec. 1. Effective January 1, 2001. Section operative April 1, 2001, by its own provisions. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.9.

(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of

programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

(Added by Stats. 2000, Ch. 982, Sec. 2. Effective January 1, 2001. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6253.10.

If a local agency, except a school district, maintains an Internet Resource, including, but not limited to, an Internet Web site, Internet Web page, or Internet Web portal, which the local agency describes or titles as “open data,” and the local agency voluntarily posts a public record on that Internet Resource, the local agency shall post the public record in an open format that meets all of the following requirements:

(a) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(b) Platform independent and machine readable.

(c) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the public record.

(d) Retains the data definitions and structure present when the data was compiled, if applicable.

(Added by Stats. 2015, Ch. 737, Sec. 1. (AB 169) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.

Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Records contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) (A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a,

273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

(A) (i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess

withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.

(B) (i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or their authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the estimated date for the disclosure of the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in clause (ii) of subparagraph (A).

(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the

contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish their personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, if an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) (1) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, and Chapter 25 (commencing with Section 10420) of Part 1.8 of Division 9 of the Welfare and Institutions Code, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. This paragraph shall not be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this paragraph.

(2) Records of local agencies related to activities governed by Chapter 10 (commencing with Section 3500) of Division 4, that reveal a local agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter. This paragraph shall not be construed to limit the disclosure duties of a local agency with respect to any other records relating to the activities governed by the employee relations act referred to in this paragraph.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions,

recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of their family.

(2) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of prosecutors, public defenders, peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare and Institutions Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including, without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that their papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, California State Auditor's Office, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) This paragraph is not intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

This section does not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

This section does not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

(Amended by Stats. 2021, Ch. 116, Sec. 238. (AB 131) Effective July 23, 2021. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.1.

(a) Except as provided in Section 6254.7, nothing in this chapter requires disclosure of records that are the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information, in accordance with Section 18081 of the Health and Safety Code.

(b) Nothing in this chapter requires the disclosure of the residence or mailing address of any person in any record of the Department of Motor Vehicles except in accordance with Section 1808.21 of the Vehicle Code.

(c) Nothing in this chapter requires the disclosure of the results of a test undertaken pursuant to Section 12804.8 of the Vehicle Code.

(Amended by Stats. 1993, Ch. 546, Sec. 1. Effective January 1, 1994. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.2.

(a) Nothing in this chapter exempts from public disclosure the same categories of pesticide safety and efficacy information that are disclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)), if the individual requesting the information is not an officer, employee, or agent specified in subdivision (h) and signs the affirmation specified in subdivision (h).

(b) The Director of Pesticide Regulation, upon his or her initiative, or upon receipt of a request pursuant to this chapter for the release of data submitted and designated as a trade secret by a registrant or applicant, shall determine whether any or all of the data so submitted is a properly designated trade secret. In order to assure that the interested public has an opportunity to obtain and review pesticide safety and efficacy data and to comment prior to the expiration of the public comment period on a proposed pesticide registration, the director shall provide notice to interested persons when an application for registration enters the registration evaluation process.

(c) If the director determines that the data is not a trade secret, the director shall notify the registrant or applicant by certified mail.

(d) The registrant or applicant shall have 30 days after receipt of this notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(e) The director shall determine whether the data is protected as a trade secret within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the original notice. The director shall notify the registrant or applicant and any party who has requested the data pursuant to this chapter of that determination by certified mail. If the

director determines that the data is not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to any person requesting information pursuant to subdivision (a).

(f) "Trade secret" means data that is nondisclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act.

(g) This section shall be operative only so long as, and to the extent that, enforcement of paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act has not been enjoined by federal court order, and shall become inoperative if an unappealable federal court judgment or decision becomes final that holds that paragraph invalid, to the extent of the invalidity.

(h) The director shall not knowingly disclose information submitted to the state by an applicant or registrant pursuant to Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code to any officer, employee, or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to any other person who intends to deliver this information to any foreign or multi-national business or entity, unless the applicant or registrant consents to the disclosure. To implement this subdivision, the director shall require the following affirmation to be signed by the person who requests such information:

AFFIRMATION OF STATUS

This affirmation is required by Section 6254.2 of the Government Code.

I have requested access to information submitted to the Department of Pesticide Regulation (or previously submitted to the Department of Food and Agriculture) by a pesticide applicant or registrant pursuant to the California Food and Agricultural Code. I hereby affirm all of the following statements:

(1) I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity, including the business or entity of which I am an officer, employee, or agent engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to the officers, employees, or agents of such a business or entity.

(2) I will not purposefully deliver or negligently cause the data to be delivered to a business or entity specified in paragraph (1) or its officers, employees, or agents.

I am aware that I may be subject to criminal penalties under Section 118 of the Penal Code if I make any statement of material facts knowing that the statement is false or if I willfully conceal any material fact.

Name of Requester	Name of Requester's Organization
Signature of Requester	Address of Requester
Date	Request No.
	Telephone Number of Requester

Name, Address, and Telephone Number of Requester's Client, if the requester has requested access to the information on behalf of someone other than the requester or the requester's organization listed above.

(i) Notwithstanding any other provision of this section, the director may disclose information submitted by an applicant or registrant to any person in connection with a public proceeding conducted under law or regulation, if the director determines that the information is needed to

determine whether a pesticide, or any ingredient of any pesticide, causes unreasonable adverse effects on health or the environment.

(j) The director shall maintain records of the names of persons to whom data is disclosed pursuant to this section and the persons or organizations they represent and shall inform the applicant or registrant of the names and the affiliation of these persons.

(k) Section 118 of the Penal Code applies to any affirmation made pursuant to this section.

(l) Any officer or employee of the state or former officer or employee of the state who, because of this employment or official position, obtains possession of, or has access to, material which is prohibited from disclosure by this section, and who, knowing that disclosure of this material is prohibited by this section, willfully discloses the material in any manner to any person not entitled to receive it, shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

For purposes of this subdivision, any contractor with the state who is furnished information pursuant to this section, or any employee of any contractor, shall be considered an employee of the state.

(m) This section does not prohibit any person from maintaining a civil action for wrongful disclosure of trade secrets.

(n) The director may limit an individual to one request per month pursuant to this section if the director determines that a person has made a frivolous request within the past 12-month period.

(Amended by Stats. 1996, Ch. 435, Sec. 10. Effective January 1, 1997. Conditionally inoperative as provided in subd. (g). Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.3.

(a) The home addresses, home telephone numbers, personal cellular telephone numbers, and birth dates of all employees of a public agency shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as follows:

(1) To an agent, or a family member of the individual to whom the information pertains.

(2) To an officer or employee of another public agency when necessary for the performance of its official duties.

(3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and any phone numbers on file with the employer of employees performing law enforcement-related functions, and the birth date of any employee, shall not be disclosed.

(4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to public agencies and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.

(b) (1) Unless used by the employee to conduct public business, or necessary to identify a person in an otherwise disclosable communication, the personal email addresses of all employees of a public agency shall not be deemed to be public records and shall not be open to public inspection, except that disclosure of that information may be made as specified in paragraphs (1) to (4), inclusive, of subdivision (a).

(2) This subdivision shall not be construed to limit the public's right to access the content of an employee's personal email that is used to conduct public business, as decided by the California Supreme Court in *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608.

(c) Upon written request of any employee, a public agency shall not disclose the employee's home address, home telephone number, personal cellular telephone number, personal email address, or birth date pursuant to paragraph (3) of subdivision (a) and an agency shall remove

the employee's home address, home telephone number, and personal cellular telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

(Amended by Stats. 2018, Ch. 92, Sec. 89. (SB 1289) Effective January 1, 2019. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.4.

(a) The home address, telephone number, email address, precinct number, or other number specified by the Secretary of State for voter registration purposes, and prior registration information shown on the affidavit of registration, is confidential and shall not be disclosed to any person, except pursuant to Section 2194 of the Elections Code.

(b) For purposes of this section, "home address" means street address only, and does not include an individual's city or post office address.

(c) The California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on an affidavit of registration, or added to the voter registration records to comply with the requirements of the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), are confidential and shall not be disclosed to any person.

(d) The signature of the voter that is shown on the affidavit of registration is confidential and shall not be disclosed to any person.

(Amended by Stats. 2014, Ch. 593, Sec. 10. (AB 1446) Effective January 1, 2015. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.4.5.

(a) This chapter does not require disclosure of a video or audio recording that was created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident depicted in the recording. An agency shall justify withholding such a video or audio recording by demonstrating, pursuant to Section 6255, that on the facts of the particular case, the public interest served by not disclosing the recording clearly outweighs the public interest served by disclosure of the recording.

(b) When balancing the public interests as required by this section, an agency shall consider both of the following:

(1) The constitutional right to privacy of the person or persons depicted in the recording.

(2) Whether the potential harm to the victim caused by disclosing the recording may be mitigated by redacting the recording to obscure images showing intimate body parts and personally identifying characteristics of the victim or by distorting portions of the recording containing the victim's voice, provided that the redaction does not prevent a viewer from being able to fully and accurately perceive the events captured on the recording. The recording shall not otherwise be edited or altered.

(c) A victim of a crime described in subdivision (a) who is a subject of a recording, the parent or legal guardian of a minor subject, a deceased subject's next of kin, or a subject's legally authorized designee, shall be permitted to inspect the recording and to obtain a copy of the recording. Disclosure under this subdivision does not require that the record be made available to the public pursuant to Section 6254.5.

(d) Nothing in this section shall be construed to affect any other exemption provided by this chapter.

(Added by Stats. 2017, Ch. 291, Sec. 1. (AB 459) Effective January 1, 2018. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.5.

Notwithstanding any other law, if a state or local agency discloses a public record that is otherwise exempt from this chapter, to a member of the public, this disclosure shall constitute a waiver of the exemptions specified in Section 6254 or 6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings or as otherwise required by law.

(c) Within the scope of disclosure of a statute that limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency that retains the writings.

(e) Made to a governmental agency that agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes that are consistent with existing law.

(f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.

(g) Of records relating to a person who is subject to the jurisdiction of the Department of Business Oversight, if the disclosures are made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Business Oversight.

(h) Made by the Commissioner of Business Oversight under Section 450, 452, 8009, or 18396 of the Financial Code.

(i) Of records relating to a person who is subject to the jurisdiction of the Department of Managed Health Care, if the disclosures are made to the person who is the subject of the records for the purpose of corrective action by that person, or, if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.

(Amended by Stats. 2016, Ch. 86, Sec. 151. (SB 1171) Effective January 1, 2017. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.6.

Whenever a city and county or a joint powers agency, pursuant to a mandatory statute or charter provision to collect private industry wage data for salary setting purposes, or a contract entered to implement that mandate, is provided this data by the federal Bureau of Labor Statistics on the basis that the identity of private industry employers shall remain confidential, the identity of the employers shall not be open to the public or be admitted as evidence in any action or special proceeding.

(Added by Stats. 1987, Ch. 1478, Sec. 1. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.7.

(a) All information, analyses, plans, or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce, which any air pollution control district or air quality management district, or any other state or local agency or district, requires any applicant to provide before the applicant builds, erects, alters, replaces, operates, sells, rents, or uses the article, machine, equipment, or other contrivance, are public records.

(b) All air or other pollution monitoring data, including data compiled from stationary sources, are public records.

(c) All records of notices and orders directed to the owner of any building of violations of housing or building codes, ordinances, statutes, or regulations which constitute violations of standards provided in Section 1941.1 of the Civil Code, and records of subsequent action with respect to those notices and orders, are public records.

(d) Except as otherwise provided in subdivision (e) and Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code, trade secrets are not public records under this section. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(e) Notwithstanding any other provision of law, all air pollution emission data, including those emission data which constitute trade secrets as defined in subdivision (d), are public records. Data used to calculate emission data are not emission data for the purposes of this subdivision and data which constitute trade secrets and which are used to calculate emission data are not public records.

(f) Data used to calculate the costs of obtaining emissions offsets are not public records. At the time that an air pollution control district or air quality management district issues a permit to construct to an applicant who is required to obtain offsets pursuant to district rules and regulations, data obtained from the applicant consisting of the year the offset transaction occurred, the amount of offsets purchased, by pollutant, and the total cost, by pollutant, of the offsets purchased is a public record. If an application is denied, the data shall not be a public record.

(Amended by Stats. 1992, Ch. 612, Sec. 1. Effective January 1, 1993. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.8.

Every employment contract between a state or local agency and any public official or public employee is a public record which is not subject to the provisions of Sections 6254 and 6255.

(Added by Stats. 1974, Ch. 1198. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.9.

(a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

(b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.

(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.

(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

(e) Nothing in this section is intended to limit any copyright protections.

(Added by Stats. 1988, Ch. 447, Sec. 1. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.10.

Nothing in this chapter requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.

(Amended by Stats. 2005, Ch. 670, Sec. 2. Effective October 7, 2005. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.11.

Nothing in this chapter requires the disclosure of records that relate to volatile organic compounds or chemical substances information received or compiled by an air pollution control officer pursuant to Section 42303.2 of the Health and Safety Code.

(Added by Stats. 1991, Ch. 902, Sec. 1. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.12.

Any information reported to the North American Securities Administrators Association/Financial Industry Regulatory Authority and compiled as disciplinary records which are made available to the Department of Business Oversight through a computer system, shall constitute a public record. Notwithstanding any other provision of law, the Department of Business Oversight may disclose that information and the current license status and the year of issuance of the license of a broker-dealer upon written or oral request pursuant to Section 25247 of the Corporations Code.

(Amended by Stats. 2015, Ch. 190, Sec. 60. (AB 1517) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.13.

Notwithstanding Section 6254, upon the request of any Member of the Legislature or upon request of the Governor or his or her designee, test questions or materials that would be used to administer an examination and are provided by the State Department of Education and administered as part of a statewide testing program of pupils enrolled in the public schools shall be disclosed to the requester. These questions or materials may not include an individual examination that has been administered to a pupil and scored. The requester may not take physical possession of the questions or materials, but may view the questions or materials at a

location selected by the department. Upon viewing this information, the requester shall keep the materials that he or she has seen confidential.

(Added by Stats. 1995, Ch. 777, Sec. 3. Effective January 1, 1996. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.14.

(a) (1) Except as provided in Sections 6254 and 6254.7, nothing in this chapter shall be construed to require disclosure of records of the Department of Corrections and Rehabilitation that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health services entered into by the Department of Corrections and Rehabilitation or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after they are fully executed. In the event that a contract for health services that is entered into prior to July 1, 1993, is amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, including, but not limited to, Section 1060 of the Evidence Code, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee, the California State Auditor's Office, and the Legislative Analyst's Office. The Joint Legislative Audit Committee, the California State Auditor's Office, and the Legislative Analyst's Office shall maintain the confidentiality of the contracts and amendments until the contract or amendment is fully open to inspection by the public.

(5) It is the intent of the Legislature that confidentiality of health care provider contracts, and of the contracting process as provided in this subdivision, is intended to protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

(b) The inspection authority and confidentiality requirements established in subdivisions (q), (v), and (y) of Section 6254 for the Legislative Audit Committee shall also apply to the California State Auditor's Office and the Legislative Analyst's Office.

(Amended by Stats. 2012, Ch. 281, Sec. 3. (SB 1395) Effective January 1, 2013. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.15.

Nothing in this chapter shall be construed to require the disclosure of records that are any of the following: corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California. Except as provided below, incentives offered by state or local government agencies, if any, shall be disclosed upon communication to the agency or the public of a decision to stay, locate, relocate, or expand, by a company, or upon

application by that company to a governmental agency for a general plan amendment, rezone, use permit, building permit, or any other permit, whichever occurs first.

The agency shall delete, prior to disclosure to the public, information that is exempt pursuant to this section from any record describing state or local incentives offered by an agency to a private business to retain, locate, relocate, or expand the business within California.

(Added by Stats. 1995, Ch. 732, Sec. 1. Effective January 1, 1996. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.16.

Nothing in this chapter shall be construed to require the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:

(a) To an agent or authorized family member of the person to whom the information pertains.

(b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.

(c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.

(d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.

(e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.

(f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.

(Added by Stats. 1997, Ch. 276, Sec. 1. Effective January 1, 1998. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.17.

(a) Nothing in this chapter shall be construed to require disclosure of records of the California Victim Compensation Board that relate to a request for assistance under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2.

(b) This section shall not apply to a disclosure of the following information, if no information is disclosed that connects the information to a specific victim, derivative victim, or applicant under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2:

(1) The amount of money paid to a specific provider of services.

(2) Summary data concerning the types of crimes for which assistance is provided.

(Amended by Stats. 2016, Ch. 31, Sec. 60. (SB 836) Effective June 27, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.18.

(a) This chapter does not require disclosure of any personal information received, collected, or compiled by a public agency regarding the employees, volunteers, board members, owners, partners, officers, or contractors of a reproductive health services facility who have notified the public agency pursuant to subdivision (d) if the personal information is contained in a document that relates to the facility.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Contractor" means an individual or entity that contracts with a reproductive health services facility for services related to patient care.

(2) "Personal information" means the following information related to an individual that is maintained by a public agency: social security number, physical description, home address, home telephone number, statements of personal worth or personal financial data filed pursuant to subdivision (n) of Section 6254, personal medical history, employment history, electronic mail address, and information that reveals any electronic network location or identity.

(3) "Public agency" means all of the following:

(A) The State Department of Health Care Services.

(B) The Department of Consumer Affairs.

(C) The Department of Managed Health Care.

(D) The State Department of Public Health.

(4) "Reproductive health services facility" means the office of a licensed physician and surgeon whose specialty is family medicine, obstetrics, or gynecology, or a licensed clinic, where at least 50 percent of the patients of the physician or the clinic are provided with family planning or abortion services.

(c) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to obtain access to employment history information pursuant to Sections 6258 and 6259. If the court finds, based on the facts of a particular case, that the public interest served by disclosure of employment history information clearly outweighs the public interest served by not disclosing the information, the court shall order the officer or person charged with withholding the information to disclose employment history information or show cause why they should not disclose pursuant to Section 6259.

(d) In order for this section to apply to an individual who is an employee, volunteer, board member, officer, or contractor of a reproductive health services facility, the individual shall notify the public agency to which their personal information is being submitted or has been submitted that they fall within the application of this section. The reproductive health services facility shall retain a copy of all notifications submitted pursuant to this section. This notification shall be valid if it complies with all of the following:

(1) Is on the official letterhead of the facility.

(2) Is clearly separate from any other language present on the same page and is executed by a signature that serves no other purpose than to execute the notification.

(3) Is signed and dated by both of the following:

(A) The individual whose information is being submitted.

(B) The executive officer or their designee of the reproductive health services facility.

(e) The privacy protections for personal information authorized pursuant to this section shall be effective from the time of notification pursuant to subdivision (d) until either one of the following occurs:

(1) Six months after the date of separation from a reproductive health services facility for an individual who has served for not more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.

(2) One year after the date of separation from a reproductive health services facility for an individual who has served for more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.

(f) Within 90 days of separation of an employee, contractor, volunteer, board member, or officer of the reproductive health services facility who has provided notice to a public agency pursuant to subdivision (c), the facility shall provide notice of the separation to the relevant agency or agencies.

(g) This section does not prevent the disclosure by a government agency of data regarding age, race, ethnicity, national origin, or gender of individuals whose personal information is protected pursuant to this section if the data does not contain individually identifiable information.
(Amended by Stats. 2019, Ch. 632, Sec. 5. (AB 1622) Effective January 1, 2020. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.19.

Nothing in this chapter shall be construed to require the disclosure of an information security record of a public agency, if, on the facts of the particular case, disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency. Nothing in this section shall be construed to limit public disclosure of records stored within an information technology system of a public agency that are not otherwise exempt from disclosure pursuant to this chapter or any other provision of law.
(Added by Stats. 2010, Ch. 205, Sec. 1. (AB 2091) Effective January 1, 2011. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.20.

Nothing in this chapter shall be construed to require the disclosure of records that relate to electronically collected personal information, as defined by Section 11015.5, received, collected, or compiled by a state agency.
(Added by Stats. 1998, Ch. 429, Sec. 3. Effective January 1, 1999. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.21.

(a) No state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual.
(b) No person shall knowingly post the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the Internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. A violation of this subdivision is a misdemeanor. A violation of this subdivision that leads to the bodily injury of the official, or his or her residing spouse or child, is a misdemeanor or a felony.
(c) (1) (A) No person, business, or association shall publicly post or publicly display on the Internet the home address or telephone number of any elected or appointed official if that official has, either directly or through an agent designated under paragraph (3), made a written demand of that person, business, or association to not disclose his or her home address or telephone number.
(B) A written demand made under this paragraph by a state constitutional officer, a mayor, or a Member of the Legislature, a city council, or a board of supervisors shall include a statement describing a threat or fear for the safety of that official or of any person residing at the official's home address.
(C) A written demand made under this paragraph by an elected official shall be effective for four years, regardless of whether or not the official's term has expired prior to the end of the four-year period.
(D) (i) A person, business, or association that receives the written demand of an elected or appointed official pursuant to this paragraph shall remove the official's home address or telephone number from public display on the Internet, including information provided to cellular telephone applications, within 48 hours of delivery of the written demand, and shall continue to

ensure that this information is not reposted on the same Internet Web site, subsidiary site, or any other Internet Web site maintained by the recipient of the written demand.

(ii) After receiving the elected or appointed official's written demand, the person, business, or association shall not transfer the appointed or elected official's home address or telephone number to any other person, business, or association through any other medium.

(iii) Clause (ii) shall not be deemed to prohibit a telephone corporation, as defined in Section 234 of the Public Utilities Code, or its affiliate, from transferring the elected or appointed official's home address or telephone number to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, or tariff, or necessary in the event of an emergency, or to collect a debt owed by the elected or appointed official to the telephone corporation or its affiliate.

(E) For purposes of this paragraph, "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) An official whose home address or telephone number is made public as a result of a violation of paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the official court costs and reasonable attorney's fees. A fine not exceeding one thousand dollars (\$1,000) may be imposed for a violation of the court's order for an injunction or declarative relief obtained pursuant to this paragraph.

(3) An elected or appointed official may designate in writing the official's employer, a related governmental entity, or any voluntary professional association of similar officials to act, on behalf of that official, as that official's agent with regard to making a written demand pursuant to this section. In the case of an appointed official who is a peace officer, as defined in Sections 830 to 830.65, inclusive, of the Penal Code, a District Attorney, or a Deputy District Attorney, that official may also designate his or her recognized collective bargaining representative to make a written demand on his or her behalf pursuant to this section. A written demand made by an agent pursuant to this paragraph shall include a statement describing a threat or fear for the safety of that official or of any person residing at the official's home address.

(d) (1) No person, business, or association shall solicit, sell, or trade on the Internet the home address or telephone number of an elected or appointed official with the intent to cause imminent great bodily harm to the official or to any person residing at the official's home address.

(2) Notwithstanding any other law, an official whose home address or telephone number is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it shall award damages to that official in an amount up to a maximum of three times the actual damages but in no case less than four thousand dollars (\$4,000).

(e) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the service or provider intends to abet or cause imminent great bodily harm that is likely to occur or threatens to cause imminent great bodily harm to an elected or appointed official.

(f) For purposes of this section, "elected or appointed official" includes, but is not limited to, all of the following:

- (1) State constitutional officers.
- (2) Members of the Legislature.
- (3) Judges and court commissioners.
- (4) District attorneys.
- (5) Public defenders.
- (6) Members of a city council.
- (7) Members of a board of supervisors.
- (8) Appointees of the Governor.

- (9) Appointees of the Legislature.
 - (10) Mayors.
 - (11) City attorneys.
 - (12) Police chiefs and sheriffs.
 - (13) A public safety official, as defined in Section 6254.24.
 - (14) State administrative law judges.
 - (15) Federal judges and federal defenders.
 - (16) Members of the United States Congress and appointees of the President.
 - (g) Nothing in this section is intended to preclude punishment instead under Sections 69, 76, or 422 of the Penal Code, or any other provision of law.
- (Amended by Stats. 2014, Ch. 791, Sec. 1. (AB 634) Effective January 1, 2015. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)*

6254.22.

Nothing in this chapter or any other provision of law shall require the disclosure of records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health care for alternative rates for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption. The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Managed Health Care in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(Amended by Stats. 2015, Ch. 190, Sec. 61. (AB 1517) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.23.

Nothing in this chapter or any other provision of law shall require the disclosure of a risk assessment or railroad infrastructure protection program filed with the Public Utilities Commission, the Director of Homeland Security, and the Office of Emergency Services pursuant to Article 7.3 (commencing with Section 7665) of Chapter 1 of Division 4 of the Public Utilities Code.

(Amended by Stats. 2013, Ch. 352, Sec. 107. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.24.

As used in this chapter, "public safety official" means the following parties, whether active or retired:

- (a) A peace officer as defined in Sections 830 to 830.65, inclusive, of the Penal Code, or a person who is not a peace officer, but may exercise the powers of arrest during the course and within the scope of their employment pursuant to Section 830.7 of the Penal Code.
 - (b) A public officer or other person listed in Sections 1808.2 and 1808.6 of the Vehicle Code.
 - (c) An “elected or appointed official” as defined in subdivision (f) of Section 6254.21.
 - (d) An attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender, the United States Attorney, or the Federal Public Defender.
 - (e) A city attorney and an attorney who represent cities in criminal matters.
 - (f) An employee of the Department of Corrections and Rehabilitation who supervises inmates or is required to have a prisoner in his or her care or custody.
 - (g) A sworn or nonsworn employee who supervises inmates in a city police department, a county sheriff’s office, the Department of the California Highway Patrol, federal, state, or a local detention facility, and a local juvenile hall, camp, ranch, or home, and a probation officer as defined in Section 830.5 of the Penal Code.
 - (h) A federal prosecutor, a federal criminal investigator, and a National Park Service Ranger working in California.
 - (i) The surviving spouse or child of a peace officer defined in Section 830 of the Penal Code, if the peace officer died in the line of duty.
 - (j) State and federal judges and court commissioners.
 - (k) An employee of the Attorney General, a district attorney, or a public defender who submits verification from the Attorney General, district attorney, or public defender that the employee represents the Attorney General, district attorney, or public defender in matters that routinely place that employee in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts.
 - (l) A nonsworn employee of the Department of Justice or a police department or sheriff’s office that, in the course of his or her employment, is responsible for collecting, documenting, and preserving physical evidence at crime scenes, testifying in court as an expert witness, and other technical duties, and a nonsworn employee that, in the course of his or her employment, performs a variety of standardized and advanced laboratory procedures in the examination of physical crime evidence, determines their results, and provides expert testimony in court.
- (Amended by Stats. 2010, Ch. 194, Sec. 2. (AB 1813) Effective January 1, 2011. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)*

6254.25.

Nothing in this chapter or any other provision of law shall require the disclosure of a memorandum submitted to a state body or to the legislative body of a local agency by its legal counsel pursuant to subdivision (q) of Section 11126 or Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

(Amended by Stats. 1987, Ch. 1320, Sec. 1. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.26.

(a) Notwithstanding any provision of this chapter or other law, the following records regarding alternative investments in which public investment funds invest shall not be subject to disclosure pursuant to this chapter, unless the information has already been publicly released by the keeper of the information:

- (1) Due diligence materials that are proprietary to the public investment fund or the alternative investment vehicle.
 - (2) Quarterly and annual financial statements of alternative investment vehicles.
 - (3) Meeting materials of alternative investment vehicles.
 - (4) Records containing information regarding the portfolio positions in which alternative investment funds invest.
 - (5) Capital call and distribution notices.
 - (6) Alternative investment agreements and all related documents.
 - (b) Notwithstanding subdivision (a), the following information contained in records described in subdivision (a) regarding alternative investments in which public investment funds invest shall be subject to disclosure pursuant to this chapter and shall not be considered a trade secret exempt from disclosure:
 - (1) The name, address, and vintage year of each alternative investment vehicle.
 - (2) The dollar amount of the commitment made to each alternative investment vehicle by the public investment fund since inception.
 - (3) The dollar amount of cash contributions made by the public investment fund to each alternative investment vehicle since inception.
 - (4) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund from each alternative investment vehicle.
 - (5) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund plus remaining value of partnership assets attributable to the public investment fund's investment in each alternative investment vehicle.
 - (6) The net internal rate of return of each alternative investment vehicle since inception.
 - (7) The investment multiple of each alternative investment vehicle since inception.
 - (8) The dollar amount of the total management fees and costs paid on an annual fiscal yearend basis, by the public investment fund to each alternative investment vehicle.
 - (9) The dollar amount of cash profit received by public investment funds from each alternative investment vehicle on a fiscal year-end basis.
 - (c) For purposes of this section, the following definitions shall apply:
 - (1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.
 - (2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which the public investment fund invests in portfolio companies.
 - (3) "Portfolio positions" means individual portfolio investments made by the alternative investment vehicles.
 - (4) "Public investment fund" means any public pension or retirement system, any public endowment or foundation, or a public bank, as defined in Section 57600.
- (Amended by Stats. 2019, Ch. 442, Sec. 8. (AB 857) Effective January 1, 2020. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)*

6254.27.

Nothing in this chapter shall be construed to require the disclosure by a county recorder of any "official record" if a "public record" version of that record is available pursuant to Article 3.5 (commencing with Section 27300) of Chapter 6 of Part 3 of Division 2 of Title 3.

(Added by Stats. 2007, Ch. 627, Sec. 4. Effective January 1, 2008. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.28.

Nothing in this chapter shall be construed to require the disclosure by a filing office of any “official record” if a “public record” version of that record is available pursuant to Section 9526.5 of the Commercial Code.

(Added by Stats. 2007, Ch. 627, Sec. 5. Effective January 1, 2008. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.29.

(a) It is the intent of the Legislature that, in order to protect against the risk of identity theft, local agencies shall redact social security numbers from records before disclosing them to the public pursuant to this chapter.

(b) Nothing in this chapter shall be construed to require a local agency to disclose a social security number.

(c) This section shall not apply to records maintained by a county recorder.

(Added by Stats. 2007, Ch. 627, Sec. 6. Effective January 1, 2008. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.30.

A state or local law enforcement agency shall not require a victim of an incident, or an authorized representative thereof, to show proof of the victim’s legal presence in the United States in order to obtain the information required to be disclosed by that law enforcement agency pursuant to subdivision (f) of Section 6254. However, if, for identification purposes, a state or local law enforcement agency requires identification in order for a victim of an incident, or an authorized representative thereof, to obtain that information, the agency shall, at a minimum, accept a current driver’s license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship, or a current Matricula Consular card.

(Added by Stats. 2013, Ch. 272, Sec. 1. (AB 1195) Effective January 1, 2014. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.33.

Nothing in this chapter shall require the disclosure of an identification number, alphanumeric character, or other unique identifying code that a public agency uses to identify a vendor or contractor, or an affiliate of a vendor or contractor, unless the identification number, alphanumeric character, or other unique identifying code is used in a public bidding or an audit involving the public agency.

(Added by Stats. 2016, Ch. 477, Sec. 1. (SB 441) Effective January 1, 2017. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6254.35.

(a) For purposes of this section, the following definitions apply:

(1) “Customer” means a person or entity that has transacted or is transacting business with or has used or is using the services of a public bank or a person or entity for whom the public bank has acted as a fiduciary with respect to trust property.

(2) “Investment recipient” means an entity in which the public bank invests.

(3) "Loan recipient" means an entity or individual which has received a loan from the public bank.

(4) "Personal data" means social security numbers, tax identification numbers, physical descriptions, home addresses, home telephone numbers, statements of personal worth or any other personal financial data, employment histories, electronic mail addresses, and information that reveals any electronic network location or identity.

(5) "Public bank" has the same meaning as defined in Section 57600.

(b) Notwithstanding another provision of this chapter, the following information and records of a public bank and the related decisions of the directors, officers, and managers of a public bank shall not be subject to disclosure pursuant to this chapter, unless the information has already been publicly released by the custodian of the information:

(1) Due diligence materials that are proprietary to the public bank.

(2) A memorandum or letter produced and distributed internally by the public bank.

(3) A commercial or personal financial statement or other financial data received from an actual or potential customer, loan recipient, or investment recipient.

(4) Meeting materials of a closed session meeting, or a closed session portion of a meeting, of the board of directors, a committee of the board of directors, or executives of a public bank.

(5) A record containing information regarding a portfolio position in which the public bank invests.

(6) A record containing information regarding a specific loan amount or loan term, or information received from a loan recipient or customer pertaining to a loan or an application for a loan.

(7) A capital call or distribution notice, or a notice to a loan recipient or customer regarding a loan or account with the public bank.

(8) An investment agreement, loan agreement, deposit agreement, or a related document.

(9) Specific account information or other personal data received by the public bank from an actual or potential customer, investment recipient, or loan recipient.

(10) A memorandum or letter produced and distributed for purposes of meetings with a federal or state banking regulator.

(11) A memorandum or letter received from a federal or state banking regulator.

(12) Meeting materials of the internal audit committee, the compliance committee, or the governance committee of the board of directors of a public bank.

(c) Notwithstanding subdivision (b), the following information contained in records described in subdivision (b) is subject to disclosure pursuant to this chapter and shall not be considered a trade secret exempt from disclosure:

(1) The name, title, and appointment year of each director and executive of the public bank.

(2) The name and address of each current investment recipient in which the public bank currently invests.

(3) General internal performance metrics of the public bank and financial statements of the bank, as specified or required by the public bank's charter or as required by federal law.

(4) Final audit reports of the public bank's independent auditors, although disclosure to an independent auditor of any information described in subdivision (b) shall not be construed to permit public disclosure of that information provided to the auditor.

(Amended by Stats. 2020, Ch. 370, Sec. 124. (SB 1371) Effective January 1, 2021. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6255.

(a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.
(Amended by Stats. 2000, Ch. 982, Sec. 3. Effective January 1, 2001. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6257.5.

This chapter does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.
(Added by Stats. 1998, Ch. 1049, Sec. 1. Effective January 1, 1999. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6258.

Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.
(Amended by Stats. 1990, Ch. 908, Sec. 1. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6259.

(a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why the officer or person should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, the court shall order the public official to make the record public. If the court determines that the public official was justified in refusing to make the record public, the court shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon the party of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why that person is not in contempt of court.

(d) The court shall award court costs and reasonable attorney's fees to the requester should the requester prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a

personal liability of the public official. If the court finds that the requester's case is clearly frivolous, it shall award court costs and reasonable attorney's fees to the public agency.

(e) This section shall not be construed to limit a requester's right to obtain fees and costs pursuant to subdivision (d) or pursuant to any other law.

(Amended by Stats. 2020, Ch. 370, Sec. 125. (SB 1371) Effective January 1, 2021. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6260.

The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

(Amended by Stats. 1976, Ch. 314. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6261.

Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

(Added by Stats. 1975, Ch. 1246. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6262.

The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney.

(Added by Stats. 1979, Ch. 601. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6263.

A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney.

(Added by Stats. 1979, Ch. 601. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6264.

The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request. The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure.

(Added by Stats. 1979, Ch. 601. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6265.

Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

(Added by Stats. 1979, Ch. 601. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6267.

All patron use records of any library which is in whole or in part supported by public funds shall remain confidential and shall not be disclosed by a public agency, or private actor that maintains or stores patron use records on behalf of a public agency, to any person, local agency, or state agency except as follows:

- (a) By a person acting within the scope of his or her duties within the administration of the library.
- (b) By a person authorized, in writing, by the individual to whom the records pertain, to inspect the records.
- (c) By order of the appropriate superior court.

As used in this section, the term "patron use records" includes the following:

- (1) Any written or electronic record, that is used to identify the patron, including, but not limited to, a patron's name, address, telephone number, or e-mail address, that a library patron provides in order to become eligible to borrow or use books and other materials.
- (2) Any written record or electronic transaction that identifies a patron's borrowing information or use of library information resources, including, but not limited to, database search records, borrowing records, class records, and any other personally identifiable uses of library resources information requests, or inquiries.

This section shall not apply to statistical reports of patron use nor to records of fines collected by the library.

(Amended by Stats. 2011, Ch. 80, Sec. 1. (SB 445) Effective January 1, 2012. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6268.

(a) Public records, as defined in Section 6252, in the custody or control of the Governor when he or she leaves office, either voluntarily or involuntarily, shall, as soon as is practical, be transferred to the State Archives. Notwithstanding any other law, the Governor, by written instrument, the terms of which shall be made public, may restrict public access to any of the transferred public records, or any other writings he or she may transfer that have not already been made accessible to the public. With respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later, nor shall there be any restriction whatsoever with respect to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition in cases which have been closed for a period of at least 25 years.

Subject to any restrictions permitted by this section, the Secretary of State, as custodian of the State Archives, shall make all those public records and other writings available to the public as otherwise provided for in this chapter.

(b) Except as to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition, this section does not apply to public records or other writings in the direct custody or control of any Governor who held office between 1974 and 1988 at the time of leaving office, except to the extent that that Governor may voluntarily transfer those records or other writings to the State Archives.

(c) Notwithstanding any other law, the public records and other writings of any Governor who held office between 1974 and 1988 may be transferred to any educational or research institution in California provided that with respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later. Records or writings shall not be transferred pursuant to this paragraph unless the institution receiving them agrees to maintain, and does maintain, the materials according to commonly accepted archival standards. Public records transferred shall

not be destroyed by that institution without first receiving the written approval of the Secretary of State, as custodian of the State Archives, who may require that the records be placed in the State Archives rather than being destroyed. An institution receiving those records or writings shall allow the Secretary of State, as custodian of the State Archives, to copy, at state expense, and to make available to the public, any and all public records, and inventories, indices, or finding aids relating to those records that the institution makes available to the public generally. Copies of those records in the custody of the State Archives shall be given the same legal effect as is given to the originals.

(Amended by Stats. 2018, Ch. 92, Sec. 90. (SB 1289) Effective January 1, 2019. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6268.5.

The Secretary of State may appraise and manage new or existing records that are subject to Section 6268 to determine whether the records are appropriate for preservation in the State Archives. For purposes of this section, the Secretary of State shall use professional archival practices, including, but not limited to, appraising the historic value of the records, arranging and describing the records, rehousing the records in appropriate storage containers, or providing any conservation treatment that the records require.

(Added by Stats. 2014, Ch. 220, Sec. 1. (SB 1009) Effective January 1, 2015. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6270.

(a) Notwithstanding any other provision of law, no state or local agency shall sell, exchange, furnish, or otherwise provide a public record subject to disclosure pursuant to this chapter to a private entity in a manner that prevents a state or local agency from providing the record directly pursuant to this chapter. Nothing in this section requires a state or local agency to use the State Printer to print public records. Nothing in this section prevents the destruction of records pursuant to law.

(b) This section shall not apply to contracts entered into prior to January 1, 1996, between the County of Santa Clara and a private entity for the provision of public records subject to disclosure under this chapter.

(Added by Stats. 1995, Ch. 108, Sec. 1. Effective January 1, 1996. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6270.5.

(a) In implementing this chapter, each local agency, except a local educational agency, shall create a catalog of enterprise systems. The catalog shall be made publicly available upon request in the office of the person or officer designated by the agency's legislative body. The catalog shall be posted in a prominent location on the local agency's Internet Web site, if the agency has an Internet Web site. The catalog shall disclose a list of the enterprise systems utilized by the agency and, for each system, shall also disclose all of the following:

- (1) Current system vendor.
- (2) Current system product.
- (3) A brief statement of the system's purpose.
- (4) A general description of categories or types of data.
- (5) The department that serves as the system's primary custodian.
- (6) How frequently system data is collected.
- (7) How frequently system data is updated.

(b) This section shall not be interpreted to limit a person's right to inspect public records pursuant to this chapter.

(c) For purposes of this section:

(1) "Enterprise system" means a software application or computer system that collects, stores, exchanges, and analyzes information that the agency uses that is both of the following:

(A) A multidepartmental system or a system that contains information collected about the public.

(B) A system of record.

(2) "System of record" means a system that serves as an original source of data within an agency.

(3) An enterprise system shall not include any of the following:

(A) Information technology security systems, including firewalls and other cybersecurity systems.

(B) Physical access control systems, employee identification management systems, video monitoring, and other physical control systems.

(C) Infrastructure and mechanical control systems, including those that control or manage street lights, electrical, natural gas, or water or sewer functions.

(D) Systems related to 911 dispatch and operation or emergency services.

(E) Systems that would be restricted from disclosure pursuant to Section 6254.19.

(F) The specific records that the information technology system collects, stores, exchanges, or analyzes.

(d) Nothing in this section shall be construed to permit public access to records held by an agency to which access is otherwise restricted by statute or to alter the process for requesting public records, as set forth in this chapter.

(e) If, on the facts of the particular case, the public interest served by not disclosing the information described in paragraph (1) or (2) of subdivision (a) clearly outweighs the public interest served by disclosure of the record, the local agency may instead provide a system name, brief title, or identifier of the system.

(f) The local agency shall complete and post the catalog required by this section by July 1, 2016, and thereafter shall update the catalog annually.

(Added by Stats. 2015, Ch. 795, Sec. 2. (SB 272) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6270.6.

In implementing this chapter, each independent special district shall maintain an Internet Web site in accordance with Section 53087.8.

(Added by Stats. 2018, Ch. 408, Sec. 2. (SB 929) Effective January 1, 2019. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6270.7.

In implementing this chapter, each health care district shall maintain an Internet Web site in accordance with subdivision (b) of Section 32139 of the Health and Safety Code.

(Added by Stats. 2018, Ch. 257, Sec. 1. (AB 2019) Effective January 1, 2019. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6275.

It is the intent of the Legislature to assist members of the public and state and local agencies in identifying exemptions to the California Public Records Act. It is the intent of the Legislature that, after January 1, 1999, each addition or amendment to a statute that exempts any information

contained in a public record from disclosure pursuant to subdivision (k) of Section 6254 shall be listed and described in this article pursuant to a bill authorized by a standing committee of the Legislature to be introduced during the first year of each session of the Legislature. The statutes and constitutional provisions listed in this article may operate to exempt certain records, or portions thereof, from disclosure. The statutes and constitutional provisions listed and described may not be inclusive of all exemptions. The listing of a statute or constitutional provision in this article does not itself create an exemption. Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, in light of the circumstances surrounding the request, exempts public records from disclosure.

(Amended by Stats. 2012, Ch. 697, Sec. 2. (AB 2221) Effective January 1, 2013. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.

Records or information not required to be disclosed pursuant to subdivision (k) of Section 6254 may include, but shall not be limited to, records or information identified in statutes listed in this article.

(Added by Stats. 1998, Ch. 620, Sec. 11. Effective January 1, 1999. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.01.

Crime victims, confidential information or records, The Victims' Bill of Rights Act of 2008: Marsy's Law, Section 28 of Article I of the California Constitution.

(Added by Stats. 2012, Ch. 697, Sec. 3. (AB 2221) Effective January 1, 2013. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.02.

Acquired Immune Deficiency Syndrome, blood test results, written authorization not necessary for disclosure, Section 121010, Health and Safety Code.

Acquired Immune Deficiency Syndrome, blood test subject, compelling identity of, Section 120975, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of personal data of patients in State Department of Public Health programs, Section 120820, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of research records, Sections 121090, 121095, 121115, and 121120, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of vaccine volunteers, Section 121280, Health and Safety Code.

Acquired Immune Deficiency Syndrome, confidentiality of information obtained in prevention programs at correctional facilities and law enforcement agencies, Sections 7552 and 7554, Penal Code.

Acquired Immune Deficiency Syndrome, confidentiality of test results of person convicted of prostitution, Section 1202.6, Penal Code.

Acquired Immune Deficiency Syndrome, disclosure of results of HIV test, penalties, Section 120980, Health and Safety Code.

Acquired Immune Deficiency Syndrome, personal information, insurers tests, confidentiality of, Section 799, Insurance Code.

Acquired Immune Deficiency Syndrome, public safety and testing disclosure, Sections 121065 and 121070, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, production or discovery of records for use in criminal or civil proceedings against subject prohibited, Section 121100, Health and Safety Code.

Acquired Immune Deficiency Syndrome Public Health Records Confidentiality Act, personally identifying information confidentiality, Section 121025, Health and Safety Code.

Acquired Immune Deficiency Syndrome, test of criminal defendant pursuant to search warrant requested by victim, confidentiality of, Section 1524.1, Penal Code.

Acquired Immune Deficiency Syndrome, test results, disclosure to patient's spouse and others, Section 121015, Health and Safety Code.

Acquired Immune Deficiency Syndrome, test of person under Youth Authority, disclosure of results, Section 1768.9, Welfare and Institutions Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, financial audits or program evaluations, Section 121085, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, violations, Section 121100, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, personally identifying research records not to be disclosed, Section 121075, Health and Safety Code.

Acquired Immune Deficiency Syndrome Research and Confidentiality Act, permittee disclosure, Section 121080, Health and Safety Code.

Administrative procedure, adjudicatory hearings, interpreters, Section 11513.

Adoption records, confidentiality of, Section 102730, Health and Safety Code.

Advance Health Care Directive Registry, exemption from disclosure for registration information provided to the Secretary of State, subdivision (ac), Section 6254.

(Amended by Stats. 2009, Ch. 584, Sec. 2. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.04.

Aeronautics Act, reports of investigations and hearings, Section 21693, Public Utilities Code.

Agricultural producers marketing, access to records, Section 59616, Food and Agricultural Code.

Aiding disabled voters, Section 14282, Elections Code.

Air pollution data, confidentiality of trade secrets, Section 6254.7, and Sections 42303.2 and 43206, Health and Safety Code.

Air toxics emissions inventory plans, protection of trade secrets, Section 44346, Health and Safety Code.

Alcohol and drug abuse records and records of communicable diseases, confidentiality of, Section 123125, Health and Safety Code.

Alcoholic beverage licensees, confidentiality of corporate proprietary information, Section 25205, Business and Professions Code.

Ambulatory Surgery Data Record, confidentiality of identifying information, Section 128737, Health and Safety Code.

Apiary registration information, confidentiality of, Section 29041, Food and Agricultural Code.

Archaeological site information and reports maintained by state and local agencies, disclosure not required, Section 6254.10.

Arrest not resulting in conviction, disclosure or use of records, Sections 432.7 and 432.8, Labor Code.

Arsonists, registered, confidentiality of certain information, Section 457.1, Penal Code.

Artificial insemination, donor not natural father, confidentiality of records, Section 7613, Family Code.

Assessor's records, confidentiality of information in, Section 408, Revenue and Taxation Code.

Assessor's records, confidentiality of information in, Section 451, Revenue and Taxation Code.
Assessor's records, display of documents relating to business affairs or property of another, Section 408.2, Revenue and Taxation Code.

Assigned risk plans, rejected applicants, confidentiality of information, Section 11624, Insurance Code.

Attorney applicant, investigation by State Bar, confidentiality of, Section 6060.2, Business and Professions Code.

Attorney applicant, information submitted by applicant and State Bar admission records, confidentiality of, Section 6060.25, Business and Professions Code.

Attorney-client confidential communication, Section 6068, Business and Professions Code, and Sections 952 and 954, Evidence Code.

Attorney, disciplinary proceedings, confidentiality prior to formal proceedings, Section 6086.1, Business and Professions Code.

Attorney, disciplinary proceeding, State Bar access to nonpublic court records, Section 6090.6, Business and Professions Code.

Attorney, law corporation, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.

Attorney work product confidentiality in administrative adjudication, Section 11507.6.

Attorney, work product, confidentiality of, Section 6202, Business and Professions Code.

Attorney work product, discovery, Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure.

Auditor General, access to records for audit purposes, Sections 10527 and 10527.1.

Auditor General, disclosure of audit records, Section 10525.

Automated forward facing parking control devices, confidentiality of video imaging records from the devices, Section 40240, Vehicle Code.

Automated traffic enforcement system, confidentiality of photographic records made by the system, Section 21455.5, Vehicle Code.

Automobile Insurance Claims Depository, confidentiality of information, Section 1876.3, Insurance Code.

Automobile insurance, investigation of fraudulent claims, confidential information, Section 1872.8, Insurance Code.

Avocado handler transaction records, confidentiality of information, Section 44984, Food and Agricultural Code.

(Amended by Stats. 2015, Ch. 537, Sec. 21. (SB 387) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.06.

Bank and Corporation Tax, disclosure of information, Article 2 (commencing with Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.

Bank employees, confidentiality of criminal history information, Sections 777.5 and 4990, Financial Code.

Bank reports, confidentiality of, Section 289, Financial Code.

Basic Property Insurance Inspection and Placement Plan, confidential reports, Section 10097, Insurance Code.

Beef Council of California, confidentiality of fee transactions information, Section 64691.1, Food and Agricultural Code.

Bids, confidentiality of, Section 10304, Public Contract Code.

Birth, death, and marriage licenses, confidential information contained in, Sections 102100, 102110, and 102230, Health and Safety Code.

Birth defects, monitoring, confidentiality of information collected, Section 103850, Health and Safety Code.

Birth, live, confidential portion of certificate, Sections 102430, 102475, 103525, and 103590, Health and Safety Code.

Blood tests, confidentiality of hepatitis and AIDS carriers, Section 1603.1, Health and Safety Code.

Blood-alcohol percentage test results, vehicular offenses, confidentiality of, Section 1804, Vehicle Code.

Business and professions licensee exemption for social security number, Section 30, Business and Professions Code.

(Amended by Stats. 2009, Ch. 584, Sec. 4. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.08.

Cable television subscriber information, confidentiality of, Section 637.5, Penal Code.

CalFresh, disclosure of information, Section 18909, Welfare and Institutions Code.

California AIDS Program, personal data, confidentiality, Section 120820, Health and Safety Code.

California Apple Commission, confidentiality of lists of persons, Section 75598, Food and Agricultural Code.

California Apple Commission, confidentiality of proprietary information from producers or handlers, Section 75633, Food and Agricultural Code.

California Asparagus Commission, confidentiality of lists of producers, Section 78262, Food and Agricultural Code.

California Asparagus Commission, confidentiality of proprietary information from producers, Section 78288, Food and Agricultural Code.

California Avocado Commission, confidentiality of information from handlers, Section 67094, Food and Agricultural Code.

California Avocado Commission, confidentiality of proprietary information from handlers, Section 67104, Food and Agricultural Code.

California Cherry Commission, confidentiality of proprietary information from producers, processors, shippers, or grower-handlers, Section 76144, Food and Agricultural Code.

California Children's Services Program, confidentiality of factor replacement therapy contracts, Section 123853, Health and Safety Code.

California Cut Flower Commission, confidentiality of lists of producers, Section 77963, Food and Agricultural Code.

California Cut Flower Commission, confidentiality of proprietary information from producers, Section 77988, Food and Agricultural Code.

California Date Commission, confidentiality of proprietary information from producers and grower-handlers, Section 77843, Food and Agricultural Code.

California Egg Commission, confidentiality of proprietary information from handlers or distributors, Section 75134, Food and Agricultural Code.

California Forest Products Commission, confidentiality of lists of persons, Section 77589, Food and Agricultural Code.

California Forest Products Commission, confidentiality of proprietary information from producers, Section 77624, Food and Agricultural Code.

California Iceberg Lettuce Commission, confidentiality of information from handlers, Section 66624, Food and Agricultural Code.

California Kiwifruit Commission, confidentiality of proprietary information from producers or handlers, Section 68104, Food and Agricultural Code.

California Navel Orange Commission, confidentiality of proprietary information from producers or handlers and lists of producers and handlers, Section 73257, Food and Agricultural Code.

California Pepper Commission, confidentiality of lists of producers and handlers, Section 77298, Food and Agricultural Code.

California Pepper Commission, confidentiality of proprietary information from producers or handlers, Section 77334, Food and Agricultural Code.

California Pistachio Commission, confidentiality of proprietary information from producers or processors, Section 69045, Food and Agricultural Code.

California Salmon Commission, confidentiality of fee transactions records, Section 76901.5, Food and Agricultural Code.

California Salmon Commission, confidentiality of request for list of commercial salmon vessel operators, Section 76950, Food and Agricultural Code.

California Seafood Council, confidentiality of fee transaction records, Section 78553, Food and Agricultural Code.

California Seafood Council, confidentiality of information on volume of fish landed, Section 78575, Food and Agricultural Code.

California Sheep Commission, confidentiality of proprietary information from producers or handlers and lists of producers, Section 76343, Food and Agricultural Code.

California State University contract law, bids, questionnaires and financial statements, Section 10763, Public Contract Code.

California State University Investigation of Reported Improper Governmental Activities Act, confidentiality of investigative audits completed pursuant to the act, Section 89574, Education Code.

California Table Grape Commission, confidentiality of information from shippers, Section 65603, Food and Agricultural Code.

California Tomato Commission, confidentiality of lists of producers, handlers, and others, Section 78679, Food and Agricultural Code.

California Tomato Commission, confidentiality of proprietary information, Section 78704, Food and Agricultural Code.

California Tourism Marketing Act, confidentiality of information pertaining to businesses paying the assessment under the act, Section 13995.54.

California Victim Compensation Board, disclosure not required of records relating to assistance requests under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2, Section 6254.17.

California Walnut Commission, confidentiality of lists of producers, Section 77101, Food and Agricultural Code.

California Walnut Commission, confidentiality of proprietary information from producers or handlers, Section 77154, Food and Agricultural Code.

California Wheat Commission, confidentiality of proprietary information from handlers and lists of producers, Section 72104, Food and Agricultural Code.

California Wheat Commission, confidentiality of requests for assessment refund, Section 72109, Food and Agricultural Code.

California Wine Commission, confidentiality of proprietary information from producers or vintners, Section 74655, Food and Agricultural Code.

California Wine Grape Commission, confidentiality of proprietary information from producers and vintners, Section 74955, Food and Agricultural Code.

(Amended by Stats. 2016, Ch. 31, Sec. 61. (SB 836) Effective June 27, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.10.

Cancer registries, confidentiality of information, Section 103885, Health and Safety Code.
Candidate for local nonpartisan elective office, confidentiality of ballot statement, Section 13311, Elections Code.
Child abuse information, exchange by multidisciplinary personnel teams, Section 830, Welfare and Institutions Code.
Child abuse report and those making report, confidentiality of, Sections 11167 and 11167.5, Penal Code.
Child care liability insurance, confidentiality of information, Section 1864, Insurance Code.
Child concealer, confidentiality of address, Section 278.7, Penal Code.
Child custody investigation report, confidentiality of, Section 3111, Family Code.
Child day care facility, nondisclosure of complaint, Section 1596.853, Health and Safety Code.
Child health and disability prevention, confidentiality of health screening and evaluation results, Section 124110, Health and Safety Code.
Child sexual abuse reports, confidentiality of reports filed in a contested proceeding involving child custody or visitation rights, Section 3118, Family Code.
Child support, confidentiality of income tax return, Section 3552, Family Code.
Child support, promise to pay, confidentiality of, Section 7614, Family Code.
Childhood lead poisoning prevention, confidentiality of blood lead findings, Section 124130, Health and Safety Code.
Children and families commission, local, confidentiality of individually identifiable information, Section 130140.1, Health and Safety Code.
Cigarette tax, confidential information, Section 30455, Revenue and Taxation Code.
Civil actions, delayed disclosure for 30 days after complaint filed, Section 482.050, Code of Civil Procedure.
Closed sessions, document assessing vulnerability of state or local agency to disruption by terrorist or other criminal acts, subdivision (aa), Section 6254.
Closed sessions, meetings of local governments, pending litigation, Section 54956.9.
Colorado River Board, confidential information and records, Section 12519, Water Code.
Commercial fishing licensee, confidentiality of records, Section 7923, Fish and Game Code.
Commercial fishing reports, Section 8022, Fish and Game Code.
Community care facilities, confidentiality of client information, Section 1557.5, Health and Safety Code.
Community college employee, candidate examination records, confidentiality of, Section 88093, Education Code.
Community college employee, notice and reasons for nonreemployment, confidentiality, Section 87740, Education Code.
(Amended by Stats. 2009, Ch. 584, Sec. 6. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.12.

Conservatee, confidentiality of the conservatee's report, Section 1826, Probate Code.
Conservatee, estate plan of, confidentiality of, Section 2586, Probate Code.
Conservatee with disability, confidentiality of report, Section 1827.5, Probate Code.
Conservator, confidentiality of conservator's birthdate and driver's license number, Section 1834, Probate Code.
Conservator, supplemental information, confidentiality of, Section 1821, Probate Code.
Conservatorship, court review of, confidentiality of report, Section 1851, Probate Code.
Consumer fraud investigations, access to complaints and investigations, Section 26509.

Consumption or utilization of mineral materials, disclosure of, Section 2207.1, Public Resources Code.

Contractor, evaluations and contractor responses, confidentiality of, Section 10370, Public Contract Code.

Contractor, license applicants, evidence of financial solvency, confidentiality of, Section 7067.5, Business and Professions Code.

Controlled Substance Law violations, confidential information, Section 818.7.

Controlled substance offenders, confidentiality of registration information, Section 11594, Health and Safety Code.

Cooperative Marketing Association, confidential information disclosed to conciliator, Section 54453, Food and Agricultural Code.

Coroner, inquests, subpoena duces tecum, Section 27491.8.

County aid and relief to indigents, confidentiality of investigation, supervision, relief, and rehabilitation records, Section 17006, Welfare and Institutions Code.

County alcohol programs, confidential information and records, Section 11812, Health and Safety Code.

County Employees' Retirement, confidential statements and records, Section 31532.

County mental health system, confidentiality of client information, Section 5610, Welfare and Institutions Code.

County social services, investigation of applicant, confidentiality, Section 18491, Welfare and Institutions Code.

County social services rendered by volunteers, confidentiality of records of recipients, Section 10810, Welfare and Institutions Code.

County special commissions, disclosure of health care peer review and quality assessment records not required, Section 14087.58, Welfare and Institutions Code.

County special commissions, disclosure of records relating to the commission's rates of payment for publicly assisted medical care not required, Section 14087.58, Welfare and Institutions Code.

Court files, access to, restricted for 60 days, Section 1161.2, Code of Civil Procedure.

Court files, access to, restricted for 60 days, Section 1708.85, Civil Code.

Court reporters, confidentiality of records and reporters, Section 68525.

Court-appointed special advocates, confidentiality of information acquired or reviewed, Section 105, Welfare and Institutions Code.

Crane employers, previous business identities, confidentiality of, Section 7383, Labor Code.

Credit unions, confidentiality of investigation and examination reports, Section 14257, Financial Code.

Credit unions, confidentiality of employee criminal history information, Section 14409.2, Financial Code.

Criminal defendant, indigent, confidentiality of request for funds for investigators and experts, Section 987.9, Penal Code.

Criminal offender record information, access to, Sections 11076 and 13202, Penal Code.

Crop reports, confidential, subdivision (e), Section 6254.

Customer list of chemical manufacturers, formulators, suppliers, distributors, importers, and their agents, the quantities and dates of shipments, and the proportion of a specified chemical within a mixture, confidential, Section 147.2, Labor Code.

Customer list of employment agency, trade secret, Section 16607, Business and Professions Code.

Customer list of telephone answering service, trade secret, Section 16606, Business and Professions Code.

(Amended by Stats. 2017, Ch. 233, Sec. 2. (SB 157) Effective January 1, 2018. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.14.

Dairy Council of California, confidentiality of ballots, Section 64155, Food and Agricultural Code.

Death, report that physician's or podiatrist's negligence or incompetence may be cause, confidentiality of, Section 802.5, Business and Professions Code.

Dental hygienist drug and alcohol diversion program, confidentiality of records pertaining to treatment, Section 1966.5, Business and Professions Code.

Dentist advertising and referral contract exemption, Section 650.2, Business and Professions Code.

Dentist, alcohol or dangerous drug rehabilitation and diversion, confidentiality of records, Section 1698, Business and Professions Code.

Department of Consumer Affairs licensee exemption for alcohol or dangerous drug treatment and rehabilitation records, Section 156.1, Business and Professions Code.

Department of Human Resources, confidentiality of pay data furnished to, Section 19826.5.

Department of Motor Vehicles, confidentiality of information provided by an insurer, Section 4750.4, Vehicle Code.

Department of Motor Vehicles, confidentiality of the home address of specified persons in the records of the Department of Motor Vehicles, Section 1808.6, Vehicle Code.

Developmentally disabled conservatee confidentiality of reports and records, Sections 416.8 and 416.18, Health and Safety Code.

Developmentally disabled person, access to information provided by family member, Section 4727, Welfare and Institutions Code.

Developmentally disabled person and person with mental illness, access to and release of information about, by protection and advocacy agency, Section 4903, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of patient records, state agencies, Section 4553, Welfare and Institutions Code.

Developmentally disabled person, confidentiality of records and information, Sections 4514 and 4518, Welfare and Institutions Code.

Diesel Fuel Tax information, disclosure prohibited, Section 60609, Revenue and Taxation Code.

Disability compensation, confidential medical records, Section 2714, Unemployment Insurance Code.

Disability insurance, access to registered information, Section 789.7, Insurance Code.

Discrimination complaint to Division of Labor Standards Enforcement, confidentiality of witnesses, Section 98.7, Labor Code.

Dispute resolution participants confidentiality, Section 471.5, Business and Professions Code.

Division of Workers' Compensation, confidentiality of data obtained by the administrative director and derivative works created by the division, Sections 3201.5, 3201.7, and 3201.9, Labor Code.

Division of Workers' Compensation, individually identifiable information and residence addresses obtained or maintained by the division on workers' compensation claims, confidentiality of, Section 138.7, Labor Code.

Division of Workers' Compensation, individually identifiable information of health care organization patients, confidentiality of, Section 4600.5, Labor Code.

Division of Workers' Compensation, individual workers' compensation claim files and auditor's working papers, confidentiality of, Section 129, Labor Code.

Division of Workers' Compensation, peer review proceedings and employee medical records, confidentiality of, Section 4600.6, Labor Code.

Domestic violence counselor and victim, confidentiality of communication, Sections 1037.2 and 1037.5, Evidence Code.

Driver arrested for traffic violation, notice of reexamination for evidence of incapacity, confidentiality of, Section 40313, Vehicle Code.
Driving school and driving instructor licensee records, confidentiality of, Section 11108, Vehicle Code.

(Amended by Stats. 2018, Ch. 903, Sec. 2. (SB 1504) Effective January 1, 2019. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.16.

Educational psychologist-patient, privileged communication, Section 1010.5, Evidence Code.
Electronic and appliance repair dealer, service contractor, financial data in applications, subdivision (x), Section 6254.

Electronic Recording Delivery Act of 2004, exemption from disclosure for computer security reports, Section 27394.

Emergency Care Data Record, exemption from disclosure for identifying information, Section 128736, Health and Safety Code.

Emergency Medical Services Fund, patient named, Section 1797.98c, Health and Safety Code.
Emergency medical technicians, confidentiality of disciplinary investigation information, Section 1798.200, Health and Safety Code.

Emergency Medical Technician-Paramedic (EMT-P), exemption from disclosure for records relating to personnel actions against, or resignation of, an EMT-P for disciplinary cause or reason, Section 1799.112, Health and Safety Code.

Eminent domain proceedings, use of state tax returns, Section 1263.520, Code of Civil Procedure.

Employment agency, confidentiality of customer list, Section 16607, Business and Professions Code.

Employment application, nondisclosure of arrest record or certain convictions, Sections 432.7 and 432.8, Labor Code.

Employment Development Department, furnishing materials, Section 307, Unemployment Insurance Code.

Enteral nutrition products, confidentiality of contracts by the State Department of Health Care Services with manufacturers of enteral nutrition products, Section 14105.8, Welfare and Institutions Code.

Equal wage rate violation, confidentiality of complaint, Section 1197.5, Labor Code.

Equalization, State Board of, prohibition against divulging information, Section 15619.

Escrow Agents' Fidelity Corporation, confidentiality of examination and investigation reports, Section 17336, Financial Code.

Escrow agents' confidentiality of reports on violations, Section 17414, Financial Code.

Escrow agents' confidentiality of state summary criminal history information, Section 17414.1, Financial Code.

Estate tax, confidential records and information, Section 14251, Revenue and Taxation Code.

Excessive rates or complaints, reports, Section 1857.9, Insurance Code.

Executive Department, closed sessions and the record of topics discussed, Sections 11126 and 11126.1.

Executive Department, investigations and hearings, confidential nature of information acquired, Section 11183.

(Amended by Stats. 2009, Ch. 584, Sec. 9. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.18.

Family court records, Section 1818, Family Code.

Farm product processor license, confidentiality of financial statements, Section 55523.6, Food and Agricultural Code.

Farm product processor licensee, confidentiality of grape purchases, Section 55601.5, Food and Agricultural Code.

Fee payer information, prohibition against disclosure by the State Board of Equalization and others, Section 55381, Revenue and Taxation Code.

Financial institutions, issuance of securities, reports and records of state agencies, subdivision (d) of Section 6254, this code.

Financial statements of insurers, confidentiality of information received, Section 925.3, Insurance Code.

Financial statements and questionnaires, of prospective bidders for the state, confidentiality of, Section 10165, Public Contract Code.

Financial statements and questionnaires, of prospective bidders for California State University contracts, confidentiality of, Section 10763, Public Contract Code.

Firearms, centralized list of exempted federal firearms licensees, disclosure of information compiled from, Sections 24850 to 24890, inclusive, Penal Code.

Firearms, centralized list of dealers and licensees, disclosure of information compiled from, Sections 26700 to 26915, inclusive, Penal Code.

Firearm license applications, subdivision (u) of Section 6254, this code.

Firearm sale or transfer, confidentiality of records, Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, Penal Code.

Fishing and hunting licenses, confidentiality of names and addresses contained in records submitted to the Department of Fish and Game to obtain recreational fishing and hunting licenses, Section 1050.6, Fish and Game Code.

Foreign marketing of agricultural products, confidentiality of financial information, Section 58577, Food and Agricultural Code.

Forest fires, anonymity of informants, Section 4417, Public Resources Code.

Foster homes, identifying information, Section 1536, Health and Safety Code.

Franchise Tax Board, access to Franchise Tax Board information by the State Department of Social Services, Section 11025, Welfare and Institutions Code.

Franchise Tax Board, auditing, confidentiality of, Section 90005.

Franchises, applications, and reports filed with Commissioner of Business Oversight, disclosure and withholding from public inspection, Section 31504, Corporations Code.

Fur dealer licensee, confidentiality of records, Section 4041, Fish and Game Code.

(Amended by Stats. 2019, Ch. 143, Sec. 64. (SB 251) Effective January 1, 2020. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.22.

Gambling Control Act, exemption from disclosure for records of the California Gambling Control Commission and the Department of Justice, Sections 19819 and 19821, Business and Professions Code.

Genetically Handicapped Persons Program, confidentiality of factor replacement therapy contracts, Section 125191, Health and Safety Code.

Governor, correspondence of and to Governor and Governor's office, subdivision (l), Section 6254.

Governor, transfer of public records in control of, restrictions on public access, Section 6268.

Grand jury, confidentiality of request for special counsel, Section 936.7, Penal Code.

Grand jury, confidentiality of transcription of indictment or accusation, Section 938.1, Penal Code.

Group Insurance, public employees, Section 53202.25.

Guardianship, confidentiality of report regarding the suitability of the proposed guardian, Section 1543, Probate Code.

Guardianship, disclosure of report and recommendation concerning proposed guardianship of person or estate, Section 1513, Probate Code.

(Amended by Stats. 2015, Ch. 303, Sec. 184. (AB 731) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.24.

Hazardous substance tax information, prohibition against disclosure, Section 43651, Revenue and Taxation Code.

Hazardous waste control, business plans, public inspection, Section 25506, Health and Safety Code.

Hazardous waste control, notice of unlawful hazardous waste disposal, Section 25180.5, Health and Safety Code.

Hazardous waste control, trade secrets, disclosure of information, Sections 25511 and 25538, Health and Safety Code.

Hazardous waste control, trade secrets, procedures for release of information, Section 25358.2, Health and Safety Code.

Hazardous waste generator report, protection of trade secrets, Sections 25244.21 and 25244.23, Health and Safety Code.

Hazardous waste licenseholder disclosure statement, confidentiality of, Section 25186.5, Health and Safety Code.

Hazardous waste recycling, information clearing house, confidentiality of trade secrets, Section 25170, Health and Safety Code.

Hazardous waste recycling, list of specified hazardous wastes, trade secrets, Section 25175, Health and Safety Code.

Hazardous waste recycling, trade secrets, confidential nature, Sections 25173 and 25180.5, Health and Safety Code.

Healing arts licensees, central files, confidentiality, Section 800, Business and Professions Code.

Health authorities, special county, confidentiality of records, Sections 14087.35, 14087.36, and 14087.38, Welfare and Institutions Code.

Health care provider disciplinary proceeding, confidentiality of documents, Section 805.1, Business and Professions Code.

Health care service plans, review of quality of care, privileged communications, Sections 1370 and 1380, Health and Safety Code.

Health commissions, special county, confidentiality of peer review proceedings, rates of payment, and trade secrets, Section 14087.31, Welfare and Institutions Code.

Health facilities, patient's rights of confidentiality, subdivision (c) of Section 128745 and Sections 128735, 128736, 128737, 128755, and 128765, Health and Safety Code.

Health personnel, data collection by the Office of Statewide Health Planning and Development, confidentiality of information on individual licentiates, Section 127780, Health and Safety Code.

Health plan governed by a county board of supervisors, exemption from disclosure for records relating to provider rates or payments for a three-year period after execution of the provider contract, Sections 6254.22 and 54956.87.

Hereditary Disorders Act, legislative finding and declaration, confidential information, Sections 124975 and 124980, Health and Safety Code.

Hereditary Disorders Act, rules, regulations, and standards, breach of confidentiality, Section 124980, Health and Safety Code.

HIV, disclosures to blood banks by department or county health officers, Section 1603.1, Health and Safety Code.

Home address of public employees and officers in Department of Motor Vehicles, records, confidentiality of, Sections 1808.2 and 1808.4, Vehicle Code.

Horse racing, horses, blood or urine test sample, confidentiality, Section 19577, Business and Professions Code.

Hospital district and municipal hospital records relating to contracts with insurers and service plans, subdivision (t), Section 6254.

Hospital final accreditation report, subdivision (s), Section 6254.

Housing authorities, confidentiality of rosters of tenants, Section 34283, Health and Safety Code.

Housing authorities, confidentiality of applications by prospective or current tenants, Section 34332, Health and Safety Code.

(Amended by Stats. 2009, Ch. 584, Sec. 12.5. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.26.

Improper governmental activities reporting, confidentiality of identity of person providing information, Section 8547.5.

Improper governmental activities reporting, disclosure of information, Section 8547.6.

Industrial loan companies, confidentiality of financial information, Section 18496, Financial Code.

Industrial loan companies, confidentiality of investigation and examination reports, Section 18394, Financial Code.

Influenza vaccine, trade secret information and information relating to recipient of vaccine, Section 120155, Health and Safety Code.

In forma pauperis litigant, rules governing confidentiality of financial information, Section 68511.3.

Infrastructure information, exemption from disclosure for information voluntarily submitted to the Office of Emergency Services, subdivision (ab), Section 6254.

In-Home Supportive Services Program, exemption from disclosure for information regarding persons paid by the state to provide in-home supportive services, Section 6253.2.

Initiative, referendum, recall, and other petitions, confidentiality of names of signers, Section 6253.5.

Insurance claims analysis, confidentiality of information, Section 1875.16, Insurance Code.

Insurance Commissioner, confidential information, Sections 735.5, 1067.11, 1077.3, and 12919, Insurance Code.

Insurance Commissioner, informal conciliation of complaints, confidential communications, Section 1858.02, Insurance Code.

Insurance Commissioner, information from examination or investigation, confidentiality of, Sections 1215.7, 1433, and 1759.3, Insurance Code.

Insurance Commissioner, writings filed with nondisclosure, Section 855, Insurance Code.

Insurance fraud reporting, information acquired not part of public record, Section 1873.1, Insurance Code.

Insurance licensee, confidential information, Section 1666.5, Insurance Code.

Insurer application information, confidentiality of, Section 925.3, Insurance Code.

Insurer financial analysis ratios and examination synopses, confidentiality of, Section 933, Insurance Code.

Department of Resources Recycling and Recovery information, prohibition against disclosure, Section 45982, Revenue and Taxation Code.

International wills, confidentiality of registration information filed with the Secretary of State, Section 6389, Probate Code.

Intervention in regulatory and ratemaking proceedings, audit of customer seeking and award, Section 1804, Public Utilities Code.

Investigation and security records, exemption from disclosure for records of the Attorney General, the Department of Justice, the Office of Emergency Services, and state and local police agencies, subdivision (f), Section 6254.

Investigative consumer reporting agency, limitations on furnishing an investigative consumer report, Section 1786.12, Civil Code.

(Amended by Stats. 2013, Ch. 352, Sec. 108. (AB 1317) Effective September 26, 2013.

Operative July 1, 2013, by Sec. 543 of Ch. 352. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.28.

Joint Legislative Ethics Committee, confidentiality of reports and records, Section 8953.

Judicial candidates, confidentiality of communications concerning, Section 12011.5.

Judicial proceedings, confidentiality of employer records of employee absences, Section 230.2, Labor Code.

Jurors' lists, lists of registered voters and licensed drivers as source for, Section 197, Code of Civil Procedure.

Juvenile court proceedings to adjudge a person a dependent child of court, sealing records of, Section 389, Welfare and Institutions Code.

Juvenile criminal records, dissemination to schools, Section 828.1, Welfare and Institutions Code.

Juvenile delinquents, notification of chief of police or sheriff of escape of minor from secure detention facility, Section 1155, Welfare and Institutions Code.

Labor dispute, investigation and mediation records, confidentiality of, Section 65, Labor Code.

Lanterman-Petris-Short Act, mental health services recipients, confidentiality of information and records, mental health advocate, Sections 5540, 5541, 5542, and 5550, Welfare and Institutions Code.

Law enforcement vehicles, registration disclosure, Section 5003, Vehicle Code.

Legislative Counsel records, subdivision (m), Section 6254.

Library circulation records and other materials, subdivision (i), Section 6254 and Section 6267.

Life and disability insurers, actuarial information, confidentiality of, Section 10489.15, Insurance Code.

Litigation, confidentiality of settlement information, Section 68513.

Local agency legislative body, closed sessions, disclosure of materials, Section 54956.9.

Local government employees, confidentiality of records and claims relating to group insurance, Section 53202.25.

Local summary criminal history information, confidentiality of, Sections 13300 and 13305, Penal Code.

Local agency legislative body, closed session, nondisclosure of minute book, Section 54957.2.

Local agency legislative body, meeting, disclosure of agenda, Section 54957.5.

Long-term health facilities, confidentiality of complaints against, Section 1419, Health and Safety Code.

Long-term health facilities, confidentiality of records retained by State Department of Public Health, Section 1439, Health and Safety Code.

Los Angeles County Tourism Marketing Commission, confidentiality of information obtained from businesses to determine their assessment, Section 13995.108.
(Amended by Stats. 2009, Ch. 584, Sec. 14. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.30.

Managed care health plans, confidentiality of proprietary information, Section 14091.3 of the Welfare and Institutions Code.

Managed Risk Medical Insurance Board, negotiations with entities contracting or seeking to contract with the board, subdivisions (v) and (y) of Section 6254.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Sections 1603.1, 1603.3, and 121022 of the Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015 of the Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081 of the Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987 of the Evidence Code.

Market reports, confidential, subdivision (e) of Section 6254.

Marketing of commodities, confidentiality of financial information, Section 58781 of the Food and Agricultural Code.

Marketing orders, confidentiality of processors' or distributors' information, Section 59202 of the Food and Agricultural Code.

Marriage, confidential, certificate, Section 511 of the Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2 of the Welfare and Institutions Code.

Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89 of the Welfare and Institutions Code.

Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528.

Medi-Cal managed care program, exemption from disclosure for financial and utilization data submitted by Medi-Cal managed care health plans to establish rates, Section 14301.1 of the Welfare and Institutions Code.

Medi-Cal program, exemption from disclosure for best price contracts between the State Department of Health Care Services and drug manufacturers, Section 14105.33 of the Welfare and Institutions Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16 of the Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30 of the Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157 of the Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828 of the Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5 of the Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1.

Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135 of the Welfare and Institutions Code.

Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620 of the Penal Code.

Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9 of the Welfare and Institutions Code.

Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103 of the Welfare and Institutions Code.

Milk marketing, confidentiality of records, Section 61443 of the Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121 of the Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243 of the Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946 of the Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716 of the Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207 of the Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1 of the Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5 of the Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5 of the Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167 of the Penal Code.

Missing persons' information, disclosure of, Sections 14204 and 14205 of the Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330 of the Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014 of the Vehicle Code.

Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, of the Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3 of the Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628 of the Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8.

(Amended by Stats. 2014, Ch. 437, Sec. 4. (SB 1066) Effective January 1, 2015. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.32.

Narcotic addict outpatient revocation proceeding, confidentiality of reports, Section 3152.5, Welfare and Institutions Code.

Narcotic and drug abuse patients, confidentiality of records, Section 11845.5, Health and Safety Code.

Native American graves, cemeteries and sacred places, records of, subdivision (r), Section 6254.

Notary public, confidentiality of application for appointment and commission, Section 8201.5.

Nurse, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 2770.12, Business and Professions Code.

Obscene matter, defense of scientific or other purpose, confidentiality of recipients, Section 311.8, Penal Code.

Occupational safety and health investigations, confidentiality of complaints and complainants, Section 6309, Labor Code.

Occupational safety and health investigations, confidentiality of trade secrets, Section 6322, Labor Code.

Official information acquired in confidence by public employee, disclosure of, Sections 1040 and 1041, Evidence Code.

Oil and gas, confidentiality of proposals for the drilling of a well, Section 3724.4, Public Resources Code.

Oil and gas, disclosure of onshore and offshore exploratory well records, Section 3234, Public Resources Code.

Oil and gas, disclosure of well records, Section 3752, Public Resources Code.

Oil and gas leases, surveys for permits, confidentiality of information, Section 6826, Public Resources Code.

Oil spill feepayer information, prohibition against disclosure, Section 46751, Revenue and Taxation Code.

Older adults receiving county services, providing information between county agencies, confidentiality of, Section 9401, Welfare and Institutions Code.

Organic food certification organization records, release of, Section 110845, Health and Safety Code.

Osteopathic physician and surgeon, rehabilitation and diversion records, confidentiality of, Section 2369, Business and Professions Code.

(Amended by Stats. 2009, Ch. 584, Sec. 16. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.34.

Parole revocation proceedings, confidentiality of information in reports, Section 3063.5, Penal Code.

Passenger fishing boat licenses, records, Section 7923, Fish and Game Code.

Paternity, acknowledgement, confidentiality of records, Section 102760, Health and Safety Code.

Patient-physician confidential communication, Sections 992 and 994, Evidence Code.

Patient records, confidentiality of, Section 123135, Health and Safety Code.

Payment instrument licensee records, inspection of, Section 33206, Financial Code.

Payroll records, confidentiality of, Section 1776, Labor Code.

Peace officer personnel records, confidentiality of, Sections 832.7 and 832.8, Penal Code.

Penitential communication between penitent and clergy, Sections 1032 and 1033, Evidence Code.

Personal Care Services Program, exemption from disclosure for information regarding persons paid by the state to provide personal care services, Section 6253.2.

Personal Income Tax, disclosure of information, Article 2 (commencing with Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.

Personal information, Information Practices Act, prohibitions against disclosure by state agencies, Sections 1798.24 and 1798.75, Civil Code.

Personal information, subpoena of records containing, Section 1985.4, Code of Civil Procedure.

Personal representative, confidentiality of personal representative's birth date and driver's license number, Section 8404, Probate Code.

Persons formerly classified as mentally abnormal sex offenders committed to a state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.

Persons with mental health disorders, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.

Persons with mental health disorders, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.

Persons with mental health disorders voluntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4, 5328.8, and 5328.9, Welfare and Institutions Code.

Persons with mental health disorders, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.

Petition signatures, Section 18650, Elections Code.

Petroleum supply and pricing, confidential information, Sections 25364 and 25366, Public Resources Code.

Pharmacist, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 4372, Business and Professions Code.

Physical therapist or assistant, records of dangerous drug or alcohol diversion and rehabilitation, confidentiality of, Section 2667, Business and Professions Code.

Physical or mental condition or conviction of controlled substance offense, records in Department of Motor Vehicles, confidentiality of, Section 1808.5, Vehicle Code.

Physician and surgeon, rehabilitation and diversion records, confidentiality of, Section 2355, Business and Professions Code.

Physician assistant, alcohol or dangerous drug diversion and rehabilitation records, confidentiality of, Section 3534.7, Business and Professions Code.

Physician competency examination, confidentiality of reports, Section 2294, Business and Professions Code.

Physicians and surgeons, confidentiality of reports of patients with a lapse of consciousness disorder, Section 103900, Health and Safety Code.

Physician Services Account, confidentiality of patient names in claims, Section 16956, Welfare and Institutions Code.

Pilots, confidentiality of personal information, Section 1157.1, Harbors and Navigation Code.

Pollution Control Financing Authority, financial data submitted to, subdivision (o), Section 6254.

Postmortem or autopsy photos, Section 129, Code of Civil Procedure.

(Amended by Stats. 2018, Ch. 903, Sec. 3. (SB 1504) Effective January 1, 2019. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.36.

Pregnancy tests by local public health agencies, confidentiality of, Section 123380, Health and Safety Code.

Pregnant women, confidentiality of blood tests, Section 125105, Health and Safety Code.

Prehospital emergency medical care, release of information, Sections 1797.188 and 1797.189, Health and Safety Code.

Prenatal syphilis tests, confidentiality of, Section 120705, Health and Safety Code.

Prescription drug discounts, confidentiality of corporate proprietary information, Section 130506, Health and Safety Code.

Prisoners, behavioral research on, confidential personal information, Section 3515, Penal Code.

Prisoners, confidentiality of blood tests, Section 7530, Penal Code.

Prisoners, medical testing, confidentiality of records, Sections 7517 and 7540, Penal Code.

Prisoners, transfer from county facility for mental treatment and evaluation, confidentiality of written reasons, Section 4011.6, Penal Code.

Private industry wage data collected by public entity, confidentiality of, Section 6254.6.

Private railroad car tax, confidentiality of information, Section 11655, Revenue and Taxation Code.

Probate referee, disclosure of materials, Section 8908, Probate Code.

Probation officer reports, inspection of, Section 1203.05, Penal Code.

Produce dealer, confidentiality of financial statements, Section 56254, Food and Agricultural Code.

Products liability insurers, transmission of information, Section 1857.9, Insurance Code.

Professional corporations, financial statements, confidentiality of, Section 13406, Corporations Code.

Property on loan to museum, notice of intent to preserve an interest in, not subject to disclosure, Section 1899.5, Civil Code.

Property taxation, confidentiality of change of ownership, Section 481, Revenue and Taxation Code.

Property taxation, confidentiality of exemption claims, Sections 63.1, 69.5, and 408.2, Revenue and Taxation Code.

Property taxation, confidentiality of property information, Section 15641, Government Code and Section 833, Revenue and Taxation Code.

Proprietary information, availability only to the director and other persons authorized by the operator and the owner, Section 2778, Public Resources Code.

Psychologist and client, confidential relations and communications, Section 2918, Business and Professions Code.

Psychotherapist-patient confidential communication, Sections 1012 and 1014, Evidence Code.

Public employees' home addresses and telephone numbers, confidentiality of, Section 6254.3.

Public Employees' Medical and Hospital Care Act, confidentiality of data relating to health care services rendered by participating hospitals to members and annuitants, Section 22854.5.

Public Employees' Retirement System, confidentiality of data filed by member or beneficiary with board of administration, Section 20134.

Public investment funds, exemption from disclosure for records regarding alternative investments, Section 6254.26.

Public school employees organization, confidentiality of proof of majority support submitted to Public Employment Relations Board, Sections 3544, 3544.1, and 3544.5.

Public social services, confidentiality of digest of decisions, Section 10964, Welfare and Institutions Code.

Public social services, confidentiality of information regarding child abuse or elder or dependent persons abuse, Section 10850.1, Welfare and Institutions Code.

Public social services, confidentiality of information regarding eligibility, Section 10850.2, Welfare and Institutions Code.

Public social services, confidentiality of records, Section 10850, Welfare and Institutions Code.

Public social services, disclosure of information to law enforcement agencies, Section 10850.3, Welfare and Institutions Code.

Public social services, disclosure of information to law enforcement agencies regarding deceased applicant or recipient, Section 10850.7, Welfare and Institutions Code.

Public utilities, confidentiality of information, Section 583, Public Utilities Code.

Pupil, confidentiality of personal information, Section 45345, Education Code.

Pupil drug and alcohol use questionnaires, confidentiality of, Section 11605, Health and Safety Code.

Pupil, expulsion hearing, disclosure of testimony of witness and closed session of district board, Section 48918, Education Code.

Pupil, personal information disclosed to school counselor, confidentiality of, Section 49602, Education Code.

Pupil record contents, records of administrative hearing to change contents, confidentiality of, Section 49070, Education Code.

Pupil records, access authorized for specified parties, Section 49076, Education Code.

Pupil records, disclosure in hearing to dismiss or suspend school employee, Section 44944.1, Education Code.

Pupil records, release of directory information to private entities, Sections 49073 and 49073.5, Education Code.

(Amended by Stats. 2009, Ch. 584, Sec. 18. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.38.

Radioactive materials, dissemination of information about transportation of, Section 33002, Vehicle Code.

Railroad infrastructure protection program, disclosure not required for risk assessments filed with the Public Utilities Commission, the Director of Emergency Services, or the Office of Emergency Services, Section 6254.23.

Real estate broker, annual report to Bureau of Real Estate of financial information, confidentiality of, Section 10232.2, Business and Professions Code.

Real property, acquisition by state or local government, information relating to feasibility, subdivision (h), Section 6254.

Real property, change in ownership statement, confidentiality of, Section 27280.

Records described in Section 1620 of the Penal Code.

Records of contract purchasers, inspection by public prohibited, Section 85, Military and Veterans Code.

Records of persons committed to a state hospital pursuant to Section 4135 of the Welfare and Institutions Code.

Registered public obligations, inspection of records of security interests in, Section 5060.

Registration of exempt vehicles, nondisclosure of name of person involved in alleged violation, Section 5003, Vehicle Code.

Rehabilitation, Department of, confidential information, Section 19016, Welfare and Institutions Code.

Reinsurance intermediary-broker license information, confidentiality of, Section 1781.3, Insurance Code.

Relocation assistance, confidential records submitted to a public entity by a business or farm operation, Section 7262.

Rent control ordinance, confidentiality of information concerning accommodations sought to be withdrawn from, Section 7060.4.

Report of probation officer, inspection, copies, Section 1203.05, Penal Code.

Repossession agency licensee application, confidentiality of information, Sections 7503, 7504, and 7506.5, Business and Professions Code.

Reproductive health facilities, disclosure not required for personal information regarding employees, volunteers, board members, owners, partners, officers, and contractors of a reproductive health services facility who have provided requisite notification, Section 6254.18.

Residence address in any record of Department of Housing and Community Development, confidentiality of, Section 6254.1.

Residence address in any record of Department of Motor Vehicles, confidentiality of, Section 6254.1, Government Code, and Section 1808.21, Vehicle Code.

Residence and mailing addresses in records of Department of Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.

Residential care facilities, confidentiality of resident information, Section 1568.08, Health and Safety Code.

Residential care facilities for the elderly, confidentiality of client information, Section 1569.315, Health and Safety Code.

Resource families, identifying information, Section 16519.55, Welfare and Institutions Code.

Respiratory care practitioner, professional competency examination reports, confidentiality of, Section 3756, Business and Professions Code.

Restraint of trade, civil action by district attorney, confidential memorandum, Section 16750, Business and Professions Code.

Reward by Governor for information leading to arrest and conviction, confidentiality of person supplying information, Section 1547, Penal Code.

Safe surrender site, confidentiality of information pertaining to a parent or individual surrendering a child, Section 1255.7, Health and Safety Code.

(Amended by Stats. 2015, Ch. 773, Sec. 5. (AB 403) Effective January 1, 2016. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.40.

Sales and use tax, disclosure of information, Section 7056, Revenue and Taxation Code.

Santa Barbara Regional Health Authority, exemption from disclosure for records maintained by the authority regarding negotiated rates for the California Medical Assistance Program, Section 14499.6, Welfare and Institutions Code.

Savings association employees, disclosure of criminal history information, Section 6525, Financial Code.

Savings associations, inspection of records by shareholders, Section 6050, Financial Code.

School district governing board, disciplinary action, disclosure of pupil information, Section 35146, Education Code.

School employee, merit system examination records, confidentiality of, Section 45274, Education Code.

School employee, notice and reasons for hearing on nonreemployment of employee, confidentiality of, Sections 44948.5 and 44949, Education Code.

School meals for needy pupils, confidentiality of records, Section 49558, Education Code.

Sealed records, arrest for misdemeanor, Section 851.7, Penal Code.

Sealed records, misdemeanor convictions, Section 1203.45, Penal Code.

Sealing and destruction of arrest records, determination of innocence, Section 851.8, Penal Code.

Search warrants, special master, Section 1524, Penal Code.

Sex change, confidentiality of birth certificate, Section 103440, Health and Safety Code.

Sex offenders, registration form, Section 290.021, Penal Code.

Sexual assault forms, confidentiality of, Section 13823.5, Penal Code.

Sexual assault counselor and victim, confidential communication, Sections 1035.2, 1035.4, and 1035.8, Evidence Code.

Shorthand reporter's complaint, Section 8010, Business and Professions Code.

Small family day care homes, identifying information, Section 1596.86, Health and Safety Code.

Social security number, applicant for driver's license or identification card, nondisclosure of, Section 1653.5, Vehicle Code, and Section 6254.29.

Social security number, official record or official filing, nondisclosure of, Section 9526.5, Commercial Code, and Sections 6254.27 and 6254.28.
Social Security Number Truncation Program, Article 3.5 (commencing with Section 27300), Chapter 6, Part 3, Division 2, Title 3.
Social security numbers within records of local agencies, nondisclosure of, Section 6254.29. *(Amended by Stats. 2009, Ch. 584, Sec. 20. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)*

6276.42.

State agency activities relating to unrepresented employees, subdivision (p) of Section 6254.
State agency activities relating to providers of health care, subdivision (a) of Section 6254.
State Auditor, access to barred records, Section 8545.2.
State Auditor, confidentiality of records, Sections 8545, 8545.1, and 8545.3.
State civil service employee, confidentiality of appeal to state personnel board, Section 18952.
State civil service employees, confidentiality of reports, Section 18573.
State civil service examination, confidentiality of application and examination materials, Section 18934.
State Compensation Insurance Fund, exemption from disclosure for various records maintained by the State Compensation Insurance Fund, subdivision (ad), Section 6254.
State Contract Act, bids, questionnaires and financial statements, Section 10165, Public Contract Code.
State Contract Act, bids, sealing, opening and reading bids, Section 10304, Public Contract Code.
State Energy Resources Conservation and Development Commission, confidentiality of proprietary information submitted to, Section 25223, Public Resources Code.
State hospital patients, information and records in possession of Superintendent of Public Instruction, confidentiality of, Section 56863, Education Code.
State Long-Term Care Ombudsman, access to government agency records, Section 9723, Welfare and Institutions Code.
State Long-Term Care Ombudsman office, confidentiality of records and files, Section 9725, Welfare and Institutions Code.
State Long-Term Care Ombudsman office, disclosure of information or communications, Section 9715, Welfare and Institutions Code.
State Lottery Evaluation Report, disclosure, Section 8880.46.
State prisoners, exemption from disclosure for surveys by the California Research Bureau of children of female prisoners, Section 7443, Penal Code.
State summary criminal history information, confidentiality of information, Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code.
State Teachers' Retirement System, confidentiality of information filed with the system by a member, participant, or beneficiary, Sections 22306 and 26215, Education Code.
Sterilization of disabled, confidentiality of evaluation report, Section 1955, Probate Code.
Strawberry marketing information, confidentiality of, Section 63124, Food and Agricultural Code.
Structural pest control licensee records relating to pesticide use, confidentiality of, Section 15205, Food and Agricultural Code.
Student driver, records of physical or mental condition, confidentiality of, Section 12661, Vehicle Code.
Student, community college, information received by school counselor, confidentiality of, Section 72621, Education Code.
Student, community college, records, limitations on release, Section 76243, Education Code.

Student, community college, record contents, records of administrative hearing to change contents, confidentiality of, Section 76232, Education Code.

Student, sexual assault on private higher education institution campus, confidentiality of information, Section 94385, Education Code.

Student, sexual assault on public college or university, confidentiality of information, Section 67385, Education Code.

Sturgeon egg processors, records, Section 10004, Fish and Game Code.

(Amended by Stats. 2009, Ch. 584, Sec. 21. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.44.

Taxpayer information, confidentiality, local taxes, subdivision (i), Section 6254.

Tax preparer, disclosure of information obtained in business of preparing tax returns, Section 17530.5, Business and Professions Code.

Teacher, credential holder or applicant, information provided to Commission on Teacher Credentialing, confidentiality of, Section 44341, Education Code.

Teacher, certified school personnel examination results, confidentiality of, Section 44289, Education Code.

Telephone answering service customer list, trade secret, Section 16606, Business and Professions Code.

Timber yield tax, disclosure to county assessor, Section 38706, Revenue and Taxation Code.

Timber yield tax, disclosure of information, Section 38705, Revenue and Taxation Code.

Title insurers, confidentiality of notice of noncompliance, Section 12414.14, Insurance Code.

Tobacco products, exemption from disclosure for distribution information provided to the State Department of Public Health, Section 22954, Business and Professions Code.

Tow truck driver, information in records of California Highway Patrol, Department of Motor Vehicles, or other agencies, confidentiality of, Sections 2431 and 2432.3, Vehicle Code.

Toxic substances, Department of, inspection of records of, Section 25152.5, Health and Safety Code.

Trade secrets, Section 1060, Evidence Code.

Trade secrets, confidentiality of, occupational safety and health inspections, Section 6322, Labor Code.

Trade secrets, disclosure of public records, Section 3426.7, Civil Code.

Trade secrets, food, drugs, cosmetics, nondisclosure, Sections 110165 and 110370, Health and Safety Code.

Trade secrets, protection by Director of the Department of Pesticide Regulation, Section 6254.2.

Trade secrets and proprietary information relating to pesticides, confidentiality of, Sections 14022 and 14023, Food and Agricultural Code.

Trade secrets, protection by Director of Industrial Relations, Section 6396, Labor Code.

Trade secrets relating to hazardous substances, disclosure of, Sections 25358.2 and 25358.7, Health and Safety Code.

Traffic violator school licensee records, confidentiality of, Section 11212, Vehicle Code.

Traffic offense, dismissed for participation in driving school or program, record of, confidentiality of, Section 1808.7, Vehicle Code.

Transit districts, questionnaire and financial statement information in bids, Section 99154, Public Utilities Code.

Tribal-state gaming contracts, exemption from disclosure for records of an Indian tribe relating to securitization of annual payments, Section 63048.63.

Trust companies, disclosure of private trust confidential information, Section 1582, Financial Code.

(Amended by Stats. 2009, Ch. 584, Sec. 22. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.46.

Unclaimed property, Controller records of, disclosure, Section 1582, Code of Civil Procedure.

Unemployment compensation, disclosure of confidential information, Section 2111,

Unemployment Insurance Code.

Unemployment compensation, information obtained in administration of code, Section 1094,

Unemployment Insurance Code.

Unemployment fund contributions, publication of annual tax paid, Section 989, Unemployment Insurance Code.

University of California, exemption from disclosure for information submitted by bidders for award of best value contracts, Section 10506.6, Public Contract Code.

Unsafe working condition, confidentiality of complainant, Section 6309, Labor Code.

Use fuel tax information, disclosure prohibited, Section 9255, Revenue and Taxation Code.

Utility systems development, confidential information, subdivision (e), Section 6254.

Utility user tax return and payment records, exemption from disclosure, Section 7284.6, Revenue and Taxation Code.

Vehicle registration, confidentiality of information, Section 4750.4, Vehicle Code.

Vehicle accident reports, disclosure of, Sections 16005, 20012, and 20014, Vehicle Code and Section 27177, Streets and Highways Code.

Vehicular offense, record of, confidentiality five years after conviction, Section 1807.5, Vehicle Code.

Veterans Affairs, Department of, confidentiality of records of contract purchasers, Section 85, Military and Veterans Code.

Veterinarian or animal health technician, alcohol or dangerous drugs diversion and rehabilitation records, confidentiality of, Section 4871, Business and Professions Code.

Victims' Legal Resource Center, confidentiality of information and records retained, Section 13897.2, Penal Code.

Voter, affidavit or registration, confidentiality of information contained in, Section 6254.4.

Voter, registration by confidential affidavit, Section 2194, Elections Code.

Voting, secrecy, Section 1050, Evidence Code.

Wards and dependent children, inspection of juvenile court documents, Section 827, Welfare and Institutions Code.

(Amended by Stats. 2014, Ch. 593, Sec. 11. (AB 1446) Effective January 1, 2015. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.48.

Wards, petition for sealing records, Section 781, Welfare and Institutions Code.

Winegrowers of California Commission, confidentiality of producers' or vintners' proprietary information, Sections 74655 and 74955, Food and Agricultural Code.

Workers' Compensation Appeals Board, injury or illness report, confidentiality of, Section 6412, Labor Code.

Workers' compensation insurance, dividend payment to policyholder, confidentiality of information, Section 11739, Insurance Code.

Workers' compensation insurance fraud reporting, confidentiality of information, Section 1877.4, Insurance Code.

Workers' compensation insurer or rating organization, confidentiality of notice of noncompliance, Section 11754, Insurance Code.

Workers' compensation insurer, rating information, confidentiality of, Section 11752.7, Insurance Code.

Workers' compensation, notice to correct noncompliance, Section 11754, Insurance Code.

Workers' compensation, release of information to other governmental agencies, Section 11752.5, Insurance Code.

Workers' compensation, self-insured employers, confidentiality of financial information, Section 3742, Labor Code.

Workplace inspection photographs, confidentiality of, Section 6314, Labor Code.

Youth Authority, parole revocation proceedings, confidentiality of, Section 1767.6, Welfare and Institutions Code.

Youth Authority, release of information in possession of Youth Authority for offenses under Sections 676, 1764.1, and 1764.2, Welfare and Institutions Code.

(Amended by Stats. 2009, Ch. 584, Sec. 24. (SB 359) Effective January 1, 2010. Repealed as of January 1, 2023, pursuant to Sec. 6276.50.)

6276.50.

This chapter shall remain in effect only until January 1, 2023, and as of that date is repealed.

(Added by Stats. 2021, Ch. 614, Sec. 1. (AB 473) Effective January 1, 2022. Repealed as of January 1, 2023, by its own provisions. Note: Repeal affects Chapter 3.5, commencing with Section 6250.)

CALIFORNIA CONSTITUTION

ARTICLE I DECLARATION OF RIGHTS

SEC. 3.

(a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

(3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

(4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.

(5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

(7) In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies, as specified in paragraph (1), each local agency is hereby required to comply with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), and with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act that contains

findings demonstrating that the statutory enactment furthers the purposes of this section.

(Sec. 3 amended June 3, 2014, by Prop. 42. Res.Ch. 123, 2013.)



Summary of the California Public Records Act 2004

California Attorney General's Office

SUMMARY
CALIFORNIA PUBLIC RECORDS ACT
GOVERNMENT CODE SECTION¹ 6250 ET SEQ.
August, 2004

I

OVERVIEW

Legislation enacting the California Public Records Act (hereinafter, “CPRA”) was signed in 1968, culminating a 15-year-long effort to create a general records law for California. Previously, one was required to look at the law governing the specific type of record in question in order to determine its disclosability. When the CPRA was enacted, an attempt was made to remove a number of these specific laws from the books. However, preexisting privileges such as the attorney-client privilege have been incorporated by reference into the provisions of the CPRA.

The fundamental precept of the CPRA is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so. Most of the reasons for withholding disclosure of a record are set forth in specific exemptions contained in the CPRA. However, some confidentiality provisions are incorporated by reference to other laws. Also, the CPRA provides for a general balancing test by which an agency may withhold records from disclosure, if it can establish that the public interest in nondisclosure clearly outweighs the public interest in disclosure.

There are two recurring interests that justify most of the exemptions from disclosure. First, several CPRA exemptions are based on a recognition of the individual’s right to privacy (e.g., privacy in certain personnel, medical or similar records). Second, a number of disclosure exemptions are based on the government’s need to perform its assigned functions in a reasonably efficient manner (e.g., maintaining confidentiality of investigative records, official information, records related to pending litigation, and preliminary notes or memoranda).

If a record contains exempt information, the agency generally must segregate or redact the exempt information and disclose the remainder of the record. If an agency improperly withholds records, a member of the public may enforce, in court, his or her right to inspect or copy the records and receive payment for court costs and attorney’s fees.

1. All section references are to the Government Code unless otherwise indicated.

II

PUBLIC ACCESS v. RIGHTS OF PRIVACY

A. Right To Monitor Government

In enacting the CPRA, the Legislature stated that access to information concerning the conduct of the public's business is a fundamental and necessary right for every person in the State.¹ Cases interpreting the CPRA also have emphasized that its primary purpose is to give the public an opportunity to monitor the functioning of their government.² The greater and more unfettered the public official's power, the greater the public's interest in monitoring the governmental action.³

B. The Right Of Privacy

Privacy is a constitutional right and a fundamental interest recognized by the CPRA.⁴ Although there is no general right to privacy articulated in the CPRA, the Legislature recognized the individual right to privacy in crafting a number of its exemptions. Thus, in administering the provisions of the CPRA, agencies must sometimes use the general balancing test to determine whether the right of privacy in a given circumstance outweighs the interests of the public in access to the information. If personal or intimate information is extracted from a person (e.g., a government employee or appointee, or an applicant for government employment/appointments a precondition for the employment or appointment), a privacy interest in such information is likely to be recognized.⁵ However, if information is provided voluntarily in order to acquire a benefit, a privacy right is less likely to be recognized.⁶ Sometimes, the question of disclosure depends upon whether the invasion of an individual's privacy is sufficiently invasive so as to outweigh the public interest in disclosure.

III

SCOPE OF COVERAGE

A. Public Record Defined

1. Identifiable Information

The public may inspect or obtain a copy of identifiable public records.⁷ Writings held by state or local government are public records.⁸ A writing includes all forms of recorded information that currently exist or that may exist in the future.⁹ The essence of the CPRA is to provide access to information, not merely documents and files.¹⁰ However, it is not enough to provide extracted information to the requestor, the document containing the information must be provided. In order to invoke the CPRA, the request for records must be both specific and focused. The requirement of clarity must be tempered by the reality that

a requester, having no access to agency files or their scheme of organization, may be unable to precisely identify the documents sought. Thus, writings may be described by their content.¹¹

To the extent reasonable, agencies are generally required to assist members of the public in making focused and effective requests for identifiable records.¹² One legislatively-approved method of providing assistance is to make available an index of the agency's records.¹³ A request for records may be made orally or in writing.¹⁴ When an oral request is received, the agency may wish to consider confirming the request in writing in order to eliminate any confusion regarding the request.

2. Computer Information

When a person seeks a record in an electronic format, the agency shall, upon request, make the information available in any electronic format in which it holds the information.¹⁵ Computer software developed by the government is exempt from disclosure.¹⁶

B. Agencies Covered

All state and local government agencies are covered by the CPRA.¹⁷ Non-profit and for-profit entities subject to the Ralph M. Brown Act are covered as well.¹⁸ The CPRA is not applicable to the Legislature, which is instead covered by the Legislative Open Records Act.¹⁹ The judicial branch is not bound by the CPRA, although most court records are disclosable as a matter of public rights of access to courts.²⁰ Federal government agencies are covered by the Federal Freedom of Information Act.²¹

C. Member Of The Public

The CPRA entitles natural persons and business entities as members of the public to inspect public records in the possession of government agencies.²² Persons who have filed claims or litigation against the government, or who are investigating the possibility of so doing, generally retain their identity as members of the public.²³ Representatives of the news media have no greater rights than members of the public.²⁴ Government employees acting in their official capacity are not considered to be members of the public.²⁵ Individuals may have greater access to records about themselves than public records, generally.²⁶

D. Right To Inspect And Copy Public Records

Records may be inspected at an agency during its regular office hours.²⁷ The CPRA contains no provision for a charge to be imposed in connection with the mere inspection of records. Copies of records may be obtained for the direct cost of duplication, unless the Legislature has established a statutory fee.²⁸ The direct cost of duplication includes the pro rata expense of the duplicating equipment utilized in making a copy of a record and, conceivably, the pro rata expense in terms of staff time (salary/benefits) required to produce the copy.²⁹ A staff

person's time in researching, retrieving and mailing the record is not included in the direct cost of duplication. By contrast, when an agency must compile records or extract information from an electronic record or undertake programming to satisfy a request, the requestor must bear the full cost, not merely the direct cost of duplication.³⁰ The right to inspect and copy records does not extend to records that are exempt from disclosure.

IV

REQUEST FOR RECORDS AND AGENCY RESPONSE

A. Procedures

A person need not give notice in order to inspect public records at an agency's offices during normal working hours. However, if the records are not readily accessible or if portions of the records must be redacted in order to protect exempt material, the agency must be given a reasonable period of time to perform these functions.

When a copy of a record is requested, the agency shall determine within ten days whether to comply with the request, and shall promptly inform the requester of its decision and the reasons therefor.³¹ Where necessary, because either the records or the personnel that need to be consulted regarding the records are not readily available, the initial ten-day period to make a determination may be extended for up to fourteen days.³² If possible, records deemed subject to disclosure should be provided at the time the determination is made. If immediate disclosure is not possible, the agency must provide the records within a reasonable period of time, along with an estimate of the date that the records will be available. The Public Records Act does not permit an agency to delay or obstruct the inspection or copying of public records.³³ Finally, when a written request is denied, it must be denied in writing.³⁴

B. Claim Of Exemption

Under specified circumstances, the CPRA affords agencies a variety of discretionary exemptions which they may utilize as a basis for withholding records from disclosure. These exemptions generally include personnel records, investigative records, drafts, and material made confidential by other state or federal statutes. In addition, a record may be withheld whenever the public interest in nondisclosure clearly outweighs the public interest in disclosure. When an agency withholds a record because it is exempt from disclosure, the agency must notify the requester of the reasons for withholding the record. However, the agency is not required to provide a list identifying each record withheld and the specific justification for withholding the record.³⁵

C. Segregation Of Exempt From Nonexempt Material

When a record contains exempt material, it does not necessarily mean that the entire record may be withheld from disclosure. Rather, the general rule is that the exempt material may be withheld but the remainder of the record must be disclosed.³⁶ The fact that it is time consuming to segregate exempt material does not obviate the requirement to do it, unless the burden is so onerous as to clearly outweigh the public interest in disclosure.³⁷ If the information which would remain after exempt material has been redacted would be of little or no value to the requester, the agency may refuse to disclose the record on the grounds that the segregation process is unduly burdensome.³⁸ The difficulty in segregating exempt from nonexempt information is relevant in determining the amount of time which is reasonable for producing the records in question.

D. Waiver Of Exemption

Exempt material must not be disclosed to any member of the public if the material is to remain exempt from disclosure.³⁹ Once material has been disclosed to a member of the public, it generally is available upon request to any and all members of the public. Confidential disclosures to another governmental agency in connection with the performance of its official duties, or disclosures in a legal proceeding are not disclosures to members of the public under the CPRA and do not constitute a waiver of exempt material.⁴⁰

V

EXEMPTION FOR PERSONNEL, MEDICAL OR SIMILAR RECORDS (Gov. Code, § 6254(c))

A. Records Covered

A personnel, medical or similar record generally refers to intimate or personal information which an individual is required to provide to a government agency frequently in connection with employment.⁴¹ The fact that information is in a personnel file does not necessarily make it exempt information.⁴² Information such as an individual's qualifications, training, or employment background, which are generally public in nature, ordinarily are not exempt.⁴³

Information submitted by license applicants is not covered by section 6254(c) but is protected under section 6254(n) and, under special circumstances, may be withheld under the balancing test in section 6255.⁴⁴

B. Disclosure Would Constitute An Unwarranted Invasion Of Privacy

If information is intimate or personal in nature and has not been provided to a government agency as part of an attempt to acquire a benefit, disclosure of the information probably would constitute a violation of the individual's privacy. However, the invasion of an individual's privacy must be balanced against the public's need for the information. Only where the invasion of privacy is unwarranted as compared to the public interest in the information does the exemption permit the agency to withhold the record from disclosure. If this balancing test indicates that the privacy interest outweighs the public interest in disclosure, disclosure of the record by the government would appear to constitute an unwarranted invasion of privacy.

Courts have reached different conclusions regarding whether the investigation or audit of a public employee's performance is disclosable.⁴⁵ The gross salary and benefits of high-level state and local officials are a matter of public record. However, a recent case indicated that absent a showing that the name of a particular civil service employee is important in monitoring government performance, civil service employees have an expectation of privacy in individually identifiable salary information.⁴⁶

VI

EXEMPTION FOR PRELIMINARY NOTES, DRAFTS AND MEMORANDA (Gov. Code, § 6254(a))

Under this exemption, materials must be (1) notes, drafts or memoranda (2) which are not retained in the ordinary course of business (3) where the public interest in nondisclosure clearly outweighs the public interest in disclosure. This exemption has little or no effect since the deliberative process privilege was clearly established under the balancing test in section 6255 in 1991, but is mentioned here because it is in the Act.⁴⁷

VII

EXEMPTION FOR INVESTIGATIVE RECORDS AND INTELLIGENCE INFORMATION (Gov. Code, § 6254(f))

A. Investigative Records

Records of complaints, preliminary inquiries to determine if a crime has been committed, and full-scale investigations, as well as closure memoranda are investigative records.⁴⁸ In addition, records that are not inherently investigatory may be covered by the exemption where they pertain to an enforcement proceeding that has become concrete and definite.⁴⁹

Investigative and security records created for law enforcement, correctional or licensing purposes also are covered by the exemption from disclosure. The term “law enforcement” agency refers to traditional criminal law enforcement agencies.⁵⁰ Records created in connection with administrative investigations unrelated to licensing are not subject to the exemption. The exemption is permanent and does not terminate once the investigation has been completed.⁵¹

Even though investigative records themselves may be withheld, section 6254(f) mandates that law enforcement agencies disclose specified information about investigative activities.⁵² However, the agency’s duty to disclose information pursuant to section 6254(f) only applies if the request is made contemporaneously with the creation of the record in which the requested information is contained.⁵³ This framework is fundamentally different from the approach followed by other exemptions in the Public Records Act and in federal law, in which the records themselves are disclosable once confidential information has been redacted.

Specifically, section 6254(f) requires that basic information must be disclosed by law enforcement agencies in connection with calls for assistance or arrests, unless to do so would endanger the safety of an individual or interfere with an investigation.⁵⁴ With respect to public disclosures concerning calls for assistance and the identification of arrestees, the law restricts disclosure of address information to specified persons.⁵⁵ However, section 6254(f) expressly permits agencies to withhold the analysis and conclusions of investigative personnel. Thus, specified facts may be disclosable pursuant to the statutory directive, but the analysis and recommendations of investigative personnel concerning such facts are exempt.

B. Intelligence Information

Records of intelligence information collected by the Attorney General and state and local police agencies are exempt from disclosure. Intelligence information is related to criminal activity but is not focused on a concrete prospect of enforcement.

VIII

EXEMPTIONS FOR LITIGATION AND ATTORNEY RECORDS

(Gov. Code, § 6254 (b), (k))

A. Pending Claims And Litigation

Section 6254(b) permits documents specifically prepared in connection with filed litigation to be withheld from disclosure.⁵⁶ The exemption has been interpreted to apply only to documents created after the commencement of the litigation.⁵⁷ For example, it does not apply to the claim that initiates the administrative or court process. Once litigation is

resolved, this exemption no longer protects records from disclosure, although other exemptions (e.g., attorney-client privilege) may be ongoing.⁵⁸

Nonexempt records pertaining to the litigation are disclosable to requestors, including prospective or actual parties to the litigation.⁵⁹ Generally, a request from actual or prospective litigants can be barred only where an independent statutory prohibition or collateral estoppel applies. If the agency believes that providing the record would violate a discovery order, it should bring the matter to the attention of the court that issued the order.⁶⁰

In discovery during civil litigation unrelated to the Public Records Act, Evidence Code section 1040 (as opposed to the Act's exemptions) governs.⁶¹

B. Attorney-Client Privilege

The attorney-client privilege covers confidential communications between an attorney and his or her client. The privilege applies to litigation and nonlitigation situations.⁶² The privilege appears in section 954 of the Evidence Code and is incorporated into the CPRA through section 6254(k). The privilege lasts forever unless waived. However, the privilege is not waived when a confidential communication is provided to an opposing party where to do so is reasonably necessary to assist the parties in finalizing their negotiations.⁶³

C. Attorney Work Product

The attorney work product rule covers research, analysis, impressions and conclusions of an attorney. This confidentiality rule appears in section 2018 of the Code of Civil Procedure and is incorporated into the CPRA through section 6254(k). Records subject to the rule are confidential forever. The rule applies in litigation and nonlitigation circumstances alike.⁶⁴

IX

OTHER EXEMPTIONS

A. Official Information

Information gathered by a government agency under assurances of confidentiality may be withheld if it is in the public interest to do so. The official information privilege appears in Evidence Code section 1040 and is incorporated into the CPRA through section 6254(k). The analysis and balancing of competing interests in withholding versus disclosure is the same under Evidence Code section 1040 as it is under section 6255.⁶⁵ When an agency is in litigation, it may not resist discovery by asserting exemptions under the CPRA; rather, it must rely on the official information privilege.⁶⁶

B. Trade Secrets

Agencies may withhold confidential trade secret information pursuant to Evidence Code section 1060 which is incorporated into the CPRA through section 6254(k). However, with respect to state contracts, bids and their resulting contracts generally are disclosable after bids have been opened or the contracts awarded.⁶⁷ Although the agency has the obligation to initially determine when records are exempt as trade secrets, a person or entity disclosing trade secret information to an agency may be required to assist in the identification of the information to be protected and may be required to litigate any claim of trade secret which exceeds that which the agency has asserted.

C. Other Express Exemptions

Other express exemptions include records relating to: securities and financial institutions;⁶⁸ utility, market and crop reports;⁶⁹ testing information;⁷⁰ appraisals and feasibility reports;⁷¹ gubernatorial correspondence;⁷² legislative counsel records;⁷³ personal financial data used to establish a license applicant's personal qualifications;⁷⁴ home addresses;⁷⁵ and election petitions.⁷⁶

The exemptions for testing information and personal financial data are of particular interest to licensing boards which must determine the competence and character of applicants in order to protect the public welfare.

X

THE PUBLIC INTEREST EXEMPTION

(Gov. Code, § 6255)

A. The Deliberative Process Privilege

The deliberative process privilege is intended to afford a measure of privacy to decision makers. This doctrine permits decision makers to receive recommendatory information from and engage in general discussions with their advisors without the fear of publicity. As a general rule, the deliberative process privilege does not protect facts from disclosure but rather protects the process by which policy decisions are made.⁷⁷ Records which reflect a final decision and the reasoning which supports that decision are not covered by the deliberative process privilege. If a record contains both factual and deliberative materials, the deliberative materials may be redacted and the remainder of the record must be disclosed, unless the factual material is inextricably intertwined with the deliberative material. Under section 6255, a balancing test is applied in each instance to determine whether the public interest in maintaining the deliberative process privilege outweighs the public interest in disclosure of the particular information in question.⁷⁸

B. Other Applications Of The Public Interest Exemption

In order to withhold a record under section 6255, an agency must demonstrate that the public's interest in nondisclosure clearly outweighs the public's interest in disclosure. A particular agency's interest in nondisclosure is of little consequence in performing this balancing test; it is the public's interest, not the agency's that is weighed. This "public interest balancing test" has been the subject of several court decisions.

In a case involving the licensing of concealed weapons, the permits and applications were found to be disclosable in order for the public to properly monitor the government's administration of concealed weapons permits.⁷⁹ The court carved out a narrow exemption where disclosure would render an individual vulnerable to attack at a specific time and place. The court also permitted withholding of psychiatric information on privacy grounds.

In another case, a city sought to maintain the confidentiality of names and addresses of water users who violated the city's water rationing program. The court concluded that the public's interest in disclosure outweighed the public's interest in nondisclosure since disclosure would assist in enforcing the water rationing program.⁸⁰ The court rejected arguments that the water users' interests in privacy and maintaining freedom from intimidation justified nondisclosure.

The names, addresses, and telephone numbers of persons who have filed noise complaints concerning the operation of a city airport are protected from disclosure where under the particular facts involved, the court found that there were less burdensome alternatives available to serve the public interest.⁸¹

In a case involving a request for the names of persons who, as a result of gifts to a public university, had obtained licenses for the use of seats at an athletic arena, and the terms of those licenses, the court found that the university failed to establish its claim of confidentiality by a "clear overbalance." The court found the university's claims that disclosure would chill donations to be unsubstantiated. It further found a substantial public interest in such disclosure to permit public monitoring and avoid favoritism or discrimination in the operation of the arena.⁸²

XI

LITIGATION UNDER THE ACT

A requester, but not a public agency, may bring an action seeking mandamus, injunctive relief or declaratory relief under sections 6258 or 6259.⁸³ To assist the court in making a decision, the documents in question may be inspected at an in-camera hearing (i.e. a private hearing with a judge). An in-camera hearing is held at the court's discretion, and the parties have no right to such a hearing. Prevailing plaintiffs shall be awarded court costs and attorney's fees. A plaintiff need not obtain all of the requested records in order to be the prevailing party in litigation.⁸⁴ A plaintiff is also considered the prevailing party if the lawsuit ultimately motivated the agency to provide the requested records.⁸⁵ Prevailing defendants may be awarded court costs and attorney fees only if the requestor's claim is clearly frivolous. There is no right of appeal, but the losing party may bring a petition for extraordinary relief to the court of appeal.

If you wish to obtain additional copies of this pamphlet, they may be ordered or downloaded via the Attorney General's Home Page, located on the World Wide Web at <http://caag.state.ca.us>. You may also write to the Attorney General's Office, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550 or call us at (800) 952-5225 (for callers within California), or (916) 322-3360 (for callers outside of California); the TTY/TDD telephone numbers are (800) 952-5548 (for callers within California), or (916) 324-5564 (for callers outside of California).

Deputy Attorney General Ted Prim, Editor

Special thanks to Neil Gould, Senior Staff Counsel, Department of Water Resources, for his assistance.

1. Government Code section 6250.
2. *U.S. Dept. of Justice v. Reporters Committee for Freedom of Press* (1989) 489 U.S. 749; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325; *CBS, Inc. v. Block* (1986) 42 Cal.3d 646.
3. *New York Times Co. v. Superior Court* (1997) 52 Cal.App.4th 97, involving public's rights to acquire names of officers using deadly force; *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, involving public's right to monitor Sheriff's unfettered power to award concealed weapons permits.
4. Article 1, section 1 of the California Constitution; Government Code sections 6254(c), 6254(k), and 6255; *New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579.
5. *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Wilson v. Superior Court* (1996) 51 Cal.App.4th 1136; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, but see *Braun v. City of Taft, supra*, 154 Cal.App.3d at p. 344, where disclosure of personal information was not found to constitute invasion of privacy; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 777.
6. *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, where information provided to government in order to obtain concealed weapon permit; *Register Div. Freedom Newspapers, Inc. v. County of Orange* (1984) 158 Cal.App.3d 893, 902, where litigant submitted medical information to induce settlement of law suit; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 781, where contractor sought to modify existing contract.
7. Government Code section 6253.
8. Government Code section 6252(e).
9. Government Code section 6252(f); 71 Ops.Cal.Atty.Gen. 235, 236 (1988).
10. *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774; *Cook v. Craig* (1976) 55 Cal.App.3d 773, 782.
11. *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469.
12. Government Code section 6253.1.
13. Government Code section 6253.1(d)(3).
14. *Los Angeles Times v. Alameda Corridor Transp. Auth.* (2001) 88 Cal.App.4th 1381, 1392.
15. Government Code section 6253.9.
16. Government Code section 6254.9.
17. Government Code section 6252(a) and (b); *Michael J. Mack v. State Bar of California* (2001) 92 Cal.App.4th 957, 962, CPRA inapplicable to State Bar.

18. Government Code section 6252(b) as amended by AB 2937, Stats. 2002, Ch. 1073. A nongovernmental auxiliary association is not a state agency; *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 829; 85 Ops.Cal.Atty.Gen. 55 (2002). A nonprofit corporation designated by a city to provide programming to a cable television channel set aside for educational purposes is subject to the Public Records Act because it qualifies as a local legislative body under the Brown Act.
19. Government Code section 9071.
20. *Estate of Hearst v. Leland Lubinski, et al.* (1977) 67 Cal.App.3d 777.
21. 5 U.S.C. 552.
22. Government Code sections 6252(c), (e) and 6253; *Connell v. Superior Court* (1997) 56 Cal.App.4th 601.
23. *Wilder v. Superior Court* (1998) 66 Cal.App.4th 77; *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414.
24. *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774.
25. Government Code section 6252(g).
26. Civil Code section 1798 (Information Practices Act), which applies to persons referenced in state government records.
27. Government Code section 6253(a).
28. Government Code section 6253(b).
29. *North County Parents Organization v. Department of Education* (1994) 23 Cal.App.4th 144, 148; Informal opinion from Attorney General to Senator Gary K. Hart, dated April 11, 1991.
30. Government Code section 6253.9(b)(2).
31. Government Code section 6253(c).
32. Government Code section 6253(c).
33. Government Code section 6253(c).
34. Government Code section 6255(b).
35. *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1074-1075.
36. Government Code section 6253(a); *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 447; *Connell v. Superior Court* (1997) 56 Cal.App.4th 601; *State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1187.

37. *State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1190, fn. 14.
38. *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 447.
39. Government Code section 6254.5; *Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645.
40. Government Code section 6254.5(b) and (e).
41. *Register Div. of Freedom Newspapers, Inc. v. County of Orange* (1984) 158 Cal.App.3d, 893; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762.
42. *New York Times Co. v. Superior Court* (1997) 52 Cal.App.4th 97, 103.
43. *Eskaton Monterey Hospital v. Myers* (1982) 134 Cal.App.3d 788.
44. *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, applied the balancing test to protect certain privacy information in concealed weapons permits from disclosure. Protection for the particular information exempted by the Court in that decision was later codified in section 6254, subdivision (u).
45. *Bakersfield City School District v. Superior Court* 2004 WL 1120036 (Cal.App. 5 Dist.); *Payton v. City of Santa Clara* (1982) 132 Cal.App.3d 152, disciplinary records were not disclosable unless the state could demonstrate a compelling interest in disclosure; *AFSCME v. Regents of University of California* (1978) 80 Cal.App.3d 913, performance audit was disclosable unless charges were found to be groundless.
46. Government Code section 6254.8; *Teamsters Local 856 v. Priceless, LLC* (2003) 112 Cal.App.4th 1500; 68 Ops.Cal.Atty.Gen.73 (1985).
47. *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.
48. *Haynie v. Superior Court* (2001) 26 Cal.4th 1061; *Rackauckas v. Superior Court* (2002) 104 Cal.App.4th 169.
49. *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1068-1072.
50. *State of California ex rel. Division of Industrial Safety v. Superior Court* (1974) 43 Cal.App.3d 778.
51. *Dick Williams v. Superior Court* (1993) 5 Cal.4th 337, 354-362.
52. *Dick Williams v. Superior Court* (1993) 5 Cal.4th 337, 348-354.
53. *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal.App.4th 588.
54. 86 Ops.Cal.Atty.Gen. 132 (2003), release of mug shot is one way for a law enforcement agency to fulfill its obligation to provide information.
55. *Los Angeles Police Dept. v. United Reporting Publishing Corp.*, 528 U.S. 32 (1999).

56. *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414; *City of Hemet v. Superior Court (Press-Enterprise)* (1995) 37 Cal.App.4th 1411.
57. *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414; 71 Ops.Cal.Atty.Gen. 235 (1988).
58. *City of Los Angeles v. Superior Court (Axelrad)* (1996) 41 Cal.App.4th 1083.
59. *County of Los Angeles v. Superior Court (Axelrad II)* (2000) 82 Cal.App.4th 819, 826; *Wilder v. Superior Court* (1998) 66 Cal.App.4th 77; *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414; *City of Hemet v. Superior Court (Press-Enterprise)* (1995) 37 Cal.App.4th 1411, 1420-1421, fn. 11; but see dicta in *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 372.
60. *County of Los Angeles v. Superior Court (Axelrad II)* (2000) 82 Cal.App.4th 819, 830.
61. *Marylander v. Superior Court* (2000) 81 Cal.App.4th 1119, 1124-25.
62. *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 371.
63. *STI Outdoor v. Superior Court* (2001) 91 Cal.App.4th 334, 341.
64. *County of Los Angeles v. Superior Court (Axelrad II)* (2000) 82 Cal.App.4th 819, 833.
65. *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 832.
66. *Michael P. v. Superior Court* (2001) 92 Cal.App.4th 1036, 1042; *Marylander v. Superior Court* (2000) 81 Cal.App.4th 1119, 1125.
67. Public Contract Code sections 10305 and 10342.
68. Government Code section 6254(d).
69. Government Code section 6254(e).
70. Government Code section 6254(g).
71. Government Code section 6254(h).
72. Government Code section 6254(l); *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.
73. Government Code section 6254(m).
74. Government Code section 6254(n).
75. State employees, Government Code section 6254.3; Registered voters, Government Code section 6254.4; Persons appearing in records of DMV, Government Code section 6254.1(b).

76. Government Code section 6253.5.

77. *Times Mirror* and *First Amendment Coalition*, established this general principle but, in light of special circumstances, an agency may withhold information that is essentially factual in nature.

78. The California Supreme Court's decision in *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325 is the source of the above information concerning deliberative process privilege. See also *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469.

79. *CBS, Inc. v. Block* (1986) 42 Cal.3d 646.

80. *New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579; but see Government Code section 6254.16 adopted subsequently.

81. *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.

82. *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 834-835.

83. *Filarsky v. Superior Court* (2002) 28 Cal.4th 419, 423.

84. *Los Angeles Times v. Alameda Corridor Transp. Auth.* (2001) 88 Cal.App.4th 1381, 1391-1392.

85. *Roberts v. City of Palmdale* (1993) 19 Cal.App.4th 469, 482; *Belth v. Garamendi* (1991) 232 Cal.App.3d 896, 898.

STATE OF CALIFORNIA



MEMO

To: LEGISLATIVE COMMITTEE
BISMARCK OBANDO, CHAIR
ARDY KASSAKHIAN, MEMBER

Date: March 7, 2022

From: TIMOTHY M. CORCORAN
DANIELLE R. PHOMSOPHA

Subject: DISCUSSION CONCERNING PENDING LEGISLATION

The following provides a summary of pending State legislation that is of interest to the New Motor Vehicle Board ("Board"). The criteria for reporting on "legislation of general interest" is that the bill impacts the Vehicle Code, the Board, and/or the automotive industry in general and does not directly impact the Board or its enabling statute. For purposes of this report "legislation of special interest" is that which directly affects the Board's laws or functions.

Bill summaries include a brief overview of the bill as provided by the Legislative Counsel's Digest or the Congressional Research Service, if available, as well as the current status of the bill.¹

a. Pending Legislation of Special Interest:

- (1) **Assembly Bill 1733 – Assembly Member Quirk** (Introduced January 31, 2022)

Status: In Assembly Committee on Governmental Organization

Support: Unknown

Opposition: Unknown

Legislative Counsel's Digest: State bodies: open meetings

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines a "meeting" to include any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. The act authorizes teleconferenced meetings under specified circumstances, provided that at least one member of the state body is physically present at the location specified in the notice of the meeting, and all votes

¹ All statutory references are to the Vehicle Code, unless otherwise indicated.

taken during a teleconferenced meeting are taken by rollcall. The act provides that if the state body elects to conduct a meeting or proceeding by teleconference, the state body is required to post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. The act requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference location to be accessible to the public, and the agenda to provide an opportunity for members of the public to address the state body at each teleconference location.

Existing law requires a state body to provide notice of its meeting to any person who requests that notice in writing and to provide notice of the meeting of its internet website at least 10 days in advance of the meeting, as prescribed. Existing law exempts from the 10-day notice requirement, special meetings and emergency meetings in accordance with specified provisions. Existing law authorizes a state body to adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment, and authorizes a state body to similarly continue or recontinue any hearing being held, or noticed, or ordered to be held by a state body at any meeting.

This bill would specify that a “meeting” under the act, includes a meeting held entirely by teleconference. The bill would require all open meetings to be held by teleconference, would allow for use of teleconference in closed sessions, and would remove existing provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public. The bill would instead require the state body to provide a means by which the public may remotely hear, or hear and observe, the meeting and may remotely address the state body via two-way audio-visual platform or two-way telephonic service, as specified, and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely. The bill would require the state body to provide an opportunity for members of the public to address the state body. The bill would require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting. The bill would require the agenda to be posted 10 days in advance of the meeting, or as provided in accordance with the provisions applicable to a special or emergency meeting, as well as posted on the state body’s internet website and, on the day of the meeting, at any physical meeting location designated in the notice. The bill would also provide that the notice of the meeting is required to specify the means by which a meeting may be accessed by teleconference. The bill would prohibit the notice and agenda from disclosing any information regarding any remote location from which a member is participating, and require members attending a meeting from a remote location to disclose whether any other individuals 18 years of age or older are present in the room, as specified.

If a state body discovers that a means of remote participation, as defined, required by

these provisions has failed during a meeting and cannot be restored, the state body would be required to end or adjourn the meeting and take specified actions to notify participants and communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of, or observe, the meeting.

This bill would remove certain notice provisions specific to advisory bodies of state boards.

Existing law prohibits a state body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition an internet website or other online platform that may require identification to log into a teleconference.

Existing law limits the purposes for which a state body is authorized to call a special meeting, including, among others, consideration of disciplinary action involving a state officer or employee and consideration of license examinations and applications.

This bill would add to those purposes deliberation on a decision to be reached in a proceeding required to be conducted pursuant to provisions governing administrative adjudicative proceedings or similar provisions of law.

This bill would also make conforming changes.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

This bill would declare that it is to take effect immediately as an urgency statute.

(2) **Assembly Bill 1795 – Assembly Member Fong** (Introduced February 7, 2022)

Status: In Assembly Committee on Governmental Organization

Support: Unknown

Opposition: Unknown

Legislative Counsel's Digest: Open meetings: remote participation

Existing law, the Bagley-Keene Open Meeting Act, requires state bodies to allow all persons to attend meetings and provide an opportunity for the public to address the state body regarding any item included in its agenda, except as specified.

This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

- (3) **Assembly Bill 1996 – Assembly Member Cooley** (Introduced February 10, 2022)
Status: In Assembly Committee on Accountability and Administrative Review
Support: Unknown
Opposition: Unknown
Legislative Counsel's Digest: State government: administrative regulations: review

Existing law, the Administrative Procedure Act, in part, authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. These rulemaking provisions of the act require the Office of Administrative Law and the state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations. Existing law requires the office to initiate a priority review of existing regulations when requested by a committee of the Legislature, as specified.

This bill would require each state agency to, on or before January 1, 2026, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2027.

b. Pending Legislation of General Interest:

- (1) **Assembly Bill 2600 – Assembly Member Dahle** (Introduced February 18, 2022)
Status: Pending referral. May be heard in committee after March 21.
Support: Unknown
Opposition: Unknown
Legislative Counsel's Digest: State agencies: letters and notices: requirements

Existing law requires, among other things, that every state agency that requests on any written form or written publication newly printed on or after July 1, 2014, or through its internet website whether a person is a veteran, to request that information only in a specified format.

This bill would require that every state agency, when sending any communication to any recipient, state, in bolded font at the beginning of the communication, whether it requires action on the part of the recipient or serves as notice requiring no action.

- (2) **Senate Bill 361 – Senator Umberg** (Introduced February 10, 2021)
Status: In Assembly Judiciary Committee. First hearing canceled at the request of author.
Support: California New Car Dealers Association, California Credit Union

League, Californians Against Waste, Cox Automotive, Inc., Ford Motor Company, Roadster, TrueCar, Inc., Vitu

Opposition: Consumers for Auto Reliability and Safety, National Association of Consumer Advocates

Legislative Counsel's Digest: Electronic transactions: motor vehicle finance

Existing law, the Uniform Electronic Transactions Act, applies to electronic records and electronic signatures of a transaction, and generally prohibits a record or signature from being denied legal effect or enforceability solely because it is in electronic form or a contract being denied legal effect or enforceability solely because an electronic record was used in its formation. Existing law exempts certain transactions from that act, including conditional sale or lease contracts for motor vehicles.

This bill would delete those exemptions, thereby making the provisions of the act applicable to conditional sale or lease contracts for motor vehicles.

c. Pending Federal Legislation of General Interest:

(1) **United States Senate Bill 2118 - Senator Wyden** (Introduced June 17, 2021)

Status: Read the second time. Placed on Senate Legislative Calendar under General Orders

Support: Unknown

Opposition: Unknown

Legislative Counsel's Digest: Clean Energy for America Act

This bill provides for tax incentives for investments in clean electricity, clean transportation, energy efficiency, and the termination of certain provisions relating to oil, gas, and other fossil fuels.

Among other provisions, the bill:

- allows new tax credits for investment in clean energy facilities and for the production of electricity from clean energy and clean fuel;
- allows a new tax credit for expenditures for clean energy property used in connection with a principal residence;
- allows a new tax credit for sustainable aviation fuel;
- allows an alternative motor vehicle tax credit for fuel cell motor vehicles, electric vehicles, and for refueling property;
- allows a tax credit for the production of electricity from clean hydrogen;
- extends for one year the second generation biofuel producer tax credit and the tax credit for alternative fuels;
- modifies existing tax credits for energy efficient residential buildings, energy efficient home improvement expenditures, geothermal heat pumps, and the tax deduction for energy efficient commercial buildings;

- terminates certain provisions relating to oil, gas, and other fossil fuels;
- requires that at least 15% of the total workforce labor hours be performed by qualified apprentices;
- requires that projects receiving federal assistance comply with federal prevailing wage requirements; and
- allows the issuance of tax-exempt private activity bonds for qualified carbon dioxide capture facilities.

This matter is for information only at the March 30, 2022, General Meeting. If you have any questions or require additional information, please contact me at (916) 445-1888 or Danielle at (916) 327-3129.

STATE OF CALIFORNIA



MEMO

To: POLICY AND PROCEDURE COMMITTEE
JAKE STEVENS, CHAIR
VACANT, MEMBER

Date: February 16, 2022

From: TIMOTHY M. CORCORAN
ROBIN P. PARKER

Subject: CONSIDERATION OF THE *EXPORT OR SALE-FOR-RESALE PROHIBITION POLICY PROTEST GUIDE* (VEHICLE CODE SECTION 3085, ET SEQ.)

The *Export or Sale-for-Resale Prohibition Policy Protest Guide* is reviewed annually to ensure it complies with recent statutory and regulatory amendments. There were no substantive changes to the Guide this year.

This matter is being agendized for discussion and consideration at the March 30, 2022, General Meeting. If you have any questions or require additional information, please do not hesitate to contact me or Robin at (916) 445-1888.

Enclosure

cc: Bismarck Obando



State of California
NEW MOTOR VEHICLE BOARD

***Export or Sale-For-Resale Prohibition
Policy Protest Guide***

Vehicle Code section 3085, et seq.



March 2022

STATE OF CALIFORNIA

NEW MOTOR VEHICLE BOARD

P.O. Box 188680
Sacramento, California 95818-8680
Phone: (916) 445-1888
Facsimile: (916) 323-1632
E-mail: nmvb@nmvb.ca.gov
Website: <http://www.nmvb.ca.gov>

State of California
GAVIN NEWSOM, GOVERNOR

California State Transportation Agency
TOKS OMISHAKIN, SECRETARY

BOARD MEMBERS

Public Members
KATHRYN ELLEN DOI
ARDASHES (ARDY) KASSAKHIAN
BISMARCK OBANDO
JACOB STEVENS

Dealer Members
RAMON ALVAREZ C.
ANNE SMITH BOLAND
RYAN FITZPATRICK

EXECUTIVE STAFF

TIMOTHY M. CORCORAN
Executive Director

LEGAL STAFF

ROBIN P. PARKER
Chief Counsel
DANIELLE R. PHOMSOPHA
Senior Staff Counsel

TABLE OF CONTENTS

PREAMBLE	1
INTRODUCTION	2
POWERS AND DUTIES IN GENERAL	2
Enforcement of Board Orders	2
Mandatory Settlement Conferences	2
EXPORT OR SALE-FOR-RESALE PROHIBITION POLICY PROTEST	3
Statutory Authority	3
Filing a Protest.....	3
Manufacturer's or Distributor's Notice of Appearance	3
Filing Fee.....	3
Interested Individuals	3
Motion for Intervention	3
Challenge to Presiding Officer	4
Amicus Curiae Briefs	4
Required Elements of a Protest	4
Determination of Protest	4
HEARING PROCEDURES	5
Pre-Hearing Procedure	5
Discovery.....	5
Subpoenas.....	5
Summary of Board Action	6
Stipulated Decisions	6
Hearings Open to the Public; Protective Orders	6
Failure to Appear at a Hearing	7
Decision of the Board.....	7
Court Reporting and Transcripts of Board Proceedings	7
JUDICIAL REVIEW	9
APPENDIX	A-1
Sample Protest.....	A-2

PREAMBLE

The materials contained herein are intended to be informative and not advisory, limited in scope, and are not intended to be a substitute for careful reading of the specific statutes and regulations that may apply to your particular situation.

All correspondence and protests should be sent to:

New Motor Vehicle Board
ATTN: Legal Department
P.O Box 188680
Sacramento, California 95818-8680

Correspondence can also be sent via email at nmvp@nmvp.ca.gov or facsimile at (916) 323-1632. The telephone number of the Board is (916) 445-1888 and the website address is www.nmvp.ca.gov. Detailed information can be found on the Board's website. Please feel free to contact the Board's staff for further information.

All statutory references are to pertinent sections of the Vehicle Code unless otherwise specified. The full text of pertinent sections of the Vehicle Code is available on the Board's website or at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>. References to regulations are to Title 13 of the California Code of Regulations. The referenced sections will be noted in the following manner, for example, 13 CCR § 550, et seq. The regulations are also available on the Board's website or at the Office of Administrative Law's ("OAL") website (www.oal.ca.gov). Once you reach the OAL site, select California Code of Regulations. You will be taken to the California Code of Regulations and can search by title; the Board's regulations are in Title 13. As the Board is a quasi-judicial agency that holds administrative hearings, statutes comprising the administrative adjudication provisions of the Administrative Procedure Act ("APA"; Gov. Code § 11400 through 11529) are applicable and available at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

The Board also publishes a *Guide to the New Motor Vehicle Board* which details Article 4 (cars, motorcycles, and ATVs) and Article 5 (recreational vehicles) protests and petitions. An *Informational Guide for Manufacturers and Distributors* is also published to assist manufacturers and distributors in clarifying California's vehicle franchise laws. Both guides are available free from the Board's offices at the above address, or can be accessed and downloaded from the Board's website at www.nmvp.ca.gov.

INTRODUCTION

Assembly Bill 179, (Stats. 2019, Ch. 796) effective January 1, 2020, was sponsored by the California New Car Dealers Association with essentially the same language that sunset on January 1, 2019. (Assembly Bill 1178 (Stats. 2015, Ch. 526)) This bill returns the Board's authority to hear export or sale-for-resale prohibition policy protests in Article 6 of the Vehicle Code and now sunsets on January 1, 2030.

An association, which is defined as an organization primarily owned by, or comprised of, new motor vehicle dealers and that primarily represents the interests of dealers, may bring a protest challenging the legality of an export or sale-for-resale prohibition policy of a manufacturer, manufacturer branch, distributor, or distributor branch (herein "manufacturer" or "distributor") at any time on behalf of two or more dealers subject to the challenged policy pursuant to subdivision (y) of Section 11713.3. (Veh. Code § 3085) The purpose of this publication is to familiarize the reader with this protest.

POWERS AND DUTIES IN GENERAL

The powers and duties of the Board are set out in Vehicle Code sections 3050 and 3051. As a quasi-judicial body, the Board has authority under Vehicle Code section 3050.1(a) to:

- Administer oaths;
- Take depositions;
- Certify to official acts; and,
- Issue subpoenas to compel attendance of witnesses and the production of documents.

Enforcement of Board Orders

There are provisions for sanctions and penalties for violating orders of the Board or the requirements of those sections of the Vehicle Code within the Board's authority. Obedience to subpoenas and the compliance with discovery procedures can be enforced by application to the Superior Courts. (Veh. Code § 3050.2(a)) Vehicle Code section 3050.2(b) gives the Executive Director authority, at the direction of the Board, upon a showing of failure to comply with authorized discovery without substantial justification, to dismiss a protest or suspend the proceedings pending compliance.

Mandatory Settlement Conferences

In a protest filed with the Board, the Board, its Executive Director, or an Administrative Law Judge ("ALJ") may order a mandatory settlement conference. (Veh. Code § 3050.4) For any proceeding, the settlement conference judge is precluded from hearing the proceeding on the merits or other motions in the case without stipulation by the parties. (13 CCR § 551.11) The failure of a party to appear, to be prepared, or to have the authority to settle the matter at such a conference may result in the Board taking action adverse to that party. (Veh. Code § 3050.4)

EXPORT OR SALE-FOR-RESALE PROHIBITION POLICY PROTEST

Statutory Authority

Vehicle Code section 3050(d) provides for the Board to hear and decide a protest presented by an association challenging a policy of a manufacturer or distributor pursuant to Section 3085.

Filing a Protest

There is no specific statutory time period in the Vehicle Code within which to file a protest involving an export or sale-for-resale prohibition policy protest.

A protest is deemed filed upon its receipt by the Board via regular mail, email or facsimile, or upon mailing of the protest, if it is sent by either certified or registered mail. Accordingly, it is suggested that all protests be emailed to the Board at nmvb@nmvb.ca.gov or mailed by certified or registered mail to P.O. Box 188680, Sacramento, CA 95818-8680.

Manufacturer's or Distributor's Notice of Appearance

The respondent shall file a written notice of appearance within 15 days of receipt of the protest. (13 CCR § 585.1) Failure to timely file a notice of appearance shall result in the proceedings being suspended until such time as a notice of appearance is filed.

Filing Fee

A filing fee of \$200, which should be in the form of a check, money order or an authorized credit card charge payable to the New Motor Vehicle Board, must accompany the protest and notice of appearance. In the event of a financial hardship, either the protestant or respondent may submit a request for a fee waiver, requesting that the Executive Director, upon a showing of good cause, waive the \$200 filing fee. Samples are available on the Board's website. (13 CCR § 553.40)

Interested Individuals

Pursuant to Vehicle Code section 3085.2, any interested individual may apply to the Board for permission to appear at the hearing on any protest for the purpose of submitting direct evidence concerning the issues raised in the protest.

Motion for Intervention

Any person, including a Board member, concerned with the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative may file a motion to intervene in a pending proceeding subject to the conditions set forth in 13 CCR § 551.13.

Challenge to Presiding Officer

A party may request disqualification of a Board member or an ALJ for cause prior to the taking of evidence by filing an affidavit stating the grounds for the request. (13 CCR § 551.1) Further, 13 CCR § 551.12(b) entitles a party, excluding an intervenor, in a Board proceeding to one disqualification without cause (peremptory challenge) of an assigned ALJ by filing the peremptory challenge with the Board no later than either 20 days from the date of the order of time and place of hearing identifying the ALJ or 20 days prior to the date scheduled for commencement of the hearing, whichever is earlier. (13 CCR § 551.12(b)(1)) Except for the convenience of the Board or for good cause shown, no hearing shall be continued by the filing of a peremptory challenge.

Amicus Curiae Briefs

The Board, its Executive Director, or an ALJ may, in his or her discretion, allow the filing of amicus curiae briefs. (13 CCR § 551.13)

Required Elements of Protest

The required content of a protest under Vehicle Code section 3085 is as follows:

Content Requirements	Authority
Must be in writing and conform to the provisions of Article 6 commencing with 13 CCR § 593.1.	13 CCR § 583
The association shall simultaneously deliver a \$200 filing fee in the form of a check, money order or authorize a credit card charge payable to the New Motor Vehicle Board, or a request for a fee waiver.	13 CCR § 553.40
The association shall serve a copy of the protest on the manufacturer or distributor and proof of service shall accompany the protest submitted to the Board.	13 CCR § 551.24

Determination of Protest

If there is a hearing, the association has the burden of proof to show that the challenged export or sale-for-resale prohibition policy violates subdivision (y) of Section 11713.3. The relief sought in this protest is limited to a declaration that an export or sale-for-resale prohibition policy of a manufacturer or distributor violates the prohibitions of subdivision (y) of Section 11713.3. No monetary relief may be sought on behalf of the association or any dealers represented by the association.

HEARING PROCEDURES

Pre-Hearing Procedure

Upon receiving a protest, the Board shall institute hearing proceedings similar to those of a formal civil trial, including the scheduling of various pre-hearing conferences, settlement conferences, arrangements for discovery, identification of witnesses, and so on. The Board may impose sanctions if a party fails to comply with the Board's discovery orders or fails to participate properly in a settlement conference.

Discovery

Pursuant to Vehicle Code section 3050.1, the Board may authorize the parties to engage in the civil discovery process. Discovery is limited to requests for depositions and demands for production of documents (Code Civ. Pro. § 2016.010, et seq.), with the exception of provisions for written interrogatories (Code Civ. Proc. § 2030.010). Section 551.6 of the Board's regulations implements and makes specific the Board's procedures for requesting depositions where the witness resides within California or outside of California.

Subpoenas

Authority for issuing subpoenas in Board proceedings is found in Vehicle Code section 3050.1 and 13 CCR § 551.2. Unlike the civil courts, the parties cannot issue their own subpoenas. On the request of any party, the Board, its Executive Director or an ALJ may issue subpoenas for the production of papers, records, and books by a witness or a deponent, and the appearance of a non-party witness or deponent. Hearing subpoenas are issued in accordance with 13 CCR § 551.2(b) and an affidavit is not required to support the request. For a hearing subpoena duces tecum, an affidavit must accompany the request.

Subpoenas for the attendance and testimony of a non-party deponent, or for a subpoena duces tecum for deposition of a non-party, are issued by the Board in accordance with Code of Civil Procedure section 2016.010, et seq., excepting the provisions of section 2020.210, subdivisions (a) and (b). (13 CCR § 551.2(c)) No affidavits are required. Counsel for the parties can issue notices of depositions to parties. (Code Civ. Proc. § 2025.010, et seq.) Subpoenas for out-of-state, non-party witnesses or deponents will be issued by the Board, but need to be enforced in the out-of-state court. (Code Civ. Proc. § 2026.010, et seq.)

Government Code section 11450.30 and 13 CCR § 551.2(e) permit a person served with a subpoena or a subpoena duces tecum to object to its terms by a motion for a protective order, including a motion to quash. The assigned ALJ would resolve the objection. The ALJ may make another order that is appropriate to protect the parties or the witness from unreasonable or oppressive demands, including violations of the right to privacy.

Following service of the subpoena on the witness or deponent, a copy of the subpoena and executed proof of service shall be filed with the Board. (13 CCR § 551.2(d))

Summary of Board Action

Hearings on protests filed pursuant to Vehicle Code section 3085, may be considered by the entire Board or may, at its discretion be conducted by one of the Board's ALJs. At the hearing, oral argument is heard, evidence is admitted, testimony is received, and a written decision is rendered. The procedures are described in detail in Vehicle Code section 3085.2. The Board, on receiving a protest, does the following:

Step	Action
1	By order fix a time within sixty (60) days of receipt of the protest.
2	Send a copy of the order to the manufacturer or distributor, the protesting association, and all individuals and groups that have requested notification by the Board of protests and decisions by the Board.
3	The Board or an ALJ designated by the Board presides over merits hearings on protests. (See also 13 CCR § 590)

NOTE: Vehicle Code section 3050(d) prohibits a dealer member of the Board from participating, hearing, commenting, advising other members upon, or deciding any matter that involves a protest filed "pursuant to Article 6 (commencing with Section 3085), unless all participants to the protest stipulate otherwise." Vehicle Code section 3085.2(c) states: "[a] member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, a matter involving a protest filed pursuant to this article [Article 6, i.e., protests filed by an association] unless all parties to the protest stipulate otherwise." These constraints ensure procedures that preclude any suggestion of bias or partiality of Board decisions.

Stipulated Decisions

The Board may adopt stipulated decisions and orders without a hearing pursuant to Vehicle Code section 3085.2 to resolve one or more issues raised by a protest filed with the Board. (Veh. Code § 3050.7)

Hearings Open to the Public; Protective Orders

Hearings before the Board or an ALJ designated by the Board are open to the public. For good cause shown, a party may seek an order closing all or part of the hearing or for other protective orders as set forth in Government Code section 11425.20 and 13 CCR § 551.20. The motion may be in writing or made orally on the record. It may be made at the commencement of or during the course of the hearing but must be made as early as is practicable. The motion shall clearly identify the relief sought; the facts, circumstances, and legal authority; and shall include declarations or evidence that support the motion. The ALJ has discretion to allow an oral or written opposition to the motion. When ruling on the motion, the ALJ shall specifically set forth the facts, legal basis, and findings that support any protective order, order to seal parts of the record, or order to close the hearing to the public. The motion, opposition, and any resulting orders then become part of the record.

Failure to Appear at a Hearing

Any party who fails to appear at a hearing will not be entitled to a further opportunity to be heard unless good cause for such failure is shown to the Board or to the ALJ within five (5) days thereafter. The lack of such a showing may, in the discretion of the Board or the ALJ, be interpreted as an abandonment of interest by the party in the subject matter of the proceeding. (13 CCR § 589)

Decision of the Board

When matters are submitted to the Board for decision, or the Board receives a proposed decision of the ALJ, the Board shall take the matter under submission and conduct deliberations in executive session. The deliberations of the Board shall be in private and shall not be reported. (Veh. Code § 3008; 13 CCR § 588)

The decision of the Board shall be in writing, contain findings of fact, and a determination of the issues presented. The Board shall sustain, conditionally sustain, overrule, or conditionally overrule the protest. The decision becomes final when delivered or mailed to the parties and there are no provisions for reconsideration or rehearing. The Board shall act within 30 days after the hearing, within 30 days after the Board receives a proposed decision when the case is heard before an ALJ, or within a period necessitated by Section 11517 of the Government Code, or as may be mutually agreed upon by the parties. (Veh. Code § 3085.4)

Court Reporting and Transcripts of Board Proceedings

The Board arranges for a court reporter for all hearings on the merits of a protest and for all hearings on motions that may be dispositive. Parties to actions before the Board may order transcripts of hearings and arrange for delivery and payment directly from the court reporter.

Under the authority of 13 CCR § 551.7 the Board may assume all or part of the cost of reporting any proceedings or may allocate costs entirely to one of the parties or apportion it among the various parties at its discretion. For all merits hearings and dispositive motions (those that result in a final determination of the protest before the Board), reporting costs will be allocated as follows:

Circumstances	Reporting Costs including Appearance and Transcript Delivery Fees, Per Diem Costs, Realtime Set-Up Fees, Expedite Rates, Cancellation Fees and any other Costs	Transcript Fees
Hearings on the merits and dispositive motions - First Day	Board (excluding Realtime set-up fees)	Board (requesting party or parties may order and pay for copies of official transcripts)
Hearings on the merits and dispositive motions - After First Day	Participating parties	Participating parties
Other motions (venue, consolidation, continuation, etc.)	Requesting party or parties	Requesting party or parties
Pre-hearing conference	Requesting party or parties	Requesting party or parties
Discovery disputes (ruling on objections to production, motions to quash, etc.)	Requesting party or parties	Requesting party or parties

As indicated above, for the first hearing day (merits or dispositive motion), the Board will be responsible for arranging reporting services, paying for the reporter's appearance fee, the delivery fee and any other costs excluding the Realtime set-up fees, and the Board's cost of the hearing transcript. Counsel will remain responsible for purchasing their own transcript, if desired. For each subsequent day, the Board or counsel, at the Board's discretion, will arrange reporting services and the Board will order the parties, on an equal basis, to pay the court reporter service for the reporter's appearance fee, the delivery fee and any other costs including Realtime set-up fees, and the Board's cost of the hearing transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

In any other instance, where any party or parties deem reporting services necessary (including requests for reporter's appearance and for transcripts), the requesting party (or parties on any basis they agree upon) will be responsible for arranging reporter services and will be responsible for payment to the reporting service of the reporter's appearance fee, the delivery fee, and any other costs. Counsel can utilize the Board's contracted reporting service but are not required to do so. The requesting party or parties will also be responsible for providing the Board with a certified copy of the transcript. Counsel will remain responsible for purchasing their own transcript(s), if desired.

JUDICIAL REVIEW

Appeal to Superior Court

Judicial review of final orders and decisions of the Board may be sought in Superior Court pursuant to Code of Civil Procedure section 1094.5 via a petition for writ of administrative mandamus. A petition for writ of administrative mandamus questions whether the Board proceeded without or in excess of jurisdiction, whether there was a fair hearing, and whether there was any prejudicial abuse of the Board's discretion. Parties seeking judicial review of a final order or decision should refer to Vehicle Code section 3085.6.

APPENDIX

Sample Protest

The information contained in this sample form is intended to be informative and not advisory, limited in scope, and not intended to be a substitute for a careful reading of the specific statutes and/or regulations which may apply to your situation. For information on the format of filings with the New Motor Vehicle Board, see 13 CCR § 593.2, et seq. **Sample forms can be obtained from the Board's website, www.nmvb.ca.gov.**

Identification of Attorney or Party Representing Self:

In the top left hand corner beginning with line one, place the name of the attorney (include state bar number) or individual representing him/herself, office address or residence address, telephone number, and e-mail address, if available. Single space this section. Skip one line then add which party is filing this document. In the case of a protest, the individual filing the protest is known as the "Protestant," whereas the individual responding would be the "Respondent."

1 _____ [name of attorney and state bar number, or name of party representing itself]

2 _____ [address]

3 _____ [telephone number, fax number and email address, if available]

4 _____ Attorney for [Protestant] or In pro per [if party representing itself]

Leave the upper right hand corner blank between lines 1 and 7 for the use of the Board.

Title of the Court:

On lines 8-9, place the title of the agency and the state in which the action is brought.

8 NEW MOTOR VEHICLE BOARD
9 STATE OF CALIFORNIA

Title of the Case:

Below the title of the court, flushed left, place the title of the case in the caption. The title of the case consists of the names of all of the parties.

Case Number:

The number of the case should be placed to the right of the title of the case or caption. Parties may leave the actual number blank until the Board has assigned the case a number.

Nature of Filing and Name of Action:

Below the number of the case, place the type of action filed along with the particular code section pursuant to which the action is filed.

Footer:

Except for exhibits, each paper filed with the Board must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper or some clear and concise abbreviation in at least 10-point font.

11	In the Matter of the Protest of)	
)	
12	NAME OF ASSOCIATION,	)	Protest No. PR-
)	
13	Protestant,	)	PROTEST
)	
14	v.	)	[Vehicle Code section 3085]
)	
15	NAME OF MANUFACTURER OR)	
	DISTRIBUTOR,)	
16		)	[Dates of the hearing and any
	Respondent.	)	future pre-hearing or
17		)	settlement conferences]

Introduction:

State the name of the party filing the document, the type of document filed (e.g., protest, response, motion) and the applicable statutory authority.

20 Protestant, [Name of Association], files this protest under the provisions of
 21 California Vehicle Code section 3085, with reference to the following facts:

Body:

Using numbered paragraphs, state the allegations in a clear and chronological order.

22 1. Protestant is an association as defined in Vehicle Code section 3085(b) challenging
 the legality of an export or sale-for-resale prohibition policy of [manufacturer or distributor] on
 behalf of [identify two or more dealers subject to the challenged policy]. These dealers are
 subject to the policy being challenged pursuant to subdivision (y) of Vehicle Code section
 11713.3. Protestant's mailing address is [address] and telephone number is [telephone number].

2. Respondent is a licensed [manufacturer or distributor] authorized to do business and
 doing business in the State of California. Respondent's mailing address is [address] and
 telephone number is [telephone number].

3. Protestant is represented in this matter by [attorney/law firm], whose address and
 telephone number are [address and telephone number].

4. [Outline the particulars of the dispute].

5. Protestant and its attorneys desire to appear before the Board. The estimated length of
 hearing on this matter will take [number of days] to complete.

6. A Pre-Hearing Conference is requested.

7. WHEREFORE, Protestant prays for: (A declaration that an export or sale-for-resale
 prohibition policy of [manufacturer or distributor] violates the prohibitions of subdivision (y) of
 Vehicle Code section 11713.3.)

Dated:

Signed:

STATE OF CALIFORNIA



MEMO

To: POLICY AND PROCEDURE COMMITTEE **Date:** February 16, 2022
JAKE STEVENS, CHAIR
VACANT, MEMBER

From: TIMOTHY M. CORCORAN
ROBIN P. PARKER

Subject: CONSIDERATION OF REVISIONS TO THE *INFORMATIONAL GUIDE FOR MANUFACTURERS AND DISTRIBUTORS*, WHICH OUTLINES THEIR OBLIGATIONS TO PROVIDE NOTICES, SCHEDULES, AND FORMULAS MANDATED BY THE CALIFORNIA VEHICLE CODE AND CIVIL CODE TO THE NEW MOTOR VEHICLE BOARD AND/OR IMPACTED DEALERS

The *Informational Guide for Manufacturers and Distributors* was most recently approved at the February 16, 2021, General Meeting. The proposed revisions in the attached version are highlighted yellow and summarized as follows:

- On page 11, the contact information for Occupational Licensing was updated.
- Footnote 15 on page 16 was added in 2021 to note that Board meetings are being held by Zoom and teleconference. As noted on the agenda for this meeting, until January 31, 2022, Government Code section 11133 authorizes the Board to hold meetings through teleconference and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the Board. The requirements that each teleconference location be accessible to the public and that members of the public be able to address the Board at each teleconference location have temporarily been suspended. On January 5, 2022, Governor Newsom issued Executive Order N-1-22, which suspends the sunset dates in Government Code section 11133 to March 31, 2022. In light of this, footnote 15 is being deleted.

There were no other substantive changes.

This topic is being agendized for discussion and consideration at the March 30, 2022, General Meeting. If you have any questions or require additional information, please do not hesitate to contact us at (916) 445-1888.

Attachment

cc: Bismarck Obando



State of California

NEW MOTOR VEHICLE BOARD

***INFORMATIONAL GUIDE
FOR MANUFACTURERS
AND DISTRIBUTORS***



March 2022

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

P.O. Box 188680
Sacramento, California 95818-8680
Phone: (916) 445-1888
Facsimile: (916) 323-1632
Email: nmvb@nmvb.ca.gov
Web site: www.nmvb.ca.gov



State of California
GAVIN NEWSOM, Governor

California State Transportation Agency
TOKS OMISHAKIN, SECRETARY

BOARD MEMBERS

Public Members
KATHRYN ELLEN DOI
ARDASHES (ARDY) KASSAKHIAN
BISMARCK OBANDO
JACOB STEVENS

Dealer Members
RAMON ALVAREZ C.
ANNE SMITH BOLAND
RYAN FITZPATRICK

EXECUTIVE STAFF

TIMOTHY M. CORCORAN
Executive Director

LEGAL STAFF

ROBIN P. PARKER
Chief Counsel
DANIELLE R. PHOMSOPHA
Senior Staff Counsel

TABLE OF CONTENTS

INTRODUCTION	1
LEGAL DISCLAIMER.....	1
QUESTIONS AND ANSWERS.....	1
WHAT IS THE NEW MOTOR VEHICLE BOARD?.....	1
WHAT ARE THE STATUTORILY REQUIRED NOTICES, SCHEDULES, OR FORMULAS?.....	2
IF A MANUFACTURER OR DISTRIBUTOR WANTS TO TERMINATE OR REFUSE TO CONTINUE AN EXISTING FRANCHISE (NON-RENEWAL), WHAT MUST BE DONE?.....	3
WHAT STEPS ARE NECESSARY TO ISSUE A NOTICE OF TERMINATION OR REFUSAL TO CONTINUE (NON-RENEWAL)? ...	4
AFTER PROPER NOTICE OF TERMINATION OR REFUSAL TO CONTINUE (NON-RENEWAL) TO THE DEALER AND BOARD, UNDER WHAT CIRCUMSTANCES CAN THE DEALERSHIP BE TERMINATED?	4
IF A MANUFACTURER OR DISTRIBUTOR WANTS TO MODIFY A FRANCHISE, WHAT MUST BE DONE?.....	4
WHAT STEPS ARE NECESSARY TO ISSUE A NOTICE OF MODIFICATION?	5
IF A NEW FRANCHISE IS TO BE ESTABLISHED OR AN EXISTING FRANCHISE RELOCATED, WHAT MUST BE DONE?	5
WHAT ARE THE EXCEPTIONS TO VEHICLE CODE SECTIONS 3062 AND 3072 NOTICE REQUIREMENTS?	6
WHAT STEPS ARE NECESSARY TO ISSUE A NOTICE OF ESTABLISHMENT OR RELOCATION?.....	7
AFTER PROPER NOTICE OF ESTABLISHMENT OR RELOCATION TO THE DEALER(S) AND BOARD, UNDER WHAT CIRCUMSTANCES CAN THE FRANCHISOR ESTABLISH THE PROPOSED DEALERSHIP OR RELOCATE THE EXISTING DEALERSHIP?	7
WHAT IS A NOTICE OF OFF-SITE SALE?	8
WHAT IS A CERTIFICATE OF PROPOSED FRANCHISE (OL 124)?.....	8
CERTIFICATE OF PROPOSED FRANCHISE	9
WHEN IS AN OL 124 NOT REQUIRED?.....	11
WHO IS AUTHORIZED TO SIGN AN OL 124?	11
WHAT STEPS ARE NECESSARY TO ISSUE A NOTICE OF OFF-SITE SALE?	11
AFTER PROPER NOTICE OF OFF-SITE SALE TO THE DEALER(S) AND BOARD, UNDER WHAT CIRCUMSTANCES IS THE MARKET “CLEAR” FOR PURPOSES OF PROCEEDING WITH THE OFF-SITE SALE?	12
IS A FRANCHISOR REQUIRED TO FILE A COPY OF THE OL 124 WITH THE BOARD AS WELL AS DMV?	12
WHAT STEPS CAN BE TAKEN IF THERE IS NOT ENOUGH TIME TO “CLEAR THE MARKET?”	12

TABLE OF CONTENTS, Continued

WHAT TYPES OF INFORMATION DOES THE BOARD NOT REQUIRE?.....	12
WHAT IS THE IMPACT OF A FAULTY OR DEFECTIVE NOTICE?	13
WHAT IS A DELIVERY AND PREPARATION OBLIGATIONS COMPENSATION SCHEDULE?	13
WHAT IS A WARRANTY REIMBURSEMENT SCHEDULE OR FORMULA?	13
WHAT NOTICES ARE REQUIRED WITH RESPECT TO FACTORY OWNERSHIP OR OPERATION OF A DEALERSHIP WITHIN 10-MILES OF AN INDEPENDENT, FRANCHISED DEALER OF THE SAME LINE-MAKE?	14
IF A MANUFACTURER OR DISTRIBUTOR SEEKS TO OWN OR OPERATE A DEALERSHIP IN PREPARATION FOR SALE TO A SUCCESSOR INDEPENDENT FRANCHISEE AND NEEDS TO EXTEND THE STATUTORY ONE-YEAR PERIOD, WHAT STEPS ARE NECESSARY TO REQUEST AN EXTENSION OF TIME (VEH. CODE § 11713.3(o)(2)(A))?	14
WHAT STEPS ARE NECESSARY TO FILE A REQUEST FOR AN EXTENSION OF TIME?	15
WHAT IS THE PROCEDURE AFTER THE BOARD RECEIVES A TIMELY REQUEST FOR EXTENSION OF TIME?	16
WHAT IS THE PROCEDURE IF THE BOARD OBJECTS OR AN IMPACTED DEALER OPPOSES THE REQUEST FOR EXTENSION?.....	16
WHAT NOTICES ARE REQUIRED WITH RESPECT TO FACTORY OWNERSHIP OF A DEALERSHIP AS PART OF A DEALER DEVELOPMENT PROGRAM?	16
WHAT IS A MOTOR VEHICLE WARRANTY ADJUSTMENT PROGRAM?	17
WHAT IS THE CONSEQUENCE OF FAILING TO FILE OR TO TIMELY FILE A STATUTORILY REQUIRED NOTICE, SCHEDULE, OR FORMULA?.....	17
SAMPLE 15-DAY TERMINATION NOTICE	18
SAMPLE 60-DAY TERMINATION OR REFUSAL TO CONTINUE NOTICE.....	19
SAMPLE MODIFICATION NOTICE	20
SAMPLE ESTABLISHMENT OR RELOCATION NOTICE	21
SAMPLE ESTABLISHMENT OR RELOCATION OF A SATELLITE WARRANTY FACILITY NOTICE	22
SAMPLE OFF-SITE SALE NOTICE	23
SAMPLE NOTICE OF REQUEST FOR EXTENSION OF TIME.....	24

INTRODUCTION

This Informational Guide has been prepared to assist manufacturers¹ and distributors in clarifying California's vehicle franchise laws and to familiarize the vehicle industry with the statutorily required notices, schedules, and formulas mandated by the Vehicle Code and Civil Code. The Guide consists of frequently asked questions and answers, and sample notices. It is designed for those factory personnel within a Market Representation Department, Dealer Development Department, or Legal Department.

The laws summarized below pertain to a manufacturer's or distributor's obligation to provide notices, schedules, and formulas mandated by the Vehicle Code and Civil Code, to the New Motor Vehicle Board (Board) and/or impacted dealers. For example, the proper procedure for noticing a termination of a franchise, modification of a franchise agreement, or clearing the market for an off-site sale are covered.

Questions concerning the procedural requirements of filing a notice, schedule, or formula, may be directed to the Board legal staff at (916) 445-1888 or nmvb@nmvb.ca.gov. The Board's website (www.nmvb.ca.gov) contains detailed information on the Board and contains links to California statutes and the California Code of Regulations.

LEGAL DISCLAIMER

The purpose of this Informational Guide is to familiarize the automotive industry with the statutorily required notices, schedules, and formulas mandated by the California Vehicle Code and Civil Code. The information contained herein is intended to be informative and not advisory, is limited in scope, and not intended as legal advice or as a substitute for careful reading of the specific statutes and regulations that may apply to a specific situation.

QUESTIONS AND ANSWERS

What Is the New Motor Vehicle Board?

The Board is located within the California Department of Motor Vehicles (DMV) with oversight provided by California State Transportation Agency formerly Business, Transportation & Housing Agency. The Board is a quasi-judicial administrative agency with independent authority to resolve disputes between franchised dealers and manufacturers of new vehicles (includes motorcycles, recreational vehicles, and all-terrain vehicles).²²

Created in 1967, the Board, originally named the New Car Dealer's Policy and Appeals Board, was limited to hearing appeals³ from final decisions of the Director of DMV that adversely affected the occupational license of vehicle dealers or manufacturers. Legislation enacted in 1973 gave the Board its present name and implemented the statutory framework that created a forum to resolve disputes in an efficient, fair, and cost-effective manner.

¹ Throughout this Guide, the terms dealer and franchisee are used interchangeably, as are the terms manufacturer/distributor and franchisor.

² Effective January 1, 2004, the recreational vehicle industry, excluding park trailers and truck campers, was added to the list of licensees within the Board's jurisdiction. (See Veh. Code § 3070, et seq.) Since 1994, the Board has had jurisdiction over all-terrain vehicle dealers and manufacturers. Effective January 1, 2005, the all-terrain vehicle industry is licensed by the DMV. The reference contained herein to "vehicle dealer" or "franchisee" includes new motor vehicles, motorcycles, recreational vehicles, and all-terrain vehicles.

³ Effective January 1, 2020, the Board's jurisdiction to hear appeals was repealed. (Assembly Bill 179, ch. 796)

In keeping with its mission, most cases brought to the Board are resolved early in the process. Early dispute resolution improves relations between dealers and manufacturers, and reduces the need for costly, protracted litigation in areas where the Board has developed special expertise. A small number of cases proceed to a formal hearing on the merits of the dispute.

The Board also has a Consumer Mediation Services Program that attempts, through informal mediation, to resolve disputes between consumers and new motor vehicle dealers, and/or manufacturers.

What Are the Statutorily Required Notices, Schedules, or Formulas?

The Vehicle Code and Civil Code mandate that franchisors file notices, schedules, and formulas with the Board and/or impacted dealers in the following instances:

TYPE	STATUTE	NOTICE TO BOARD	NOTICE TO DEALER
Franchise Termination or Refusal to Continue (Non-Renewal)	Veh. Code § 3060(a) Veh. Code § 3070(a)	Yes	Yes
Franchise Modification or replacement*	Veh. Code § 3060(b) Veh. Code § 3070(b)	Yes	Yes
Establishment**	Veh. Code § 3062(a) Veh. Code § 3072(a)	Yes	Yes
Relocation**	Veh. Code § 3062(a) Veh. Code § 3072(a)	Yes	Yes
Off-Site Sale**	Veh. Code § 3062(c) Veh. Code § 3072(b)(3)	Yes	Yes
Delivery and Preparation Schedule	Veh. Code § 3064 Veh. Code § 3074	Yes	No
Warranty Reimbursement Schedule or Formula	Veh. Code § 3065 Veh. Code § 3075	Yes	No
Factory Ownership**	Veh. Code § 11713.3(o)	Yes	No
Dealer Development	Veh. Code § 11713.3(o)	Yes	No
Motor Vehicle Warranty Adjustment Programs	Civil Code § 1795.92	Yes	Yes

* The Board and dealer are noticed only if the modification or replacement would “substantially affect the franchisee’s sales or service obligations or investment.”⁴

** Notification is required only if there are dealers of the same line-make within the relevant market area. Vehicle Code section 507 defines relevant market area as “any area within a radius of 10 miles from the site of a potential new dealership.” This has been construed as air miles (“as the crow flies”).

Notices are required to be separately issued to each franchisee and separately issued for each line-make represented by a franchisee. This is consistent with the Vehicle Code and Section 593.1 of Title 13 of the

⁴ Despite the franchisor’s decision that the notices to the franchisee and the Board are not required, to avoid a claim that it has violated any of the Vehicle Code provisions, a franchisor may decide to issue notices that comply with the statutes. The franchisor also may at the same time expressly state, along with the notices or in the notices themselves, that the franchisor believes that the notices were not required and also claim that there is no right in the franchisee to file a protest despite the notices stating to the contrary (as required by the statutory language.)

California Code of Regulations. Notices should not be combined to include more than one franchisee nor combined to include more than one line-make.

If a Manufacturer or Distributor Wants to Terminate or Refuse to Continue an Existing Franchise (Non-Renewal), What Must Be Done?

Vehicle Code sections 3060(a) and 3070(a) provide that no franchisor shall terminate or refuse to continue any existing franchise (non-renewal) unless: (1) the franchisee and the Board have received written notice; (2) if a protest is filed, the Board finds that there is good cause for termination or refusal to continue following a hearing; and (3) the franchisor has received the written consent of the franchisee, or the appropriate period for filing a protest has lapsed.

The statute provides for either a 60-day or 15-day notice of termination. The **60-day notice of termination** shall set forth the specific grounds for termination or refusal to continue. The **15-day notice of termination** requires the specific grounds with respect to any of the following:

1. Transfer of any ownership or interest in the franchise without the consent of the franchisor, which consent shall not be unreasonably withheld.
2. Misrepresentation by the franchisee in applying for the franchise.
3. Insolvency of the franchisee, or filing of any petition by or against the franchisee under any bankruptcy or receivership law.
4. Any unfair business practice after written warning thereof.
5. Failure of the motor vehicle dealer to conduct its customary sales and service operations during its customary hours of business for seven consecutive business days, giving rise to a good faith belief on the part of the franchisor that the motor vehicle dealer is in fact going out of business, except for circumstances beyond the direct control of the motor vehicle dealer or by order of the DMV.

The statutes are unambiguous concerning the format and content for the notices. The “notice to dealer” language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.

(To be inserted when a **60-day notice of termination** or refusal to continue is given.)

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.

(To be inserted when a **15-day notice of termination** is given.)

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.

What Steps Are Necessary to Issue a Notice of Termination or Refusal to Continue (Non-Renewal)?

Steps Necessary to Issue a Notice of Termination or Refusal to Continue	Completed ✓
Determine if a 15-day or 60-day notice of termination is appropriate. A 60-day notice is appropriate for refusal to continue an existing franchise.	
Draft the appropriate notice being mindful of the statutory language outlined above.	
Specify the grounds for termination or refusal to continue in the notice.	
Send the notice to the dealer whose franchise is being terminated or not continued. It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. ⁵	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

After Proper Notice of Termination or Refusal to Continue (Non-Renewal) to the Dealer and Board, Under What Circumstances Can the Dealership Be Terminated?

The dealership can be terminated if:

1. The franchisor has received the written consent of the franchisee; or,
2. The appropriate period for filing a protest has lapsed (10 or 30 days from the dealer's receipt of the notice depending on whether a 15-day or 60-day notice of termination); or,
3. If a protest is filed, the Board finds that there is good cause for termination or refusal to continue following an evidentiary hearing.

If a Manufacturer or Distributor Wants to Modify a Franchise, What Must Be Done?

Vehicle Code sections 3060(b) and 3070(b) provide that no franchisor shall modify or replace a franchise with a succeeding franchise if the modification or replacement would substantially affect the franchisee's sales or service obligations or investment, unless the franchisor has first given the Board and each affected franchisee written notice thereof at least 60 days in advance of the modification or replacement.

The notice requirements are like those for terminations. The "notice to dealer" language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.

⁵ The Board's preference is to receive notices by email (nmvb@nmvb.ca.gov). Alternatively, notices can be sent regular, certified or registered mail to P.O. Box 188680, Sacramento, CA 95818-8680.

NOTICE TO DEALER: Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchisor- or your protest rights will be waived.

What Steps Are Necessary to Issue a Notice of Modification?

Steps Necessary to Issue a Notice of Modification	Completed ✓
Determine if the modification “substantially affects the dealer’s sales or service obligations or investment.” (See footnote 4.)	
Draft the appropriate notice of modification being mindful of the statutory language outlined above.	
Send the notice to the dealer whose franchise is being modified. It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. ⁶	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

If a New Franchise Is to Be Established or an Existing Franchise Relocated, What Must Be Done?

Vehicle Code sections 3062(a) and 3072(a) provide that if a franchisor seeks to enter into a franchise establishing an additional **motor vehicle dealership**, or seeks to relocate an existing motor vehicle dealership, that has a relevant market area within which the same line-make⁷ is represented, or seeks to relocate an existing motor vehicle dealership, the franchisor shall, in writing, first notify the Board and each franchisee in that line-make in the relevant market area of the franchisor’s intention. If a protest is not filed or has already been resolved, this process is referred to as “clearing the market.”

⁶ See Footnote 5.

⁷ For motor vehicles other than RVs, “like-make” is not defined in the code. What is or is not a same “line-make” is obvious in most situations. However, gray areas can exist. In this Guide, the working definition of “line-make” for the automobile industry corresponds to that used by the DMV as a classification system for registering vehicles, licensing dealers, and resolving questions related to OL-124 relevant market area requirements. For instance, in the automotive industry, the DMV considers a manufacturer such as General Motors would have several “makes” including Buick, Chevrolet, and Cadillac. Each “make”, in turn, would be comprised of several “lines” or models, e.g., Chevrolet has Silverado, Impala, and Tahoe “lines” or models. For the RV industry which lacks uniformity, the “recreational vehicle line-make” is defined in Vehicle Code section 3072.5 as: “a group or groups of recreational vehicles defined by the terms of a written agreement that complies with Section 331.3.” It is essential that RV franchisors are precise when defining a line-make in RV franchise agreements and ensure their makes are registered with DMV.

If a franchisor of new cars, trucks, or motorcycles seeks to enter into a franchise that authorizes a **satellite warranty facility** to be established at, or relocated to, a proposed location which is within two miles of any dealership of the same line-make, the franchisor shall first give notice in writing of the franchisor's intention to establish or relocate a satellite warranty facility at the proposed location to the Board and each franchisee operating a dealership of the same line-make within two miles of the proposed location. (Veh. Code 3062(a)(2)) The recreational vehicle statutes do not contain a similar provision concerning satellite warranty facilities.

The "notice to dealer" language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.⁸

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.

What Are the Exceptions to Vehicle Code Sections 3062 and 3072 Notice Requirements?

The requirements above, do not apply in the following situations:

1. The relocation of an existing dealer to any location that is **both** within the same city as, and within one (1) mile from, the existing dealership location.
2. The establishment at a location that is **both** within the same city as, and within one-quarter (1/4) mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days.
3. Any temporary display of vehicles at a fair, exposition, or similar exhibit that does not exceed 30 days. No actual sales may occur at the temporary location.
4. The reopening of a dealership that has not been in operation for less than one year.

An additional exception pertains to recreational vehicle dealers only: An annual show sponsored by a national trade association of recreation vehicle manufacturers that complies with Vehicle Code section 11713.15(d).⁹ For example, the California RV Show sponsored by the Recreation Vehicle Industry Association would be exempt from the Vehicle Code section 3072 notice requirements.

⁸ The last sentence in the "Notice to Dealer" language in Section 3072(a) contains commas as follows: "If, within this time, you file with the board..."

⁹ Effective September 19, 2018, subdivision (d) of Vehicle Code section 11713.15 was amended to exempt a recreational vehicle dealer being issued a temporary branch license from the notice requirements if the show is located in a county with a population of 9,000,000 or more persons, or at a location within 30 miles from the prior approved location of the show, and at least 10 manufacturers are participating in the show. (Assembly Bill 2330, Stats. 2018, ch. 537)

What Steps Are Necessary to Issue a Notice of Establishment or Relocation?

Steps Necessary to Issue a Notice of Establishment or Relocation	Completed ✓
Determine if an exception to Vehicle Code section 3062 or 3072 notice requirements applies.	
Draft the appropriate notice of establishment or relocation being mindful of the statutory language outlined above.	
Identify the proposed location for the establishment or relocation.	
Send the notice to all dealers of the same line-make within the relevant market area (10-mile radius). It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. ¹⁰	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

After Proper Notice of Establishment or Relocation to the Dealer(s) and Board, Under What Circumstances Can the Franchisor Establish the Proposed Dealership or Relocate the Existing Dealership?

The proposed dealership can be established, or an existing dealership relocated if:

1. The appropriate period for filing a protest has lapsed (20 days from the dealer's receipt of the notice or 30 days if an extension of time was granted by the Board); or,
2. If a protest was filed, after an evidentiary hearing before the Board, the protesting dealer is unable to prove good cause not to allow the establishment or relocation.

¹⁰ See Footnote 5.

What Is a Notice of Off-Site Sale?

Vehicle Code sections 3062(c) and 3072(b)(3) require that if an “off-site sale” is intended, the franchisor must give notice to all dealers of the same line-make within the relevant market area (10 miles) of the proposed site and the Board. The impacted dealer(s) would have a right to protest the off-site sale.

The “notice to dealer” language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text.¹¹

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.

If there are no dealers of the same line-make within 10 miles of the proposed off-site sale location, notice to the Board is not required.

What Is a Certificate of Proposed Franchise (OL 124)?

The Certificate of Proposed Franchise (OL 124) notifies DMV that a dealer is authorized to sell a line-make at a particular address. The OL 124 (see sample on pages 9-10) requires that a manufacturer or distributor certify that notice to the Board is not required under Vehicle Code section 3062 or 3072 (for example, “no other franchised dealers of the same line-make within the relevant market area”) or that there are franchised dealers of the same line-make within the relevant market area and notice has been given, but no protests have been filed or the protest(s) filed were resolved (i.e., dismissed or Board Decision overruling the protest.) Even though the California RV Show or other annual trade show sponsored by a national trade association of recreation vehicle manufacturers is exempt from the Vehicle Code section 3072 notice requirements (see page 6), an OL-124 form must be issued by the manufacturer to each dealer participating in the show.

¹¹ The last sentence in the “Notice to Dealer” language in Section 3072(a) contains commas as follows: “If, within this time, you file with the board...”



LICENSING OPERATIONS DIVISION
CERTIFICATE OF PROPOSED FRANCHISE

DMV USE ONLY	
OCCUPATIONAL LICENSING NUMBER	

Instructions:

- This form must be completed by a licensed Manufacturer or Distributor.
- The licensed dealer is responsible for submitting this form to the Department of Motor Vehicles with the appropriate application form(s).
- This form will **NOT** be accepted if modified or altered and must contain an original signature.

The location is a ☐ Permanent Location
☐ Temporary Branch Location (must be 30 days or less)

Date(s) of Event: From: _____ To: _____

I/We

MANUFACTURER/DISTRIBUTOR NAME

LICENSE NUMBER

hereby certify that:

- ☐ Written notification to the New Motor Vehicle Board and each franchisee is not required pursuant to Vehicle Code section 3062(b) or 3072(b), or there are no other franchised dealers of the same line-make located within the relevant market area.
- ☐ Written notification has been provided to the Board and each franchisee of this line-make of the franchisor's intent to enter into a franchise establishing an additional motor vehicle dealership or relocate an existing motor vehicle dealership within the relevant market area, and no protests have been filed or the protest(s) filed were resolved (i.e., dismissed or Board Decision overruling the protest). (A change in ownership of an existing established location shall not be construed as establishing an additional location.) Enter date of notification below.

MAKE OF VEHICLE(S), MOTORHOME(S), OR RECREATIONAL TRAILER(S)

DATE THE NEW MOTOR VEHICLE BOARD AND DEALER(S) WERE NOTIFIED, IF APPLICABLE

PROPOSED FRANCHISEE NAME (AS IT APPEARS ON LICENSE OR APPLICATION FOR LICENSE)

DEALER LICENSE NUMBER (IF APPLICABLE)

ADDRESS (AS SHOWN ON LICENSE OR APPLICATION FOR LICENSE)

CITY

STATE

ZIP CODE

AUTHORIZED SIGNATURE (OWNER OF RECORD OR LICENSED REPRESENTATIVE)

DATE

X

PRINT OR TYPE NAME

OWNER OR REPRESENTATIVE LICENSE NUMBER

CALIFORNIA VEHICLE CODE (CVC) - Sections 3062 or 3072*, state in part:

Establishing or Relocating Dealerships

3062. (a) (1) Except as otherwise provided in subdivision (b), if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership, or seeks to relocate an existing motor vehicle dealership, that has a relevant market area within which the same line-make is represented, the franchisor shall, in writing, first notify the board and each franchisee in that line-make in the relevant market area of the franchisor's intention to establish an additional dealership or to relocate an existing dealership. Within 20 days of receiving the notice, satisfying the requirements of this section, or within 20 days after the end of an appeal procedure provided by the franchisor, a franchisee required to be given the notice may file with the board a protest to the proposed dealership establishment or relocation described in the franchisor's notice. If, within this time, a franchisee files with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant an additional 10 days to file the protest. When a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor may not establish the proposed dealership or relocate the existing dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the establishment of the proposed dealership or relocation of the existing dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

...

(b) Subdivision (a) does not apply to either of the following:

- (1) The relocation of an existing dealership to a location that is both within the same city as, and within one mile from, the existing dealership location.
 - (2) The establishment at a location that is both within the same city as, and within one-quarter mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days.
- (c) Subdivision (a) does not apply to a display of vehicles at a fair, exposition, or similar exhibit if actual sales are not made at the event and the display does not exceed 30 days. ...
- (d) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership. ...

*Section 3072, pertaining to recreational vehicles, contains virtually identical provisions, however, there are additional exemptions not listed above. Recreational vehicle manufacturers and distributors are encouraged to review the entire *California Vehicle Code* Section.



OL-124, CERTIFICATE OF PROPOSED FRANCHISE

Applicable to **New Motor Vehicles, Motorcycles, All-Terrain Vehicle and Recreational Vehicles** as defined by Health and Safety Code Section 18010 (a)

TYPE TRANSACTION	OL-124 NOT REQUIRED	OL-124 PURSUANT TO CVC 11704	BOARD/MARKET AREA FRANCHISE NOTICE NOT REQUIRED	BOARD/MARKET AREA FRANCHISE NOTICE REQUIRED
1. New license (Buy/Sell) of a currently occupied location (Main or branch location application)		X		X
2. New location - Not currently occupied, except as exempt pursuant to CVC 3062(b), 3072(b). See #9, #10, and #11		X		X
3. Change of Business Name		X		X
4. Adding a Make Distinctive Business Name		X - For new Make		X
4a. Adding a Non-Make Distinctive Business	X			
5. Change of Corporate Name/LLC or LLP Name		X		X
6. Change of Corporate Officers/LLC or LLP Manager	X			
7. Change of Address (Postal Service change - no physical movement of location)		X - Formerly known as prior address		X
8. Change of Address (New location is beyond 1 mile of current licensed location)		X		X
9. Change of Address (New location is within 1 mile of current licensed location and within the same city)		X		X
9a. Change of Address (New location is within 1 mile of current licensed location and within a different city)		X		X
10. Establishing location within the same city, within 1/4 mile of a location that has been out of operation for less than 90 days		X		X
11. Reopening a location that has not been in operation for less than one year		X - Or copy of prior OL-124		X
11a. Reopening a location that has not been in operation for one year or more		X		X
12. Temporary Branch locations - Display only with no sales activity that does not exceed 30 days	X - No application required			X
12a. Temporary Branch locations - Display only with no sales activity but display exceeds 30 days	X - No application required			X
13. Temporary Branch locations with sales activity on site and other same line-make dealers within RMA		X		X
13a. Temporary Branch locations with sales activity on site and no other same line-make dealers within RMA		X		X
14. Addition of a line-make to an existing established location and other same line-make dealers within RMA		X		X
14a. Addition of a line-make to an existing established location and there are no other same line-make dealers within RMA		X		X
15. Renewal of License (Application must be submitted no later than 30 days after license expiration date)	X			
16. Establishing or Relocating Satellite Warranty facility more than 2 miles from a same line-make dealer	X - No application required			X
16a. Establishing or Relocating Satellite Warranty facility within 2 miles of a same line-make dealer	X - No application required			X

Additional Information:

- The OL-124 must reflect the business name and address as it appears on the corresponding application for an Occupational License.
- The dealer is responsible for submitting the OL-124 with an appropriate application to an Occupational Licensing Inspection's Office.
- The OL-124 must be signed by an owner of the Manufacturer/Distributor on file with Occupational Licensing or a licensed Representative.
- Relevant Market Area pursuant to California Vehicle Code Section 507, is any area within a radius of 10 miles from the site of a potential new dealership.
- The powers and duties of the New Motor Vehicle Board are defined in Division 2, Chapter 6, of the California Vehicle Code.

APPLICANT SHOULD RETAIN THIS PAGE FOR THEIR INFORMATION.
DO NOT SUBMIT WITH APPLICATION.

When Is an OL 124 Not Required?

An OL 124 is not required for a temporary display of vehicles at a fair, exposition or similar exhibit, if no actual sales are made at those events and the display does not exceed 30 days.

Who Is Authorized to Sign an OL 124?

A licensed representative or an owner, as reflected in DMV records, of the manufacturer/distributor must sign the OL 124. Vehicle Code section 512 defines a representative as “any person regularly employed by a manufacturer or distributor for the purpose of negotiating or promoting the sale of the manufacturer’s or distributor’s vehicles to their franchisees or for regularly supervising or contacting franchisees or prospective franchisees” in California for any purpose. Vehicle Code section 11900, et seq. pertains to the licensing of representatives.

For additional information concerning the DMV Occupational Licensing requirements, please contact your local DMV Occupational Licensing Inspections office or Occupational Licensing at (916) 229-3346 3153.

What Steps Are Necessary to Issue a Notice of Off-Site Sale?

Steps Necessary to Issue a Notice of Off-Site Sale	Completed ✓
Determine if an exception to the Vehicle Code section 3062 or 3072 notice requirements applies (e.g., temporary off-site display or Annual National RV Trade Show).	
Identify the proposed location for the off-site sale.	
Draft the appropriate notice of off-site sale being mindful of the statutory language outlined above.	
Send the notice to all dealers of the same line-make within the relevant market area (10-mile radius). It is prudent to send via certified mail, return receipt requested. Nothing in the statute requires this, but the statutory time to file a protest with the Board does not commence until receipt by the dealer and the Board.	
Send a copy of the notice to the Board, attention Executive Director, with a cover memo indicating a contact name and phone number. The statutory time to file a protest does not commence until receipt by both the dealer and the Board. ¹²	
Note: If you are unsure of the correct procedures, you may want to consult with legal counsel.	

¹² See Footnote 5.

After Proper Notice of Off-Site Sale to the Dealer(s) and Board, Under What Circumstances Is the Market “Clear” for Purposes of Proceeding with the Off-Site Sale?

The proposed off-site sale can go forward and an OL 124 filed with DMV if the appropriate period for filing a protest has lapsed (20 days from the dealer’s receipt of the notice or 30 days if an extension of time was granted by the Board). The filing of a protest of a proposed off-site sale results in the sale not going forward.

Is a Franchisor Required to File a Copy of the OL 124 with the Board as Well as DMV?

A franchisor is not required to file a copy of the OL 124 with the Board. However, if it is filed, as a courtesy, it will be reviewed for completeness. Please ensure that the appropriate box on the OL 124 form is checked, i.e., notice to the Board is not required or there are franchised dealers of the same line-make within the relevant market area that were noticed but no protests have been filed or the protest(s) filed were resolved (i.e., dismissed or Board Decision overruling the protest).

What Steps Can Be Taken If There Is Not Enough Time to “Clear the Market?”

The statutorily required notice should be sent to the impacted dealers with sufficient time to “clear the market.” Generally, this is not a problem when a franchisor clears the market for an establishment or relocation of a dealership. However, for an off-site sale, the impacted dealers have 20 days to file a protest and may request a 10-day extension upon a showing of good cause. In the event a dealer requests permission to participate in an off-site sale and there is not sufficient time to clear the market, all impacted dealers, i.e., those of the same line-make within the relevant market area, may file a protest with the Board and simultaneously file a request for dismissal of the protest. Unless a request for a fee waiver is received and approved, a \$200.00 filing fee is required. Detailed information concerning a fee waiver can be obtained from the Board legal staff at (916) 445-1888.

What Types of Information Does the Board Not Require?

There are a number of manufacturers and distributors that submit OL 124 forms and correspondence to the Board that are not necessary. The Board does not need to be informed if a dealer does any of the following:

1. Changes name of dealership, dba, or corporation;
2. Changes the ownership structure;
3. Voluntarily terminates;
4. Transfers its ownership interest to another entity;
5. Relocates to another location if no other dealers of the same line-make are within the relevant market area;
6. Is established as a new franchisee if no other dealers of the same line-make are within the relevant market area;
7. Participates in an off-site sale of used vehicles;
8. Participates in an off-site display of vehicles for less than 30 days;
9. Participates in an off-site sale of new vehicles and no other dealers of the same line-make are within the relevant market area.

However, the DMV Inspectors will require this information. If you are not sure, contact your local Inspector for guidance.

What Is the Impact of a Faulty or Defective Notice?

Providing a timely and accurate notice gives a manufacturer or distributor the ability to quickly finalize its intended action, i.e., termination, modification, establishment, and so on. In the event a notice does not comply with the statute, the Board legal staff may contact the franchisor and offer suggestions to correct the notice. However, the faulty notice may delay the proposed action.

The purpose of a notice is to start the statutory time period in which an aggrieved dealer has to protest its franchisor's intended action. When the notice is not in compliance, the time to file the protest does not commence.¹³ The First Appellate District Court (*British Motor Car Distributors, Ltd., d/b/a Maserati Import Company v. New Motor Vehicle Board; British Motors of Monterey, Inc., Real Party in Interest* (1987) 194 Cal.App.3d 81, 91-94) held that the limitations period of Vehicle Code section 3060 is expressly dependent upon the franchisor first complying with the notice provisions and any other interpretation would reward franchisors who send out defective notices. Even if a manufacturer or distributor never provides proper notice to the Board or franchisee, the lack of notice does not prevent the Board from exercising its powers to resolve disputes between franchisees and franchisors.

What Is a Delivery and Preparation Obligations Compensation Schedule?

Manufacturers and distributors typically reimburse their dealers for preparing the new vehicles for delivery to purchasers. Vehicle Code sections 3064 and 3074 provide that every franchisor **shall** file with the Board a copy of their delivery and preparation obligations, as well as a schedule of compensation to be paid franchisees for the work and services they are required to perform in connection with the delivery and preparation obligations.

The statute does not specify when or how often the compensation schedule should be filed. Pursuant to current Board policy, all filings in this regard are maintained for three years. Therefore, every manufacturer and distributor are required to file a current copy of their delivery and preparation obligations (PDI) and PDI schedule of compensation with the Board once every three years or whenever there are changes to the information. Please keep in mind that the documents provided by franchisors are public records and subject to disclosure under the California Public Records Act. (Gov. Code § 6250, et seq.)

Section 586(b) and (c) of Title 13 of the California Code of Regulations require a manufacturer and distributor to file the above information with the Board no later than 30 days after the date the license is issued or within 30 days after the date of renewal of the license if no schedule or formula has previously been filed with the Board. Additionally, any addition, deletion, change or modification to the information on file with the Board must be updated with the new information on or before the date the changes become effective.

What Is a Warranty Reimbursement Schedule or Formula?

Manufacturers and distributors typically reimburse dealers for warranty repairs at a pre-established rate. Vehicle Code section 3065 provides that every franchisor **shall** file a copy of its warranty reimbursement schedule with the Board, which must be reasonable with respect to the time and compensation allowed to the dealer for the performance of warranty diagnostics, repair, service, and all other conditions of the obligation, including costs directly associated with the disposal of hazardous materials that are associated with a recall repair. Vehicle Code section 3075 provides that every recreational vehicle franchisor **shall** file a copy of its warranty reimbursement schedule or formula with the Board, which must be reasonable with respect to the time and

¹³ If a dealer waits an unreasonable period to file a protest when it was put on notice, even though the notice did not comply, an Administrative Law Judge may take equitable defenses into consideration when faced with a motion to reject a protest for timeliness. This would be a factual determination made by an Administrative Law Judge and would be outside the purview of information provided by the Board legal staff.

compensation allowed to the dealer for the performance of warranty and all other conditions of the obligation.

The statute does not specify when or how often the warranty reimbursement schedule or formula should be filed. Pursuant to current Board policy, all filings in this regard are maintained for three years. Therefore, every manufacturer and distributor are required to file a current copy of their warranty reimbursement schedule or formula with the Board once every three years or whenever there are changes to the information. As indicated above, please keep in mind that the documents provided by franchisors are public records and subject to disclosure under the California Public Records Act.

Section 586(b) and (c) of Title 13 of the California Code of Regulations require a manufacturer and distributor to file the above information with the Board no later than 30 days after the date the license is issued or within 30 days after the date of renewal of the license if no schedule or formula has previously been filed with the Board. Additionally, any addition, deletion, change or modification to the information on file with the Board must be updated with the new information on or before the date the changes become effective.

What Notices Are Required with Respect to Factory Ownership or Operation of a Dealership Within 10-Miles of an Independent, Franchised Dealer of the Same Line-Make?

Vehicle Code section 11713.3(o) clarifies the limited circumstances in which a manufacturer or distributor may operate or control a dealership within 10 miles of an independent, franchised dealer of the same line-make. Specifically, a manufacturer or distributor is not deemed to be competing with an independent, franchised dealer when: (1) owning or operating a dealership for a temporary period, not to exceed one year at the location of a former dealership of the same line-make that has been out of operation for less than six months [Part A or Veh. Code § 11713.3(o)(2)(A)]; and, (2) owning an interest in a dealer as part of a bona fide dealer development program that satisfies certain requirements [Part B or Veh. Code § 11713.3(o)(2)(B)]. There are several instances in which a manufacturer or distributor may be required to file a statutory notice with the Board.

Under Part A every manufacturer, branch, and distributor that temporarily owns or operates a dealership is required to give written notice to the Board, **within 10 days**, each time it commences or terminates operation of a dealership and each time it acquires, changes, or divests itself of an ownership interest.

If a Manufacturer or Distributor Seeks to Own or Operate a Dealership in Preparation for Sale to a Successor Independent Franchisee and Needs to Extend The Statutory One-Year Period, What Steps Are Necessary to Request an Extension of Time (Veh. Code § 11713.3(o)(2)(A))?

Vehicle Code section 11713.3(o)(2)(A) provides that after a showing of good cause by a manufacturer or distributor that it needs additional time to operate a dealership in preparation for sale to a successor independent franchisee, the Board may extend (beyond one year) the time period. The Board regulation (Section 565 of Title 13 of the California Code of Regulations, hereinafter 13 CCR § 565) establishes the timeframe and procedure for filing a request for an extension of the one-year time period in Part A.

The manufacturer or distributor is required to give written notice of its intention to seek an extension of time for good cause shown to the Board and to each franchisee operating a dealership of the same line-make within the relevant market area, i.e., an impacted dealer.

The written notice is required to meet a prescribed format that is like other statutorily required notices in the Vehicle Code. The “notice to dealer” language below must be on the first page of the written notice, in at least 12-point bold type, and circumscribed by a line to segregate it from the rest of the text. (13 CCR § 565(c))

NOTICE TO DEALER: If you oppose this request, you may send a letter to the NEW MOTOR VEHICLE BOARD in Sacramento and have your opposition considered by the board. You must file your opposition with the board within 20 days of your receipt of this notice.

Upon receipt of a request for extension of time, the Board will notify each franchisee of the same line-make within the relevant market area, that a timely request has been received, that the franchisee has the opportunity to send a letter to the Board opposing the request and have that opposition considered by the Board at its next scheduled meeting, and that the status quo will be maintained until the Board acts upon the request for extension. (13 CCR § 565(d))

What Steps Are Necessary to File a Request for an Extension of Time?

Steps Necessary to File a Request for Extension of Time	Completed ✓
Sixty days prior to the expiration of the one-year period, the manufacturer or distributor shall give written notice of its intention to seek an extension of time for good cause shown to the Board and to each franchisee operating a dealership of the same line-make within the relevant market area. (13 CCR § 565(b) and (l))	
A list of all franchisees operating a dealership of the same line-make within the relevant market area shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(1))	
A statement of facts detailing the specific need for the extension of time shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(2))	
The requested expiration date of the extension shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(3))	
A chronology of actions both taken and planned by the manufacturer or distributor to prepare for the sale of the franchise to a successor independent franchisee shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(4))	
A statement to the effect that the information required in 13 CCR § 565(g)(2)-(4) has been provided to each franchisee operating a dealership of the same line-make within the relevant market area shall be provided to the Board along with the request for extension. (13 CCR § 565 (g)(5))	
A statement that the requesting party does or does not agree that the dealer members of the Board may participate in the consideration of the request shall be provided to the Board along with the request for extension. (13 CCR § 565(g)(6))	

Requests that are not timely received will not be considered by the Board and will be deemed denied.

What is the Procedure after the Board Receives a Timely Request for Extension of Time?

Upon the timely filing of a request for extension, a copy of the request is forwarded to the members of the Board. Unless the manufacturer or distributor consents to dealer member participation (13 CCR § 565(g)(6)), the matter is considered by the public members only.¹⁴

In determining whether good cause has been shown for granting the request for an extension of time, the Board shall take into consideration the existing circumstances, the written request, written responses in opposition to the request, and comments of interested parties. (13 CCR § 565(e)(1)-(3))

The members of the Board have 30 days from receipt of the request for extension to review it. Any time during the 30-day period, a Board member objection to the request can be lodged with the Executive Director. Within 20 days of receiving the notice, any franchisee required to be given notice may file an opposition to the request for an extension of time. (13 CCR § 565(m)) If there have been no timely objections to the request for extension by the members of the Board and no timely oppositions by impacted dealers have been received, then the Executive Director shall grant the extension. (13 CCR § 565(h)) The granting of the extension occurs without the requirement of a noticed Board meeting.

What is the Procedure if the Board Objects or an Impacted Dealer Opposes the Request for Extension?

In the event of a timely notice of objection to the request for extension by a member of the Board and/or a timely opposition by an impacted dealer has been received, the matter shall be considered by the Board at its next scheduled meeting. (13 CCR § 565(i)) The Executive Director notifies the manufacturer or distributor that the matter will be considered by the Board at its next scheduled meeting and that the status quo will be maintained until the Board acts upon the request. The manufacturer and impacted dealer(s), if any, shall be given at least 10 days notice of the time, date, and location of the Board meeting at which the request will be considered. (13 CCR § 565(j)) The Board meets approximately every 6-to-8 weeks. However, if necessary, a Special Board meeting could be scheduled. Depending on the location of the parties, the meeting could be held in Sacramento, San Francisco, or Los Angeles.¹⁵

What Notices Are Required with Respect to Factory Ownership of a Dealership as Part of a Dealer Development Program?

Under Part B of Vehicle Code section 11713.3(o) (see discussion on page 14), every manufacturer, branch, and distributor that owns an interest in a dealer as part of a bona fide dealer development program as defined is required to give written notice to the Board, **annually**, of the name and location of each dealer in which it has an ownership interest, the name of the bona fide dealer development owner or owners, and the ownership interests of each owner expressed as a percentage.

The statute does not specify when the annual notice should be sent to the Board. Every January, the Board staff remind the industry of this obligation.

¹⁴ The Board consists of nine members. Four members are licensed new motor vehicle dealers and five members are from the general public. In most instances, dealer members are precluded from participating in matters involving disputes between a dealer and manufacturer or distributor. In Article 4 protests (involving cars, motorcycles, and ATVs), dealer members may participate if both parties so stipulate. Dealer members participate in Article 5 recreational vehicle protests unless a dealer Board member also owns and/or has a financial interest in a recreational vehicle dealership. Both parties can stipulate to allow the dealer member to participate in this instance.

¹⁵ ~~Currently, Board meetings are being conducted by Zoom and teleconference.~~

What Is a Motor Vehicle Warranty Adjustment Program?

Manufacturers and distributors occasionally establish a motor vehicle warranty adjustment program (“hidden warranties.”) Civil Code section 1795.92 provides that “[a] manufacturer **shall**, within 90 days of the adoption of an adjustment program,¹⁶ subject to priority for safety or emission-related recalls, notify by first-class mail all owners or lessees of motor vehicles eligible under the program of the condition giving rise to and the principal terms and conditions of the program.” (Emphasis added.) Copies of all notices mailed shall be sent to the Board. (Civil Code § 1795.92(b)) The Board’s preference is to receive these notices by email at nmvp@nmvp.ca.gov.

What Is the Consequence of Failing to File or to Timely File a Statutorily Required Notice, Schedule, or Formula?

Vehicle Code section 3050(b)(3) gives the Board power to “[o]rder the department [DMV] to exercise any and all authority or power that the department [DMV] may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation of the license of any new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as that license is required under Chapter 4 (commencing with Section 11700) of Division 5.” (See 13 CCR § 593.3) Depending on the facts and circumstances in a particular case, the Board may exercise this power for inadequate filing of statutorily required notices.

¹⁶ Civil Code section 1795.90 defines “adjustment program” as “any program or policy that expands or extends the consumer’s warranty beyond its stated limit or under which a manufacturer offers to pay for all or any part of the cost of repairing, or to reimburse consumers for all or any part of the cost of repairing, any condition that may substantially affect vehicle durability, reliability, or performance, other than service provided under a safety or emission-related recall campaign. ‘Adjustment program’ does not include ad hoc adjustments made by a manufacturer on a case-by-case basis.”

Sample 15-Day Termination Notice

Date

Name of Manufacturer/Distributor
Address

Name of Impacted Dealer
Address

Re: 15-Day Notice of Termination (Veh. Code §§ 3060(a) or 3070(a))

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 10 calendar days after receiving this notice or within 10 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.

Dear _____:

Identify the specific reasons for seeking termination of the franchise set forth in California Vehicle Code section 3060(a)(1)(B) or 3070(a)(1)(B).

Sincerely,

Manufacturer/Distributor

cc: New Motor Vehicle Board

This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.

Sample 60-Day Termination or Refusal to Continue Notice

Date

Name of Manufacturer/Distributor
Address

Name of Impacted Dealer
Address

Re: 60-Day Notice of Termination or Refusal to Continue
(Veh. Code §§ 3060(a) or 3070(a))

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the termination of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days after receiving this notice or within 30 days after the end of any appeal procedure provided by the franchisor or your protest right will be waived.

Dear _____:

Identify the reasons for terminating or refusing to continue the franchise.

Sincerely,

Manufacturer/Distributor

cc: New Motor Vehicle Board

This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.

Sample Modification Notice

Date

Name of Manufacturer/Distributor
Address

Name of Impacted Dealer
Address

Re: 60-Day Notice of Modification (Veh. Code §§ 3060(b) or 3070(b))

NOTICE TO DEALER: Your franchise agreement is being modified or replaced. If the modification or replacement will substantially affect your sales or service obligations or investment, you have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing in which you may protest the proposed modification or replacement of your franchise under provisions of the California Vehicle Code. You must file your protest with the board within 30 calendar days of your receipt of this notice or within 30 days after the end of any appeal procedure provided by the franchisor-or your protest rights will be waived.

Dear _____:

Detail information pertaining to the proposed modification or replacement of the franchise agreement.

Sincerely,

Manufacturer/Distributor

cc: New Motor Vehicle Board

This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.

Sample Establishment or Relocation Notice

Date

Name of Manufacturer/Distributor

Address

Name of Impacted Dealer

Address

Re: Notice of Establishment or Relocation (Veh. Code §§ 3062(a)(1) or 3072(a)(1))¹

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.

Dear _____:

Designate the location of the site for the proposed establishment of a new dealership, or relocation of an existing dealership, where there is already an existing dealership of the same line-make within the “relevant market area” (that area within a radius of 10 miles of the proposed location.)

Sincerely,

Manufacturer/Distributor

cc: New Motor Vehicle Board

This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.

¹ The last sentence in the “Notice to Dealer” language in Section 3072(a)(2) contains commas as follows: “If, within this time, you file with the board...”

Sample Establishment or Relocation of a Satellite Warranty Facility Notice

Date

Name of Manufacturer/Distributor
Address

Name of Impacted Dealer
Address

Re: Notice of Establishment or Relocation of a Satellite Warranty Facility (Veh. Code § 3062(a)(2))

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.

Dear _____:

Designate the location of the site for the proposed establishment of a new satellite warranty facility or relocation of an existing satellite warranty facility that is within two miles of any dealership of the same line-make.

Sincerely,

Manufacturer/Distributor

cc: New Motor Vehicle Board

This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.

Sample Off-Site Sale Notice

Date

Name of Manufacturer/Distributor

Address

Name of Impacted Dealer

Address

Re: Notice of Off-Site Sale (Veh. Code §§ 3062(c) or 3072(b)(3))¹

NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If within this time you file with the board a request for additional time to file a protest, the board or its executive director, upon a showing of good cause, may grant you an additional 10 days to file the protest.

Dear _____:

Detail information pertaining to the proposed off-site sale where there is an existing dealership of the same line-make within a radius of 10 miles of the location proposed for the off-site sale.²

Sincerely,

Manufacturer/Distributor

cc: New Motor Vehicle Board

This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.

¹ The last sentence in the “Notice to Dealer” language in Section 3072(a)(2) contains commas as follows: “If, within this time, you file with the board...”

² For recreational vehicles, the California RV Show sponsored by the Recreation Vehicle Industry Association is exempt from the 3072 notice requirements.

Sample Notice of Request for Extension of Time

Date

Name of Manufacturer/Distributor

Address

Name of Impacted Dealer

Address

Re: Notice of Request for Extension of Time (Veh. Code § 11713.3(o) and 13 CCR § 565)

NOTICE TO DEALER: If you oppose this request, you may send a letter to the NEW MOTOR VEHICLE BOARD in Sacramento and have your opposition considered by the board. You must file your opposition with the board within 20 days of your receipt of this notice.

Dear _____:

Detail information pertaining to the request for extension of time for good cause shown, including, but not limited to, the following:

A list of all franchisees operating a dealership of the same line-make within the relevant market area (13 CCR § 565(g)(1)).

A statement of facts detailing the specific need for the extension of time (13 CCR § 565(g)(2)).

The requested expiration date of the extension (13 CCR § 565(g)(3)).

A chronology of actions both taken and planned by the manufacturer or distributor to prepare for the sale of the franchise to a successor independent franchisee (13 CCR § 565(g)(4)).

A statement to the effect that the information required in Title 13 of the California Code of Regulations section 565(g)(2)-(4) has been provided to each franchisee operating a dealership of the same line-make within the relevant market area (13 CCR § 565(g)(5)).

A statement that the requesting party does or does not agree that the dealer members of the Board may participate in the consideration of the request (13 CCR § 565(g)(6)).

Sincerely,

Manufacturer/Distributor

cc: New Motor Vehicle Board

This sample provides a basic means for drafting a notice for filing with the Board but should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable about the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.



***EXECUTIVE
DIRECTOR'S
REPORT***

March 30, 2022

A.

ADMINISTRATIVE MATTERS

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
ADMINISTRATION COMMITTEE			
1. <u>Revise the Board's Logo</u> Tim Corcoran, Dawn Kindel; Administration Committee	Consider whether to revise the Board's current logo that is on publications and letterhead to reflect the logo used in the Industry Roundtable marketing materials.	June 2022	In progress. This will be discussed at the June 15, 2022, General Meeting.
2. <u>Update Guide to the New Motor Vehicle Board</u> Robin Parker; Administration Committee	Update the <i>Guide to the New Motor Vehicle Board</i> to incorporate statutory and regulatory changes.	March 2022	In progress. The revised Guide will be considered at the March 30, 2022, General Meeting.
3. <u>Update concerning the Board's website</u> Dawn Kindel, Holly Victor, Lee Moore; Administration Committee	Update regarding the use and development of the Board's website.	March 2022	In progress. This will be discussed at the March 30, 2022, General Meeting. All future updates will be provided solely via the monthly Administrative Matters Report.
4. <u>Update concerning moving the Board's Offices to DMV Headquarters</u> Tim Corcoran, Dawn Kindel; Administration Committee	Update regarding moving of the Board's Offices upon the expiration of the current lease to DMV Headquarters.	Ongoing	In progress. An update will be given at the June 15, 2022, General Meeting.
BOARD DEVELOPMENT COMMITTEE			
1. <u>Solon C. Soteris Employee Recognition Award Recipient</u> Tim Corcoran; Board Development Committee	Compile the nominations provided by staff and select a nominee for the Solon C. Soteris Employee Recognition Award.	Winter 2022	In progress. The nominee will be considered at the Winter 2022 General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
FISCAL COMMITTEE			
1. <u>Quarterly Financial Reports</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	Quarterly reports on the Board's financial condition and related fiscal matters.	Ongoing	In progress.
2. <u>Report Concerning Out-of-State Travel Plans</u> Dawn Kindel; Fiscal Committee	The staff will provide a report concerning the out-of-state travel plans for the upcoming fiscal year.	Ongoing	Out-of-state travel plans are not permitted under current restrictions. Plans for fiscal year 2023-2024 will be discussed at a future meeting.
3. <u>Proposed Board Budget for the Next Fiscal Year</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	The staff in conjunction with the Fiscal Committee will discuss and consider the Board's proposed Budget for fiscal year 2022-2023.	June 2022	In progress. The 2022-2023 Budget will be presented for consideration at the June 15, 2022, General Meeting.
4. <u>Status Report on the Collection of Fees for the Arbitration Certification Program</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	The staff will provide a report concerning the annual fee collection for the Department of Consumer Affairs, Arbitration Certification Program.	June 2022	In progress. A status report will be provided at the June 15, 2022, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE			
1. <u>Host Industry Roundtable</u> Tim Corcoran, Dawn Kindel, Danielle Phomsopha; Government and Industry Affairs Committee and Ad Hoc Committee on Equity, Justice and Inclusion	Host the traditional Industry Roundtable with representatives from car, truck, motorcycle and recreational vehicle manufacturers/ distributors, dealers, in-house and outside counsel, associations and other government entities. This year's focus will be on Equity and EVs and will be jointly hosted with the Ad Hoc Committee on Equity, Justice and Inclusion.	TBD	In progress. The Industry Roundtable for 2022 will be discussed at the March 30, 2022, General Meeting.
2. <u>Host Board Administrative Law Judge Roundtable</u> Robin Parker, Danielle Phomsopha; Board Development Committee	Host a Board Administrative Law Judge ("ALJ") Roundtable for purposes of education and training. Provide an opportunity for the ALJs to meet in an informal setting, exchange ideas, and offer suggestions to improve the case management hearing process.	TBD	In progress. An ALJ Roundtable will be scheduled in 2022.
LEGISLATIVE COMMITTEE			
1. <u>Review of Pending Legislation</u> Tim Corcoran, Danielle Phomsopha; Legislative Committee	The staff will provide an overview of pending legislation of special interest and general interest.	March 2022	In progress. A report will be provided at the March 30, 2022, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
POLICY AND PROCEDURE COMMITTEE			
1. <u>Update the Informational Guide for Manufacturers and Distributors</u> Robin Parker; Policy and Procedure Committee	Update the <i>Informational Guide for Manufacturers and Distributors</i> .	March 2022	In progress. The revised Guide will be presented at the March 30, 2022, General Meeting.
2. <u>Draft the Export or Sale-For-Resale Prohibition Policy Guide</u> Robin Parker; Policy and Procedure Committee	Draft the <i>Export or Sale-For-Resale Prohibition Policy Guide</i> for Vehicle Code section 3085 protests filed by an association, as defined.	March 2022	In progress. The revised Guide will be presented at the March 30, 2022, General Meeting.
3. <u>Update New Motor Vehicle Board Administrative Law Judges Benchbook</u> Robin Parker; Policy and Procedure Committee	Update the <i>New Motor Vehicle Board Administrative Law Judge's Benchbook</i> .	June 2022	In progress. The revised ALJ Benchbook will be considered at the June 15, 2022, General Meeting.
4. <u>Promulgate Amendment to the Board's Conflict of Interest Code</u> Danielle Phomsopha; Policy & Procedure Committee	In compliance with the Administrative Procedure Act, amend the Board's Conflict of Interest Code as set forth in Section 599 of Title 13 of the California Code of Regulations. Staff identified language that needs to be updated to reflect Dawn Kindel's promotion to a Staff Services Manager II.	June 2022	In progress. The Board approved the text at the February 16, 2021, General Meeting. Approval is pending with the Fair Political Practices Commission.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
<u>5. Promulgate Regulatory Amendments to Sections 550.20 and 564 of Title 13 of the California Code of Regulations</u> Danielle Phomsopha; Policy & Procedure Committee	In compliance with the Administrative Procedure Act, repeal Section 550.20 of the Board's regulations and amend Section 564 to delete the reference to registered mail.	December 2022	In progress. The Board approved the text at the December 7, 2021 General Meeting. The staff will proceed with rulemaking.
<u>Report on the Assignment of Cases to Board Administrative Law Judges</u> Danielle Phomsopha; Policy and Procedure Committee	Annual report on the assignment of cases to Board Administrative Law Judges ("ALJs").	January 2022	<u>Completed</u> The members were provided with at the January 12, 2022, General Meeting.
<u>Annual Rulemaking Calendar</u> Danielle Phomsopha; Policy and Procedure Committee	Consideration of the annual rulemaking calendar.	January 2022	<u>Completed</u> The members adopted the 2022 Rulemaking Calendar at the January 12, 2022, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
EXECUTIVE COMMITTEE			
AD HOC COMMITTEE ON EQUITY, JUSTICE AND INCLUSION			
1. <u>Develop Strategies for Board Consideration</u> Tim Corcoran, Danielle Phomsopha; Ad Hoc Committee	Develop strategies for the Board's consideration, which advance California State Transportation Agency's stated goal of "Enhancing the lives of all Californians – particularly people of color and disadvantaged communities..." Draft a Mission Statement for consideration by the full Board.	Ongoing	In progress. At the February 16, 2021, General Meeting, the full Board revised the Mission Statement previously adopted by the Ad Hoc Committee at its January 19, 2021, meeting. This statement was reviewed and amended at the August 27, 2021, Special Meeting. The 2022 Industry Roundtable will encompass discussions on Equity and EVs.
2. <u>Host Industry Roundtable</u> Tim Corcoran, Dawn Kindel, Danielle Phomsopha; Government and Industry Affairs Committee and Ad Hoc Committee on Equity, Justice and Inclusion	Host the traditional Industry Roundtable with representatives from car, truck, motorcycle and recreational vehicle manufacturers/ distributors, dealers, in-house and outside counsel, associations and other government entities. This year's focus will be on Equity and EVs and will be jointly hosted with the Government and Industry Affairs Committee.	TBD	In progress. The Industry Roundtable for 2022 will be discussed at the March 30, 2022, General Meeting.

B. CASE MANAGEMENT

CASE VOLUME

DECEMBER 28, 2021 THROUGH MARCH 11, 2022

VEHICLE CODE SECTION	DESCRIPTION	NEW CASES	RESOLVED CASES	PENDING CASES
3060	Termination	1	0	12
3060	Modification	0	1	2
3062	Establishment	3	2	12
3062	Relocation	1	0	1
3062	Off-Site Sale	0	0	0
3064	Delivery/Preparation Obligations	0	0	0
3065	Warranty Reimbursement	2	1	11
3065.1	Incentive Program Reimbursement	0	4	5
3065.3	Performance Standard	1	1	2
3065.4	Retail Labor Rate or Retail Parts Rate	1	0	13
3070	Termination	1	0	1
3070	Modification	0	0	0
3072	Establishment	0	0	0
3072	Relocation	0	0	0
3072	Off-Site Sale	0	0	0
3074	Delivery/Preparation Obligations	0	0	0
3075	Warranty Reimbursement	0	0	0
3076	Incentive Program Reimbursement	0	0	0
3085	Export or Sale-for-Resale	0	0	0
3050(b)	Petition	0	0	1
TOTAL CASES:		10	9	60

PENDING CASES

BY CASE NUMBER

ABBREVIATIONS			
ALJ	Administrative Law Judge	Bd.Mtg.	Board Meeting
HRC	Hearing Readiness Conference	IFU	Informal Follow-Up
MH	Merits Hearing	CMH	Continued Merits Hearing
RMH	Resumed Merits Hearing	MSC	Mandatory Settlement Conference
CMSC	Continued Mandatory Settlement Conference	RMSC	Resumed Mandatory Settlement Conference
MTCP	Motion to Compel Production	MTC	Motion to Continue
MTD	Motion to Dismiss	PHC	Pre-Hearing Conference
CPHC	Continued Pre-Hearing Conference	RPHC	Resumed Pre-Hearing Conference
PD	Proposed Decision	POS	Proof of Service
PSDO	Proposed Stipulated Decision and Order	ROB	Ruling on Objections
CROB	Continued Ruling on Objections	RROB	Resumed Ruling on Objections
SC	Status Conference	CSC	Continued Status Conference
RFD	Request for Dismissal		
* Consolidated, non-lead case			

Protests

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
1. PR-2501-17 1-19-17	Parties working on settlement agreement	Stevens Creek Luxury Imports, Inc. dba AutoNation Maserati Stevens Creek v. Maserati North America, Inc.	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Randy Oyler, Bob Davies, Mary Stewart	Modification
2. PR-2506-17* 1-23-17	Parties working on settlement agreement	Rusnak/Pasadena, dba Rusnak Maserati of Pasadena v. Maserati North America, Inc.	P: Christian Scali R: Randy Oyler, Bob Davies, Mary Stewart	Modification
3. PR-2570-18 8-22-18 Reopened 9-4-20	PSDO dispute submitted to ALJ for decision	Courtesy Automotive Group, Inc., dba Courtesy Subaru of Chico v. Subaru of America, Inc.	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Lisa M. Gibson, Crispin Collins	Termination/ PSDO Dispute

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
4. PR-2673-20 6-4-20	Findings after Remand pending	Bonander Auto, Truck & Trailer, Inc., a California Corporation v. Daimler Truck North America, LLC	P: Andrew Stearns R: Megan O. Curran, Dyana K. Mardon, Roberta F. Howell	Termination
5. PR-2704-20 10-26-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Santa Monica Motor Group dba Santa Monica Chrysler Jeep Dodge RAM v. FCA US LLC (Chrysler)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment
6. PR-2705-20* 10-26-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Santa Monica Motor Group dba Santa Monica Chrysler Jeep Dodge RAM v. FCA US LLC (Dodge)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment
7. PR-2706-20* 10-26-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Santa Monica Motor Group dba Santa Monica Chrysler Jeep Dodge RAM v. FCA US LLC (Jeep)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment
8. PR-2707-20* 10-26-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Santa Monica Motor Group dba Santa Monica Chrysler Jeep Dodge RAM v. FCA US LLC (RAM)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
9. PR-2708-20* 10-28-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Los Angeles Motor Cars, Inc., dba Los Angeles Chrysler Dodge Jeep RAM v. FCA US LLC (Chrysler)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment
10. PR-2709-20* 10-28-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Los Angeles Motor Cars, Inc., dba Los Angeles Chrysler Dodge Jeep RAM v. FCA US LLC (Dodge)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment
11. PR-2710-20* 10-28-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Los Angeles Motor Cars, Inc., dba Los Angeles Chrysler Dodge Jeep RAM v. FCA US LLC (Jeep)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment
12. PR-2711-20* 10-28-20	HRC: 2-2-23 MH: 3-6-23 (10 days)	Los Angeles Motor Cars, Inc., dba Los Angeles Chrysler Dodge Jeep RAM v. FCA US LLC (RAM)	P: Gavin Hughes, Robert Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Corey R. Nevers, Crispin Collins	Establishment
13. PR-2717-20 11-19-20	RSC: 4-13-22	Patriot Hyundai of El Monte, LLC, dba Patriot Hyundai of El Monte v. Hyundai Motor America (15-day notice)	P: Timothy D. Robinett R: Richard H. Otera, Lauren A. Deeb, Jessica M. Higashiyama	Termination

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
14. PR-2718-20* 12-9-20	RSC: 4-13-22	Patriot Hyundai of El Monte, LLC, dba Patriot Hyundai of El Monte v. Hyundai Motor America (60-day notice)	P: Timothy D. Robinett R: Richard H. Otera, Lauren A. Deeb, Jessica M. Higashiyama	Termination
15. PR-2719-21 1-20-21	Protest stayed pending outcome of warranty/ incentive protests.	YNOT6 I, LLC, a California limited liability company, dba Russell Westbrook Hyundai of Anaheim v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Termination
16. PR-2720-21* 1-20-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	YNOT6 I, LLC, a California limited liability company, dba Russell Westbrook Hyundai of Anaheim v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Warranty
17. PR-2721-21* 1-20-21	Protest stayed pending outcome of warranty/ incentive protests.	M&N Dealerships X, LLC, an Oregon limited liability company, dba Temecula Hyundai v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Termination
18. PR-2722-21* 1-20-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	M&N Dealerships X, LLC, an Oregon limited liability company, dba Temecula Hyundai v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Warranty

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
19. PR-2723-21* 1-20-21	Protest stayed pending outcome of warranty/ incentive protests.	YNOT6 II, LLC, a California limited liability company, dba Russell Westbrook Hyundai Of Garden Grove v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Termination
20. PR-2724-21* 1-20-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	YNOT6 II, LLC, a California limited liability company, dba Russell Westbrook Hyundai Of Garden Grove v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Warranty
21. PR-2725-21* 1-20-21	Protest stayed pending outcome of warranty/ incentive protests.	YNOT6 III, LLC, a California limited liability company, dba Huntington Beach Hyundai v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Termination
22. PR-2726-21* 1-20-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	YNOT6 III, LLC, a California limited liability company, dba Huntington Beach Hyundai v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Warranty
23. PR-2727-21* 1-21-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	YNOT6 I, LLC, a California limited liability company, dba Russell Westbrook Hyundai of Anaheim v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Franchisor Incentive

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
24. PR-2728-21* 1-21-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	M&N Dealerships X, LLC, an Oregon limited liability company, dba Temecula Hyundai v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Franchisor Incentive
25. PR-2729-21* 1-21-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	YNOT6 II, LLC, a California limited liability company dba Russell Westbrook Hyundai of Garden Grove v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Franchisor Incentive
26. PR-2730-21* 1-21-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	YNOT6 III, LLC, a California limited liability company, dba Huntington Beach Hyundai v. Hyundai Motor America, a California Corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Franchisor Incentive
27. PR-2731-21* 1-22-21	HRC: 6-17-22 MH: 8-1-22 (15 days)	YNOT6 III, LLC, a California limited liability company, fdba Genesis of Huntington Beach v. Genesis Motor America, LLC, a California limited liability company	P: Alton G. Burkhalter, Ros M. Lockwood R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Warranty
28. PR-2732-21 2-11-21	RSC: 4-13-22	Patriot Hyundai of El Monte, LLC, dba Patriot Hyundai of El Monte v. Hyundai Motor America	P: Timothy D. Robinett R: Richard H. Otera, Lauren A. Deeb, Jessica M. Higashiyama	Warranty

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
29. PR-2733-21* 2-11-21	RSC: 4-13-22	Patriot Hyundai of El Monte, LLC, dba Patriot Hyundai of El Monte v. Hyundai Motor America	P: Timothy D. Robinett R: Richard H. Otera, Lauren A. Deeb, Jessica M. Higashiyama	Franchisor Incentive
30. PR-2736-21 4-27-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (Chrysler)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Labor Rate
31. PR-2737-21* 4-27-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (Dodge)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Labor Rate
32. PR-2738-21* 4-27-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (Jeep)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Labor Rate
33. PR-2739-21* 4-27-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (RAM)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Labor Rate

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
34. PR-2742-21 6-17-21	Parties setting briefing schedule re: Motion to Dismiss	Creative Bus Sales, Inc., a California corporation v. Greenpower Motor Company, Inc., a Delaware corporation	P: Halbert B. Rasmussen, Jade F. Jurdi R: David L. Jordan, Myles A. Lanzon, David C. Gurnick	Termination
35. PR-2743-21 7-12-21	Parties setting briefing schedule re: Motion to Dismiss	Creative Bus Sales, Inc., a California corporation v. Greenpower Motor Company, Inc., a Delaware corporation	P: Halbert B. Rasmussen, Jade F. Jurdi R: David L. Jordan, Myles A. Lanzon, David C. Gurnick	Performance Standard
36. PR-2744-21 9-23-21	HRC: 8-10-22 MH: 9-26-22 (15 days)	Downey Hyundai, Inc., dba Downey Hyundai v. Hyundai Motor America	P: Gavin Hughes, Robert Mayville, Jr. R: John P. Streelman, Jacob F. Fischer, Crispin Collins	Warranty
37. PR-2745-21 9-24-21	HRC: 7-22-22 MH: 9-19-22 (5 days)	D&G Lin, LLC v. Maserati North America, Inc.	P: Jason B. Cruz R: Randy Oyler, Travis Eliason, Alissa Brice Castaneda	Termination
38. PR-2746-21* 9-30-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (Chrysler)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Parts Rate
39. PR-2747-21* 9-30-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (Dodge)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Parts Rate

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
40. PR-2748-21* 9-30-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (Jeep)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Parts Rate
41. PR-2749-21* 9-30-21	MH: 5-23-22 (5 days)	Putnam Automotive, Inc., dba Putnam Chrysler Jeep Dodge RAM v. FCA US LLC (RAM)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Christopher T. Carry, Crispin Collins	Retail Parts Rate
42. PR-2750-21 10-26-21	ROB: 3-21-22 HRC: 9-9-22 MH: 11-1-22 (4 days)	Putnam Automotive, Inc., dba Putnam Chevrolet Cadillac v. General Motors LLC (Buick)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: James C. McGrath, Katherine R. Moskop, Dean A. Martoccia	Retail Labor Rate
43. PR-2751-21* 10-26-21	ROB: 3-21-22 HRC: 9-9-22 MH: 11-1-22 (4 days)	Putnam Automotive, Inc., dba Putnam Chevrolet Cadillac v. General Motors LLC (Cadillac)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: James C. McGrath, Katherine R. Moskop, Dean A. Martoccia	Retail Labor Rate
44. PR-2752-21* 10-26-21	ROB: 3-21-22 HRC: 9-9-22 MH: 11-1-22 (4 days)	Putnam Automotive, Inc., dba Putnam Chevrolet Cadillac v. General Motors LLC (Chevrolet)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: James C. McGrath, Katherine R. Moskop, Dean A. Martoccia	Retail Labor Rate

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
45. PR-2753-21* 10-26-21	ROB: 3-21-22 HRC: 9-9-22 MH: 11-1-22 (4 days)	Putnam Automotive, Inc., dba Putnam Chevrolet Cadillac v. General Motors LLC (GMC)	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: James C. McGrath, Katherine R. Moskop, Dean A. Martoccia	Retail Labor Rate
46. PR-2754-21 12-7-21	RPHC: 3-11-22	Auto Gallery, Inc., dba Auto Gallery Mitsubishi - Corona v. Mitsubishi Motors North America, Inc.	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Dean A. Martoccia	Warranty
47. PR-2755-21* 12-7-21	RPHC: 3-11-22	Soraya, Inc., dba Auto Galley Mitsubishi - Murrieta v. Mitsubishi Motors North America, Inc.	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Dean A. Martoccia	Warranty
48. PR-2756-21 12-8-21	Settlement pending	Emergency Vehicle Group, Inc., a Nevada Corporation v. REV Ambulance Group Orlando, Inc., a Florida corporation	P: Alton G. Burkhalter, Ros M. Lockwood R: Mark T. Clouatre, Crispin Collins	Termination
49. PR-2758-21 12-27-21	RPHC: 3-28-22	Nicholas K Corporation dba The Ford Store San Leandro v. Ford Motor Company	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Steven M. Kelso, H. Camille Papini- Chapla, Christopher Mair	Establishment

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
50. PR-2579-21 12-31-21	Parties going to private mediation	KPAuto, LLC, dba Putnam Ford of San Mateo v. Ford Motor Company	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Steven M. Kelso, Gwen J. Young, H. Camille Papini- Chapla	Retail Labor Rate
51. PR-2760-22 1-14-22	Counsel are working on proposed dates	Sacramento Motorcars LLC, dba Nissan of Elk Grove v. Nissan North America	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Dean A. Martoccia	Warranty
52. PR-2761-22 1-28-22	Counsel are working on proposed dates	Perris Valley Kia, Inc., dba Perris Valley Kia v. Kia America, Inc.	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Paul B. Salvaty	Performance Standard
53. PR-2762-22 1-31-22	Parties setting schedule	GPO CA-SV Inc. dba Volkswagen Kearny Mesa, Delaware corporation v. Volkswagen Group of America, Inc., a New Jersey corporation	P: Victor P. Danhi, Franjo M. Dolenac R: Steven B. McFarland, Patrick D. Quinn, Shawtina Lewis	Relocation
54. PR-2763-22 2-2-22	IFU: 3-11-22	Downey Hyundai, Inc., dba Downey Hyundai v. Hyundai Motor America	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Mark T. Clouatre, John P. Streelman, Adrienne L. Toon, Crispin Collins	Establishment

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
55. PR-2764-22 2-7-22	Parties setting schedule	Infinite Velocity Automotive, Inc., dba F H Dailey Chevrolet v. General Motors LLC	P: Gavin M. Hughes, Robert A. Mayville, Jr. R: Mark T. Clouatre, Jacob F. Fischer, Crispin Collins	Establishment
56. PR-2765-22 2-15-22	RPHC: 3-17-22	Rally Auto Group, Inc. v. Kia America, Inc.	P: Victor P. Danhi, Franjo M. Dolenac, George Koumbis R: Michael L. Turrill	Termination
57. PR-2766-22 2-22-22	IFU: 3-28-22	Silver Star Motor Car Company dba Silver Star Cadillac v. General Motors LLC	P: Aaron H. Jacoby, Franjo M. Dolenac R: James C. McGrath, William F. Benson, Ashley Smith	Establishment
58. PR-2767-22 2-28-22	PHC: 3-16-22	Central Valley Automotive, Inc. dba Central Valley Nissan v. Nissan North America	P: Gavin M. Hughes, Robert A. Mayville, Jr R: Appearance pending	Warranty
59. PR-2768-22 3-7-22	PHC: 3-22-22	Johnson RV v. Grech Motors, Inc., a Nevada Corporation; Grech RV, Inc., a California Corporation	P: Bryan L. Hawkins, Robert A. Sarkisian R: Appearance pending	RV Termination

PENDING CASES

BY CASE NUMBER

Petitions

CASE NUMBER/ DATE FILED	STATUS	PETITION	COUNSEL
1. P-462-21 7-12-21	Potentially scheduled for 6-15-22 Board Meeting.	Creative Bus Sales, Inc., a California corporation v. Greenpower Motor Company, Inc., a Delaware corporation	P: Halbert B. Rasmussen, Jade F. Jurdi R: David L. Jordan, Myles A. Lanzon, David C. Gurnick

C. JUDICIAL REVIEW

Judicial Review

Either the Protestant/Petitioner/Appellant or Respondent seeks judicial review of the Board's Decision or Final Order by way of a petition for writ of administrative mandamus (Code of Civil Procedure, § 1094.5). The writ of mandamus may be denominated a writ of mandate (Code of Civil Procedure, § 1084).

1. BARBER GROUP, INC., dba BARBER HONDA, a California corporation v. CALIFORNIA NEW MOTOR VEHICLE BOARD, a California state agency; AMERICAN HONDA MOTOR CO., INC., a California corporation, and GALPINSFIELD AUTOMOTIVE, LLC
Court of Appeal, Third Appellate District No. C095058
Sacramento County Superior Court No. 34-2020-80003479
New Motor Vehicle Board No. CRT-279-20
Protest No. PR-2539-17

At the July 10, 2020, Special Meeting, the Public Members of the Board adopted ALJ Dwight Nelsen's Proposed Decision as the Board's final Decision. The Decision overruled the protest and permitted American Honda to proceed with the establishment of Galpinsfield Automotive, LLC at the proposed location in North Bakersfield.

On August 27, 2020, Barber Honda filed a "Verified Petition for Writ of Administrative Mandate, Traditional Mandate and Seeking Stay." The writ was served on September 14, 2020. A copy of the record has been requested.

Barber Honda contends that the Board's actions in adopting the Proposed Decision constitute an abuse of discretion because: (1) The Board's Decision is not supported by the evidence; (2) The Decision is not supported by the findings; (3) Barber Honda was not provided a fair hearing; and (4) The Board's hearing did not proceed in a manner required by law.

Barber Honda requests that the Superior Court consider additional evidence that could not have been produced during the merits hearing or that was improperly excluded at the hearing including the COVID-19 pandemic, higher unemployment in Bakersfield, sharp declines in automotive sales, and the impact to the oil and gas industry in Bakersfield.

Barber Honda seeks the issuance of a peremptory writ of administrative mandate directing the Board to set aside and vacate its Decision and to adopt and issue a new and different decision sustaining the protest. In the alternative, the issuance of a writ of traditional mandate directing the Board to set aside and vacate its Decision and to adopt and issue a new and different decision sustaining the protest. Also, alternatively, Barber Honda seeks the issuance of a writ of administrative or traditional mandate directing the Board to set aside and vacate its Decision and to "consider evidence improperly excluded from the underlying hearing and to issue findings required by Sections 3063 and 11713.13(b)." Barber

Honda also seeks the issuance of a stay pending the judgment of the writ of administrative mandate directing the Board to stay the operation of the Decision until judgment by the court.

Kathryn Doi, Board President, determined that there is an interest in participating in the writ via the Attorney General's Office to address several procedural issues.

The Board's counsel, Michael Gowe, received the bates stamped record on November 30, 2020. Therefore, the Board's answer was filed December 30, 2020. Barber Honda's opening brief was filed Tuesday, April 6, 2021. American Honda's and the Board's opposition briefs were filed Monday, April 26, 2021. Barber Honda's reply briefs were filed Thursday, May 6, 2021. On May 20, 2021, the Court issued a tentative ruling denying the writ. At the May 21, 2021, hearing, the Court took the matter under submission.

On May 26, 2021, the Court requested additional briefing from the Board and Barber Honda on what appears to be an issue of first impression. One of Barber Honda's arguments is that Section 11713.13 required the Board to determine whether certain performance standards established by American Honda are reasonable before it could rely on those standards in reaching its decision. According to the Court, it appears that "registration effectiveness" was critical to both American Honda and to the Board, and was used to establish, at least in part, that there was sufficient opportunity in the Bakersfield market to support a second Honda dealership. The issues to be addressed are:

- Whether an open point protest like the one at issue here is a "proceeding" within the meaning of section 11713.13;
- Whether the Board believes that section 11713.13 is applicable or relevant to this case;
- If the Board believes that section 11713.13 is applicable or relevant to this case, whether section 11713.13 required Honda to prove at the protest hearing that the two performance measures it established – i.e., "registration effectiveness" and, to a lesser extent, "retail sales effectiveness" – are reasonable in light of the factors identified in section 11713.13;
- If the Board believes that section 11713.13 is applicable to this case and that it required Honda to prove that the two performance measures are reasonable, whether the Board's decision must specifically include an analysis of reasonableness or whether the Court may rely on other matters within the Board's decision to conclude that the Board either did or did not determine the reasonableness of the two performance measures.

The Board's supplemental brief was filed on June 18, 2021 and Barber Honda's response was filed June 25. American Honda already addressed this issue in its opposition brief and Galpinsfield had the opportunity to do so they were not permitted to file supplemental briefs.

On July 26, 2021, the Court issued its final order denying the petition for writ of mandate. The following provides an overview of the Court's conclusions:

- a. The Board did not err in allowing Galpinsfield to exercise a peremptory challenge.
- b. The Board was not required to take official notice of the pandemic and its effects and was not required to grant Barber Honda's request for official notice.
- c. Vehicle Code section 3065.3 did not and could not apply to Barber Honda's protest because it did not go into effect until January 1, 2020, and Barber Honda's protest was filed in 2017.
- d. The reasonableness of American Honda's performance standards is not one of the circumstances or issues the Board is directed to consider when determining whether Barber Honda met its burden of proof. Similarly, the Board is not directed to consider whether Barber Honda is or is not meeting American Honda's performance standards. Instead, the critical issue in this case is whether the market can support another dealer. Section 3066 assigns Barber Honda the burden of proof to establish there is good cause not to allow American Honda to open another dealership in the area, and that burden remains with Barber Honda at all times. The Court found that "the Board was not required to explicitly determine or make findings about whether American Honda's performance standards are reasonable before relying on them - at least in part - when deciding this case."
- e. The findings and decision are supported by the evidence. The Court was unpersuaded by Barber Honda's arguments and spent a number of pages detailing why.

The Notice of Entry of Judgment was served on August 23, 2021. The time to file a Notice of Appeal was October 23, 2021.

On October 13, 2021, the Board received Barber Honda's Notice of Appeal. In general, Barber Honda's Opening brief is due 40 days after the record on appeal is completed and filed with the Appellate Court. The Board's brief is due 30 days after Barber Honda's brief is filed. Barber Honda's reply brief is due 20 days after the Board's brief is filed. If oral argument is requested, then the Appellate Court will schedule it and the decision would follow within 90 days thereafter. The appeal could take six months or longer.

By notice dated January 27, 2022, the Court determined that this case is not suitable for mediation. The Court issued an order dated January 27, 2022 in this regard and all proceedings in the appeal are to recommence as if the notice of appeal had been filed on January 27, 2022.

2. WESTERN TRUCK PARTS & EQUIPMENT COMPANY LLC DBA WESTERN TRUCK CENTER, a California limited liability company v. NEW MOTOR VEHICLE BOARD; VOLVO TRUCKS NORTH AMERICA, a division of VOLVO GROUP NORTH AMERICA, LLC, a Delaware limited liability company
Sacramento County Superior Court No. 34-2022-80003827
New Motor Vehicle Board No. CRT-281-22
Protest No. PR-2740-21

At the January 12, 2022, General Meeting, the Public Members of the Board adopted ALJ Anthony M. Skrocki's Proposed Order Granting Respondent's Motion to Dismiss as the Board's final Decision. The Decision dismissed the protest because it was not timely filed and therefore, the Board had no jurisdiction over the matter.

On February 28, 2022, Western Truck filed a "Petition for Writ of Administrative Mandate." The writ was served on February 28, 2022. A copy of the record has been requested.

Petitioner contends that the Board's Decision is not supported by substantial evidence in light of the whole administrative record.

Petitioner disputes several of the Board's findings. It argues that it timely filed its protest within 30 days after the end of the appeal procedure provided by Real Party in Interest, Volvo Trucks. However, the Decision found that the Alternative Dispute Resolution ("ADR") provisions in the dealer agreement between the parties did not constitute an "appeal procedure" as contemplated by the Vehicle Code.

Specifically, Petitioner argues, the record does not support the Decision's narrow interpretation of an "appeal procedure" and claims that portions of the ADR procedure are an appeal procedure and Petitioner was required to comply with that procedure pursuant to the terms of the dealer agreement.

Further, the Decision also concluded that Petitioner did not pursue the ADR Procedure to an "end." However, Petitioner argues this is not supported by any evidence. It writes that since parties could not resolve the dispute in the initial stages of the ADR procedure, it was not required to submit the dispute for further steps through the ADR procedure.

Petitioner requests that the Superior Court issue a peremptory writ of administrative mandate directing the Board to set aside and vacate its Decision and remand the matter to the Board with instructions to deny the Motion to Dismiss.

Following further staff review of the writ, Bismarck Obando, Board President, will determine whether the Board will participate via the Attorney General's Office if there is a state interest at issue in the writ.

D.

NOTICES FILED

PURSUANT TO
VEHICLE CODE SECTIONS
3060/3070 AND 3062/3072

NOTICES FILED

PURSUANT TO VEHICLE CODE SECTIONS 3060/3070 AND 3062/3072

DECEMBER 28, 2021 THROUGH MARCH 11, 2022

These are generally notices relating to termination or modification (sections 3060 and 3070) and establishment, relocation, or off-site sales (sections 3062 and 3072).

SECTION 3060/3070	No.	SECTION 3062/3072	No.
ACURA		ACURA	
AUDI		AUDI	
BMW		BMW (includes Mini)	
FCA (Chrysler, Jeep, Dodge, RAM)		FCA (Chrysler, Jeep, Dodge, RAM)	
FCA (Alfa Romeo, FIAT)		FCA (Alfa Romeo, FIAT)	
FCA (Maserati)		FCA (Maserati)	
FERRARI		FERRARI	
FORD		FORD	1
GM (Buick, Cadillac, Chevrolet, GMC)		GM (Buick, Cadillac, Chevrolet, GMC)	2
HARLEY-DAVIDSON		HARLEY-DAVIDSON	
HONDA		HONDA	
HYUNDAI/GENESIS		HYUNDAI	2
INFINITI	1	INFINITI	
JAGUAR		JAGUAR/LAND ROVER	
KAWASAKI		KAWASAKI	
KTM		KTM	
KIA	1	KIA	
LEXUS		LEXUS	
MAZDA		MAZDA	1
MERCEDES		MERCEDES	
MITSUBISHI		MITSUBISHI	
NISSAN		NISSAN	
POLARIS		POLARIS	
PORSCHE		PORSCHE	
SAAB-SCANIA		SAAB-SCANIA	
SUBARU		SUBARU	
SUZUKI		SUZUKI	
TOYOTA		TOYOTA	
VOLKSWAGEN		VOLKSWAGEN	1
VOLVO TRUCKS		VOLVO	
YAMAHA		YAMAHA	
MISCELLANEOUS	1	MISCELLANEOUS	
TOTAL	3	TOTAL	7