

Fall 2016 FPPC Update City Attorneys' Department

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Long Beach

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The Fifteen Minute Update

- Political Reform Act Revision Project
- Proposed Regulations
- Advice Letters
- Enforcement Actions

POLITICAL REFORM ACT REVISION PROJECT

- The Political Reform Act is “a body of law that can be hard to understand, overly complex, and inconsistent.”
- So on that much we can agree.

POLITICAL REFORM ACT REVISION PROJECT

- The FPPC has partnered with Boalt Hall, UC Davis Law School and California Forward “to conduct a comprehensive review and revision of the Act to ensure decades of amendments are given clarity and continuity.”
- The FPPC has articulated four goals for this project

POLITICAL REFORM ACT REVISION PROJECT

- Redraft the Act with “plain English” using the simplest, most straightforward language to express ideas and minimize legalese.
- Incorporate key provisions from regulations into the Act.
- Reorganize the Act in order to have all related provisions in the same chapter with self-explanatory titles for each chapter and section.
- Repeal or amend current statutes that are inaccurate or inoperative as a result of judicial decisions and other changes in law.

The FPPC has indicated that, apart from this last bullet point, there is no intention to make any substantive changes to the Act.

POLITICAL REFORM ACT REVISION PROJECT

- Law students were involved in the initial work of the Project.
- One result of this project will be that virtually every section number of the Act will change.
- The initial comment period was initially scheduled to end on September 30, but has been extended until October 31. The FPPC Committee has submitted comments.
- After addressing those initial comments, a second comment period will open on December 5, and close on December 30.
- Once the FPPC has completed its work and the changes have been approved by the Commission, they will be forwarded to the Legislature for its consideration.

Regulations

- It's been a quiet period for the adoption of new regulations by the FPPC
- There are a couple of proposed regulations of interest to city attorney's that the Commission will be considering later this year.

Regulations

- **Regulation 18940 Guide to Gift Regulations; Amendments to Implement SB 21.**
 - SB 21 requires a nonprofit organization that (1) regularly organizes and hosts travel for election and officials and (2) makes travel payments of \$5,000 or more for one elected state or local officeholder -- or \$10,000 or more a year for multiple elected state or local elected officeholders -- to disclose to the Commission the names of donors who donated \$1,000 or more and also went on the trips.
 - The bill also requires a person who receives a gift of a travel payment from any source to report the travel destination on his or her Form 700.
 - Staff will propose amendments to Regulation 18940(d) to provide notice of the new disclosure requirement added by the enactment of SB 21 and provide direction to nonprofits on how to report.

Regulations

- **Adjustment to Gift Limit and Contribution and Expenditure Limits.**
 - Section 89503(f) requires CPI adjustments to the gift limits, affecting Regulations 18700, 18730 and 18940.2.
 - Section 83124 and Regulation 18544 require CPI adjustments to the contribution limits and voluntary expenditure ceiling amounts, affecting Regulation 18545.

Advice Letters

Kathrine Pittard A-16-107.

- The mass mailing provisions do not prohibit the agency from paying for inserts in a local newspaper that will include interviews of two elected officials.
- Under Regulation 18901, the newspapers distributed are excluded from the mass mailing restrictions because the newspapers are sent in response to unsolicited requests.
- Moreover, the inserts are not restricted under Regulation 18901.1 because they are not campaign related.

Advice Letters

Minh C. Tran A-16-024.

- A planning commissioner may participate in decisions regarding the wine industry even though her husband works for a winery when the impact of the decisions will affect all wineries in the unincorporated areas of the county and wineries make up 35% of businesses in that jurisdiction.

Advice Letters

Corrine L. Neuffer A-16-049.

- The Act does not permit the City of San Diego Planning Commission to invoke the “legally required participation” exception since three of seven commissioners were disqualified under the Act and a fourth commissioner stated that he would voluntarily abstain.
- Because a quorum of commissioners were not disqualified under Section 87100 could be convened with respect to the decision at issue, the Planning Commission may not invoke the exception.

Advice Letters

- **Fred Galante A-16-067.** Councilmembers who live with adult children that are applicants for a low-income housing project may participate in project decisions because it is not foreseeable at this time that the decisions will affect the councilmembers' financial interests, including their personal finances.

Advice Letters

Nick Clair A-16-115.

- Raffle prizes won by public officials in three separate random drawings at the CSDA Annual Conference attended by public officials, and other individuals not regulated by the Act, are “gifts.”
- Despite the fact that will be received in a competition, the competition is related to the official status of the officials, and thus constitute a “gift” to those officials within the meaning of the Act.

Advice Letters

Mona M. Nemat, Esq. A-16-145

- Section 1090 does not prohibit the District Board from approving a settlement agreement in ongoing litigation with a property owner's association based on the rule of necessity so long as the Board Member, who has a financial interest in the settlement agreement, does not participate in approving the settlement agreement.
- Uses a six-part text for its Section 1090 analysis.

Advice Letters

Kevin G. Ennis, Esq. A-16-143 and A-16-152 1.

- In determining distance between a subject property and the official's property, the official may measure from the project boundaries (rather than the boundaries of the parcel on which the project is situated) to the official's property.

Enforcement Action

FPPC No. 13/908.

- City Mayor voted on three separate occasions to appoint and re-appoint his sister to the Commerce Planning Commission, who is a source of income to him as a tenant in his rental property.
- He also voted to place an all way stop sign within 150 feet of his home and rental property, in violation of Government Code Section 87100 (2 counts).
- Campaign reporting violations
- **Total Proposed Penalty: \$15,500**

Questions?
