

June 15, 2020

Via Email

Chair Richard C. Miadich
Commissioner Frank Cardenas
Commissioner Brian Hatch
Commissioner Allison Hayward
Commissioner E. Dotson Wilson
Fair Political Practices Commission
102 Q Street, Suite 3000
Sacramento, CA, 95811

Re: Regulation 18707

Chair Miadich and Commissioners Cardenas, Hatch, Hayward and Wilson:

I currently chair the League of California Cities' FPPC Committee of the City Attorneys' Department ("Committee"). The Committee is comprised exclusively of city attorneys who provide Political Reform Act guidance to public officials on a regular basis.

The Committee reviewed the proposed new Regulation 18707 (Disqualification Requirements) the FPPC is scheduled to consider adopting on June 18, 2020. We appreciate staff's work on the new regulation and offer the following three comments.

First, the Committee believes the proposed regulation should provide greater flexibility in the timing of disclosures made by an official who leaves a meeting in advance of an agenda item in which he or she is disqualified. Under Section (a)(2), such an official must "publicly identify the agenda item and the financial interest *prior to the leaving the meeting.*" But it may not be possible for public officials to comply with that requirement in every circumstance. For example, an official may need to leave a meeting quickly and unexpectedly because he or she is ill. Similarly, an official may intend to leave a meeting briefly to take an urgent call but then not return to the meeting after learning of a family emergency.

We recommend that Section (a)(2) be amended to provide leeway for unanticipated events by providing that the official may make the required disclosure at the next meeting he or she attends when the official cannot reasonably do so before leaving the meeting.

June 15, 2020

Page 2

Second, the Committee also asks that the Commission provide greater flexibility in the timing of disclosures made by an official who first joins a meeting after consideration of an agenda item in which the he or she is disqualified. Under Section (a)(2), the official must disclose his or her financial interest “immediately upon joining the meeting.” Not infrequently, however, officials who join meetings late do so in the middle of a presentation, public comment or the body’s discussion of an agenda item. In our view, it is neither necessary nor appropriate to require an official to interrupt a speaker or ongoing discussions to ask for recognition from the chair to make a disclosure about an item considered earlier on the agenda. Rather, in our view, the official should be permitted to wait to make the disclosure until the immediate agenda item has been completed. For that reason, we ask the Commission to replace “immediately upon joining the meeting” in Section (a)(2) with “after joining the meeting.”

Finally, the Committee asks the Commission to clarify that under proposed Section (a)(4), where an official is disqualified from a closed session item and first joins the meeting after the closed session, he or she may make the required disclosure in open session after joining the meeting. Frequently, officials who are disqualified from a closed session held at the beginning of a public meeting will not attend the brief open session before the body goes into closed session and instead plan to arrive after the closed session. In our view, the new regulation should be clarified to avoid any confusion that it imposes a requirement on an official disqualified from a closed session to attend the brief open session before the closed session to make the required disclosure at that time.

Thank you in advance for your consideration.

Very Truly Yours,



Teresa L. Stricker

cc: David Bainbridge, Legal Division General Counsel