



California Political Attorneys Association

c/o Bell, McAndrews & Hiltachk, LLP
455 Capitol Mall, Suite 600
Sacramento, CA 95814
Telephone: (916) 442-7757
kcjenkins@bmhlaw.com

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VIA ELECTRONIC MAIL: CommAsst@fppc.ca.gov

Chair Silver and Commissioners Baker, Ortiz, Wilson, and Wood
California Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811

**Re: June 13, 2024 FPPC Agenda Item 6
Repeal and Adoption of Regulation 18932.3**

Dear Chair Silver and Commissioners:

The California Political Attorneys Association (CPAA) writes to offer a comment on Item No. 6 on the June 13, 2024 agenda. The item is on the repeal and adoption of Regulation 18932.3, updating the definition of “predominant activity” intended to expand the exception to the honorarium prohibition permitting an official to receive payment for a speech when the activity of the official’s bona fide business, trade, or profession is not predominantly making speeches.

While we appreciate the Commission and FPPC staff’s time and efforts in drafting this amendment, we do not feel the change addresses the underlying issue, which is that this type of work – a *bona fide*, long established business as an author and speaker that predates election to local office, is completely unrelated to the author’s public service, is performed outside of the jurisdiction of the City, and is not paid for by any person or entity doing business in the City – should be excluded from the purview of the Honorarium laws and regulations altogether.

As you know, this issue arose last year from the FPPC’s interpretation in the *Winuk* Advice Letter (2023) I-23-009. There, Palo Alto City Councilmember Julie Lythcott-Haims, a well-established author and educator, had published three books, with her first book being published in 2015. Through her experience and her published works, she became a consultant and expert on the topics covered by her books. Her books, promotional talks, workshops, articles and other paid activities are on topics completely unrelated to her service as a member of the City Council. However, the *Winuk* Advice Letter found that any speaking engagement she accepted as a part of her business will be a prohibited honorarium because it is included within the definition of “speech given” in Regulation 18931.1, and because her “speech-making” was a “predominant activity” of her business under Regulation 18932.3.

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In a letter submitted last year as a comment at the June 15, 2023 Commission meeting (Item 4), we had suggested that to address this issue, the definition of “speech given” in Regulation 18931.1 could be amended to exclude these type of speeches, or the term “speech given” under Regulation 18931.1 or “predominant activity” of a business under Regulation 18932.3 could exclude speeches paid for by persons or entities that have no business in the public official’s jurisdiction. An amendment under one of these approaches would get more to the core of the issue. However, as proposed, Regulation 18932.3 adopts an additional arbitrary time threshold that wouldn’t allow an author to, for example, continue to promote a very successful book as long as they can – even beyond the 36 months outlined in the regulation.

We therefore request that the Commission reject the regulation as proposed today, and instead consider one of the stated options. Thank you for your consideration of our comment.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Kathleen Jenkins", with a long, sweeping flourish extending to the right.

KC Jenkins

Chair, CPAA Regulatory Committee