

**VIA EMAIL**

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January 12, 2026

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

**Re: Comment on Proposed Amendments to Regulation 18361.4**

Dear Chair Silver and Commissioners:

Olson Remcho writes to express strong support for the comments submitted by the California Political Attorneys Association (“CPAA”) concerning the proposed amendments to Regulation 18361.4 regarding the Commission’s Probable Cause proceedings under the Political Reform Act (the “Act”). These proposed amendments would undermine respondents’ due process rights by eliminating existing rights to discovery and to present witnesses in probable cause proceedings. The protections the FPPC proposes to remove are central to fundamental fairness and the due process safeguards afforded to individuals and entities accused of violating the Act.

CPAA’s members are uniquely qualified to comment on these proposed amendments. Drawing on decades of experience representing respondents before the Commission, they identify serious concerns that warrant careful reconsideration before any regulatory changes are adopted.

The Probable Cause process serves as a critical safeguard and is often the only opportunity for respondents to present exculpatory evidence and address the Enforcement Division’s evidentiary or legal deficiencies before enforcement actions are made public. As CPAA notes, once an enforcement matter becomes public, respondents face immediate and often irreparable reputational harm. Limiting respondents’ ability to present evidence, call witnesses, or access discovery would reduce the hearing and the hearing officer’s role to a mere formality, where respondents stand against a “summary” of the facts and hope that the process is not skewed in favor of the government. This undermines the integrity of the process and contradicts the due process principles recognized in both state and federal law.

Contrary to the rationale offered in the Staff Memo, ensuring a full and fair Probable Cause hearing does not create undue delay or cost. In fact, as CPAA observes, addressing evidentiary issues early often avoids the far greater expense and burden of a full Administrative Procedures Act hearing. Allowing limited discovery and witness testimony serves both sides’ interests by clarifying key issues and encouraging a just and efficient resolution of the case.

Furthermore, the proposed elimination of the hearing officer’s discretion to grant reasonable extensions beyond the 75-day window for good cause would introduce unnecessary rigidity into

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the process. Attorneys on both sides of a matter must manage complex schedules and competing obligations. Preventing the hearing officer from granting reasonable extensions, particularly where fairness requires it, would create unnecessary procedural hardship and risk tilting the process in favor of the Enforcement Division.

As noted by CPAA, the proposed restrictions are also inconsistent with comparable processes in other forums, including the Federal Elections Commission and preliminary hearings under California's Penal Code, where discovery and limited evidentiary presentation are standard protections designed to ensure accuracy and fairness. In fact, the FEC formally integrated mandatory disclosure of exculpatory information into its enforcement process back in 2011. *See FEC Notice 2011-06, Agency Procedure for Disclosure of Documents and Information in the Enforcement Process*, 76 Fed. Reg. 34986 (June 15, 2011). Similar to the current FPPC regulation, the FEC provides discovery to respondents during this process before a finding of probable cause is made. While the FEC's process first requires a finding that there is a "reason to believe that a person has committed, or is about to commit, a violation" (11 CFR 111.9(a)) before it reaches the probable cause stage, it nonetheless provides the respondent with the opportunity to request discovery before a determination of probable cause to believe a violation has occurred. The FPPC's current regulation, allowing for discovery prior to a finding of probable cause, should be maintained as it affirms and bolsters the agency's commitment to equity, transparency, and fairness in its enforcement activities.

Finally, our firm understands that the Commission is attempting to streamline its enforcement procedures to ensure swift resolutions to potential violations of the Act. However, eliminating these long-standing protections for the regulated community would impose costs that far exceed any anticipated benefits and would be incongruous with the role of an agency that expressly emphasizes fairness.

For these reasons, we wholeheartedly echo CPAA's request that the Commission direct staff to reconsider these proposed amendments. Protecting the due process rights of respondents is not only a legal necessity but also essential to maintaining public confidence in the fairness and impartiality of the Commission's enforcement procedures. We thank the Commission for its consideration of these serious concerns.

Sincerely,



Richard R. Rios

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