



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

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

From: Thomas Jones, Executive Director
Dave Bainbridge, General Counsel

Subject: Regulation Projects and Schedule for 2020

Date: December 9, 2019

Introduction

Commission staff proposes the following schedule for regulatory changes by the Commission in 2020. The general topic for each regulation project and the proposed dates it would be presented to the Commission are listed below.¹

The proposed projects are based on prior direction from Commissioners, as well as recommendations from FPPC staff and the public. The schedule may require revision during the year in the event of circumstances requiring immediate Commission action, changes in Commission priorities, legislative actions, staffing changes, or other unforeseen circumstances. Gaps are built into the schedule to account for increased workload due to elections and to provide flexibility to allow for additional items during the year.

In most instances, a regulation project will be presented to the Commission at a meeting for pre-notice to allow for Commission and public comment and discussion. After the pre-notice meeting, staff may revise the regulatory proposal based on input provided, and submit it to the Office of Administrative Law pursuant to the Administrative Procedure Act. Typically, two months after the pre-notice meeting, the regulatory proposal will again be presented to the Commission for final consideration and adoption.

Staff encourages interested parties to provide input early on so that staff may consider that input during the drafting process. The schedule does not include Interested Persons meetings but if there is interest in having an Interested Persons meeting, staff will schedule one and provide notice to the public via the FPPC website and subscriber email list. The Commission's Law and Policy Committee may place any of the regulation projects on a committee agenda for discussion and consideration.

¹ The regulations of the FPPC are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source. The Political Reform Act ("the Act") is contained in Government Code sections 81000 through 91014.

2020 Regulation Projects

- (1) **Public participation in Commission meetings** (New regulation) – Provide rules and guidelines for participation by the public in Commission meetings.
- (2) **Recusal process** (Regulation §18707) – Amend the existing regulation to ensure an official prohibited from participating on an item at a public meeting due to a financial conflict of interest adequately identifies the interest requiring recusal on the record.
- (3) **Minor and technical** – Minor revisions to improve timeliness and efficiency of compliance, and address technical issues such as removing codified regulations, deleting obsolete cross-references, etc.
- (4) **Enforcement proceedings** (Regulation §§18361.4, 18361.5, 18361.9, 18360, and 18404.2) – Various changes to Enforcement proceedings and practices including: Update the probable cause process to make it more efficient and provide greater specificity and clarity regarding the proceeding; clarify and standardize the process followed by the Commission when considering an administrative law judge’s decision, and the parties’ opportunity for reconsideration; update the Enforcement Complaint regulation to provide additional guidance regarding disclosure and distribution of complaint-related information and documents; and update the administrative termination regulation to account for instances where persons responsible for a committee are deceased.
- (5) **Public generally exception** (Regulation §18703) – Amend the existing regulation to provide greater clarity on when the public generally exception will apply to a financial conflict of interest.
- (6) **Statement of Economic Interests** (Regulation §§18110, 18115, 18735, and 18754) – Amend existing regulations regarding the filing of Statements of Economic Interests in light of issues resulting from the significant increase in the use of electronic filing. Also, consider a new regulation governing the filing of a single statement by an official with multiple positions.
- (7) **Permissible campaign expenditures** (New regulation) – Provide guidance on whether an expenditure of campaign funds has a sufficient political, legislative, or governmental purpose under Article 4 of the Act. Provisions may include specific items previously addressed through the advice or opinion process, and/or generally applicable guidelines. Consider a presumption of personal use in instances of cash expenditures of campaign funds without adequate records.

In addition to the regulatory proposals identified above, Commissioners and staff are currently studying topics that may result in additional proposed regulations. These topics include communication through digital media, unregistered lobbying, the use of Limited Liability Companies and other types of legal entities to conceal the sources of campaign activity, revising

streamline penalty criteria, and behested payments and gifts. The Commission may elect to add regulatory proposals for these topics, or any other topics, to the regulation calendar.

Proposed Regulation Schedule

Commission Meeting Date	Pre-notice	Adoption
January 16 th		
February 20 th	Public participation in Commission meetings	
March 19 th	Recusal process	
April 16 th		Public participation in Commission meetings
May 21 st		Recusal process
June 18 th	Enforcement proceedings	Minor and technical
July 16 th	Public generally exception	
August 20 th		Enforcement proceedings
September 17 th	Statement of Economic Interests	Public generally exception
October 22 nd	Permissible campaign expenditures	
November 19 th		Statement of Economic Interests
December 17 th		Permissible campaign expenditures