

1 Amend 2 Cal. Code Regs. Section 18360 as follows:

2 **§ 18360. Complaints Filed with the Commission.**

3 The Enforcement Division of the Commission receives complaints and referrals from a  
4 variety of sources and pursues matters proactively.

5 (a) Requirements for filing a complaint or referral.

6 (1) A complaint or referral must:

7 (A) Be filed with the Enforcement Division via the Electronic Complaint System  
8 available on the Commission's website.

9 (B) Identify the person(s) who allegedly violated the Act (if known) and the specific  
10 provision(s) of the Act allegedly violated.

11 (C) Describe with as much particularity as possible the facts constituting each alleged  
12 violation.

13 (D) State the facts that support the complainant's belief that a person has violated the Act  
14 and include any documents or other evidence supporting this conclusion.

15 (E) Include or describe with as much particularity as possible evidence or means of  
16 obtaining evidence in support of the complaint.

17 (F) Include the name and current contact information of any potential witness (if known).

18 (2) A sworn complaint must be electronically signed and submitted under penalty of  
19 perjury.

20 (3) A referral must include:

21 (A) Current contact information for the person or entity referred.

22 (B) Current contact information for the agency with which the person or entity files.

23 (C) Information regarding any attempt the referring entity made to obtain compliance,  
24 including copies of at least two written notices.

1 (b) Procedural rights for a sworn complaint. The following procedures only apply to a  
2 sworn complaint filed under penalty of perjury:

3 (1) Notice. Within three business days of receipt of a sworn complaint, the Enforcement  
4 Division will provide each person who the complaint alleges violated the Act a copy of the  
5 complaint and notice that the person may respond to the complaint. This is not required if the  
6 complaint is rejected within the three-day period. The Enforcement Division may withhold  
7 notice of a complaint or the identity of the complainant if the Enforcement Division Chief  
8 determines that disclosing the information would jeopardize the investigation, or if the complaint  
9 is rejected within the three business days.

10 (2) Notice to complainant of intended action. Within 14 calendar days of receiving a  
11 sworn complaint, the Enforcement Division will notify the complainant in writing that it will do  
12 one or more of the following in response to the complaint: open a case, refer the matter to  
13 another agency, take no action, take additional time to make a determination, or take any action  
14 the Enforcement Chief deems appropriate. Subsequent notice will be provided if more time is  
15 required.

16 (3) Reconsideration of intended action. If the person who filed the sworn complaint  
17 disagrees with the Enforcement Division's intended action, other than needing additional time to  
18 consider, the person may submit in writing, within 20 calendar days of receipt of the response, a  
19 request for reconsideration to the Executive Director of the Commission. The Executive Director  
20 may deny the request, or based on good cause, direct the Enforcement Division Chief to take  
21 specified action consistent with the Act and its regulations. The Executive Director will provide  
22 the complainant written notice of the decision within 20 calendar days of receipt of the request.  
23 However, if the complainant provides new information or allegations in the request for  
24 reconsideration, this will be considered a new complaint and not a request for reconsideration.

1 (4) Notice to subjects of a sworn complaint. The Enforcement Division will send a copy  
2 of the notice of intended action to any person the complaint at issue alleges violated the Act at  
3 the same time it is sent to the complainant, unless the Enforcement Division Chief determines  
4 that providing the person with notice of the complaint would jeopardize the investigation.

5 (5) Notice of resolution. The Enforcement Division will send a notice of resolution to  
6 each complainant who filed a sworn complaint with the Commission and was notified that the  
7 Enforcement Division would investigate the allegations in the complaint.

8 (c) Commission initiated case. All matters that do not result from a sworn complaint,  
9 including proactive investigations, referrals, nonsworn and anonymous complaints, are opened  
10 on the Commission's initiative under Section 83115. The Enforcement Division will determine  
11 whether to open Commission initiated investigations.

12 (1) Notice of Commission initiated case. The Enforcement Division will send notice, as  
13 well as a copy of any document submitted to the Enforcement Division, to any identified subjects  
14 of a Commission initiated case when opening a case based upon that information.

15 (2) The Enforcement Division may withhold any document, the identity of any person  
16 providing information, or the notice and existence of a matter if the Enforcement Division Chief  
17 determines disclosing the information would jeopardize the case, or if the information is  
18 privileged, private or confidential.

19 (3) No notice is required to be sent to the provider of the information regarding whether a  
20 case has been opened or its resolution. For filing officer referrals, the Enforcement Division may  
21 notify the filing officer regarding the outcome of the referral.

22 (d) Public Information. The Commission will post on its website and respond to requests  
23 from the public for records and information about all Enforcement matters as follows:

24 ~~(1) Notice. The Commission may confirm receipt and provide a copy of any document~~

1 received from a complainant or referring agency five calendar days after a copy of the complaint  
2 or referral has been sent to all persons the complaint or referral alleges violated the Act. The  
3 Commission may provide a copy of the complaint or referral before five calendar days have  
4 passed if the Enforcement Division has decided to take no action on the complaint or referral. If a  
5 case is opened without the filing of a complaint or referral, the Commission may confirm a case  
6 has been opened and provide a copy of any documents reviewed by the Enforcement Division in  
7 making a determination to open a case five calendar days after a copy of the information, or a  
8 notification that a case has been opened, has been sent to all persons alleged to have violated the  
9 Act.

10 ~~(2) Intended Action. Commission staff may not disclose any action the Enforcement~~  
11 ~~Division intends to take on a complaint or referral, other than no action, until after the notice to~~  
12 ~~complainant of intended action is sent and the five days have passed. The Commission may~~  
13 ~~confirm that it has opened a case on its own initiative and provide a copy of the notice sent to all~~  
14 ~~identified subjects of the investigation five calendar days after sending notice to all identified~~  
15 ~~subjects of the investigation.~~

16 (1) When the Commission receives a complaint or referral alleging a person violated the  
17 Act, or if a case is opened on the Commission's own initiative, the Commission may provide the  
18 following information and records two days after sending notice of the alleged violation to the  
19 person alleged to have violated the Act:

20 (A) Confirmation of receiving a complaint or referral;

21 (B) Copies of the respective complaint, referral, information, notification, or letter of  
22 inquiry;

23 (C) Copies of any document received from a complainant or referring agency; and

24 (D) Copies of any documents reviewed by the Enforcement Division in making a

1 determination to open a case.

2 (2) The Commission may disclose the action the Enforcement Division intends to take on  
3 a complaint or referral two days after providing notice of the intended action to the sworn  
4 complainant. However, if the Enforcement Division intends to take no action, the Commission  
5 may disclose that fact immediately.

6 (3) The Commission may disclose the scheduling or result of any step in an  
7 administrative action.

8 (4) The Commission may not comment on specific facts or provide analysis relating to an  
9 Enforcement matter when responding to requests for information regarding a pending  
10 Enforcement matter. The Commission may provide general information regarding the provisions  
11 of the Act and Section 1090 without analyzing the potential application of those provisions to the  
12 facts of a specific Enforcement matter.

13 ~~(3) (5) Protected Information.~~ The Commission may withhold any document, the identity  
14 of any person providing information, or the existence of ~~an~~ a complaint or case if the  
15 Enforcement Division Chief determines that disclosing the information would jeopardize the  
16 matter, or the information is privileged, private or confidential.

17 (e) Complaints Rejected without Notice to Respondents. Duplicate complaints or referrals  
18 submitted by the same complainant or filing officer may be rejected without notice. A nonsworn  
19 or anonymous complaint that the Chief of Enforcement determines fails to allege facts that could  
20 result in a violation of the Act may be rejected without notice. A complaint or referral rejected  
21 pursuant to this subdivision will not be posted on the Commission website.

22 Note: Authority cited: Section 83112, Government Code. Reference: Section 83115, Government  
23 Code.