

Enforcement Policy Goals

Policy Objective: To improve the timely resolution of enforcement matters. Over the last several years, the Political Reform Act has been amended in ways that increase the complexity of its requirements for committees and candidates. This has contributed to an increase in the amount of time it takes to investigate and prosecute violations of the Act. It has been observed by the Commission – and others – that enforcement matters now frequently take several years to come to resolution, oftentimes not until after a respondent has been reelected to the office they held at the time a complaint was filed or out of office entirely.

Proposed Policy/Regulation: It is the goal of the Enforcement Division to complete investigations and prosecutions of alleged violations of the Act quickly and efficiently. In general, the Enforcement Division should endeavor to complete an investigation and, when warranted, prosecution of a violation within two years of the case being opened, except where circumstances clearly indicate a reason for a longer period of time.

To assist the Enforcement Division in achieving these goals, the Enforcement Chief shall, in consultation with the Chair and Executive Director, establish and maintain a system for the efficient allocation and completion of Enforcement Division workload. The system shall be set forth in writing and periodically reviewed by the Enforcement Chief for the purpose of determining whether refinements are needed based on Division performance.

Copies of the written policies that comprise the system for the allocation and completion of Enforcement workload will be made available to any member of the Commission upon request.

The system shall, at a minimum, provide for:

- a. Fair and efficient allocation of work among Enforcement Division staff, that, among other things, provides for:
 - i. the most complicated legal and factually issues being assigned to senior staff, and less complicated matters assigned to less experienced staff members; and
 - ii. the reassignment of matters to more appropriate staff members if they are determined to involve violations that are more or less complicated than what was believed at the time of initial assignment to staff.
- b. Prioritization of workload. The Commission acknowledges that all cases cannot be worked simultaneously so prioritization should include consideration of the age of the case, the statute of limitations applicable, the priorities of the Commission, as well as participation and contact from the Respondent to resolve the case.
- c. Specific target deadlines for completion of tasks at each stage of an Enforcement matter, including, but not limited to:
 - i. Evaluation of complaints/referrals and recommendations for disposition by Intake;
 - ii. Assignment of staff for investigation of opened cases;
 - iii. Preparation and completion of investigative plans by assigned staff;
 - iv. Issuance of informal and formal requests for information and witness interviews;
 - v. Review of evidence gathered during investigations;
 - vi. Preparation of draft investigative summary reports by Special Investigators;
 - vii. Review and approval of investigative summaries by Supervising Special Investigator;

- viii. Evaluation of investigative summary by Commission Counsel;
 - ix. Drafting closure memos;
 - x. Drafting requests for settlement authority;
 - xi. Review of closure memoranda and requests for settlement authority by the Chief or their designee;
 - xii. Drafting/transmitting closure documents (i.e., advisory, warning, or closure letters);
 - xiii. Drafting/transmitting settlement offers;
 - xiv. Ending settlement discussions and proceeding with PC proceedings (i.e., Respondent has 30 days to respond to FPPC offer; FPPC has 30 days to consider counteroffer by Respondent; Respondent has 30 days to consider FPPC response to counteroffer; negotiations end at 90 days and FPPC proceeds to PC unless Chief determines that good cause exists to permit another 30 days of settlement negotiations);
 - xv. FPPC's production of records to Respondent following Respondent's request for records under FPPC Reg 18361.4 (d)(3);
 - xvi. Prepare closure letter if PC denied;
 - xvii. Drafting and service of accusation if PC found;
 - xviii. If notice of defense is filed, placement of notice of hearing on FPPC meeting agenda and submission of request to OAL to schedule administrative hearing;
 - xix. If no notice of defense is filed,
 1. preparation of notice of default and placement on FPPC meeting agenda
 2. transmission of demand for payment
 3. issuance of closure letter if default paid
 4. filing of request for clerk's judgment in superior court if default not paid
 5. transmission of default collections paperwork to Administrative division after receipt of clerk's judgment.
- d. Written standards for use by intake staff in evaluating whether to open or close a matter at the intake stage, including but not limited to, when intake staff should request additional information from a complainant or respondent and when intake staff should request assistance on questions of legal interpretation from FPPC attorneys.
- e. Tracking of statutes of limitations applicable to potential violations of the Act under investigation by the Enforcement Division to ensure that Enforcement staff complete their work in accordance with the applicable statute of limitations and minimize the need to seek negotiated tolling agreements. The Enforcement Chief shall publicly report to the Commission on each instance in which the Enforcement Division is unable to pursue a violation of the Act in a matter opened by the Enforcement Division as a result of the statute of limitation running, including an explanation of the circumstances that caused the statute of limitations to run.
- f. Tracking of Enforcement Division compliance with the deadlines and procedures for workload allocation and completion. When feasible, an electronic system should be designed and implemented in a manner that, at a minimum, accepts data entry by staff in real time as tasks are completed and allows the Chief and their designees to generate automated tracking reports such that performance under the policy can be evaluated by

objective metrics for individual staff members, groups of staff members (e.g., investigators, attorneys, PRCs, etc.) as well as the division as a whole in order to evaluate the timelines for update and feasibility.

- g. Periodic management meetings, led by the Chief, to review data tracking information and determine what remedial measures, if any, are needed to ensure/improve compliance with workload allocation and completion processes. Such meetings should occur as often as needed to ensure compliance, but in no event less than once a month.
- h. Periodic reports by the Chief to the Chair and Executive Director on the Enforcement Division's performance under the workload allocation and completion processes, including discussion of any remedial steps taken by the Chief or Enforcement management staff since the last update. The Chief will provide updated reports to the Chair and Executive Director at least monthly, and more frequently if requested.
- i. Biannual reports by the Chief to the Commission, usually in June and January, detailing the Enforcement Division's performance under the workload allocation and completion processes. In addition to any other information requested by the Commission, Chair or Executive Director, the reports by the Chief to the Commission will include detailed information about the Enforcement Division's performance during the reporting period compared to the Enforcement Division's performance during the same period from each of the preceding four years, including but not limited to:
 - i. a comparison of the total number of complaints/referrals received, cases/investigations opened, cases/investigations closed, cases referred to other agencies;
 - ii. a comparison of the average monthly rate of cases/investigations opened, cases/investigations closed, for each class of Enforcement staff (e.g., attorneys, investigators, PRCs, etc.); and
 - iii. a detailed explanation for any differences in Enforcement Division performance during the reporting period compared with the prior years' data.

This update will be in addition to any other informational reports the Commission may direct the Chief to provide concerning the performance of the Enforcement Division.

- j. Implementation of other policies and procedures identified by the Chair, the Commission, Executive Director, Chief, or designees of the Chief that will assist the Enforcement Division in achieving the goals of prioritizing Enforcement resources on complex and high-public harm violations while reducing the overall time Enforcement takes to resolve violations, particularly minor and inadvertent violations of the Act.