



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich, Commissioners Baker, Ortiz, Wilson, and Wood

From: Galena West, Executive Director
Dave Bainbridge, General Counsel

Subject: Regulation Projects and Schedule for 2024

Date: January 8, 2024

Introduction

Commission staff proposes the following schedule for regulatory changes by the Commission in 2024. The general topic for each regulation project and the proposed dates it would be presented to the Commission are listed below. The summaries include a list of existing regulations that may be affected by the proposed regulatory changes but are not intended as a comprehensive list of all potential regulatory changes. Similarly, the scope and specific issues addressed in each regulation project described below may change during the process.

The proposed projects are based on prior direction from the Chair and Commissioners, as well as recommendations from 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. Additional regulatory projects may be added upon direction by the Commission or as otherwise needed.

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 regulations based on input provided, and submit it to the Office of Administrative Law pursuant to the Administrative Procedures Act. Typically, two months after the pre-notice meeting, staff will present the regulations to the Commission for final consideration and adoption. The Law and Policy Committee, at its discretion, may review, discuss, take public comment, and make recommendations on any regulatory proposals before the item is presented to the Commission.

The purpose of the regulation schedule is to provide Commissioners, staff, and the public advance notice of potential upcoming regulatory changes. Staff encourages interested parties to provide input early on so that staff may consider that input during the drafting process. Upon approval by the Commission, the regulatory calendar will be posted on the Commission's website and will be updated periodically.

Project Summaries

Subject	Description	Reg Sections¹	Relevant Statutes²	Source
Enforcement penalties	Update and reorganize regulations governing streamline penalties and include criteria for participation in the Political Reform Education Program (PREP)	18360.1 – 18360.3	83116	Executive staff and Enforcement Division Staff
Carryover, transfer and return of contributions	Specify in regulation what a candidate-controlled committee may do with contributions for a general election when the candidate either withdraws from the primary election or wins in the primary such that no general election is held. These regulations were first presented to the Commission in August of 2023 for pre-notice discussion.	18531.2, 18537.1	85306, 85317, 85318	Legal Division staff
	The Commission will consider at the January meeting whether to also revise the definition of “subsequent election” as that term is used in Section 85317.	18537.1	85317	Commission
Crypto-currency reporting	Amend regulation on reporting campaign contributions made in cryptocurrency so that such a contribution is reported as a monetary contribution rather than a non-monetary contribution. Also, clarify in regulation that cryptocurrency need not be reported on a statement of economic interests.	18421.2	82005, 84211, 87103	Commission
Committee jurisdiction determination	A committee that makes more than 70% of its contributions or expenditure to support or oppose candidates or measures voted on in one city or county is considered a city or county general purpose committee. This designation determines where the committee files its	18227.5	82027.5	Legal Division staff

¹ All regulatory references are to the California Code of Regulations, title 2, division 6.

² All statutory references are to the California Government Code.

	campaign statements. This proposed amendment would clarify that the 70% threshold is calculated by counting contributions or expenditures to support or oppose candidates or measures, not all expenditures of the committee.			
Honorarium ban	Elected officials cannot receive honorarium unless it is part of a bona fide business, trade, or profession. However, if the sole or predominant activity of the business, trade, or profession is making speeches, it is not considered “bona fide” and is subject to the honorarium ban. This regulation proposal would revise current regulations to permit elected officials to receive payment for public speaking engagements when the official had a business that preceded their election to public office.	18930 – 18932.5	89501, 89502	Commission
Paid Social Media Posts	Senate Bill 678 provides a disclaimer requirement for content posted on an internet website, web application, or digital application by a person whom a committee paid in connection with the post. The disclaimer indicates the person was paid by the committee to post the content. Similarly, current regulation requires third parties paid by a committee to post on social media to include a tag or link to the committee’s social media account, which must contain a committee disclosure. This proposal would amend the existing regulation in light of SB 678 and adopt new regulatory language clarifying the application of SB 678.	18450.9	84504.3, 84513	Legal Division staff
Audits by the FPPC	FTB and the FPPC’s Audits and Assistance Division share responsibilities for performing audits under the Act. A few audit provisions refer only to the FTB but are also applicable to the FPPC when it is conducting audits. This proposal would clarify in regulation those provisions	18993, 18994, 18996	90002, 90004, 90006	Audits and Assistance Division staff

	omitting specific reference to the FPPC apply to the FPPC in conducting audits as well. This proposal would also bring back a prior regulatory provision which permitted the FPPC to exclude from audit draws jurisdictions where its candidates were already subject to audit by the FPPC or a local agency.			
Transfers to interest-bearing accounts	Consistent with the regulation governing candidate-controlled committees, this proposal would explicitly permit general purpose committees and political party committees to transfer “all purpose” funds to an interest-bearing account so long as the funds are transferred back to the “all purpose” account before the committee spends the funds.	18534	85303	Legal Division staff
Levine Act	SB 1439 went into effect on January 1, 2023. It significantly broadened the scope of the Levine Act resulting in the Commission extensively overhauling its regulations interpreting Section 84308. Since the amended statute and regulations have gone into effect, staff has identified additional questions and issues to clarify in the regulations.	18438 – 18438.8	84308	Legal Division staff
Conflict of Interest – Public Generally Exception	This proposal would add a specific public generally exception for members of districts primarily responsible for the management of airport, harbor, or similar publicly available infrastructure, if the member has a permit or lease for use of the facilities and the decision will affect all existing permit or lease holders in a similar manner without a unique effect on the board member.	18703	87100, 87103	Legal Division staff
COLA	Amend various regulations to reflect biennial cost of living adjustments required by statute	18545, 18700, 18730, 18940.2	83124, 85316, 89503	Statutorily required

Regulation Schedule

Commission Meeting	Pre-notice	Adoption
January		
February		Enforcement penalties*
March	Committee jurisdiction determination Crypto currency reporting	Carryover, transfer, and return of contributions*
April	Honorarium ban Paid social media posts	
May		Committee jurisdiction determination Crypto currency reporting
June	Audits by the FPPC	Honorarium ban Paid social media posts
July		
August	Transfers to interest-bearing accounts	Audits by the FPPC
September	COI – Public Generally exception Levine Act	
October		Transfers to interest-bearing accounts
November		COI – Public Generally exception Levine Act COLA
December		

*Previously presented to the Commission in 2023 for pre-notice discussion and direction.