

California Fair Political Practices Commission

Updated Filing Officer and Filing Official Duties Relating to Statements of Economic Interests

Introduction

In November 2020, the Commission updated its regulations applicable to filing officers and filing officials and their duties relating to Statements of Economic Interests (“SEIs”). A primary goal of the update was to provide improved clarity and guidance with respect to electronic filing of SEIs. The purpose of this fact sheet is to assist filing officers and filing officials understand the changes to their duties relating to SEIs as a result of the November 2020 regulatory updates.¹

Background

The Political Reform Act² sets forth filing officer duties relating to reports and statements required to be filed under the Act, including SEIs. (Section 81010.) Former Regulation 18115 further explained and interpreted those duties but did not provide enough clarity between SEIs filed in paper format versus those filed electronically. The November 2020 regulatory updates revised filing officer and filing official duties relating to SEIs by:

- Overhauling former Regulation 18115 and consolidating all filing officer and filing official duties relating to SEIs in general.
- Adding new Regulation 18115.1 to separately address filing officer and filing official duties regarding SEIs filed in paper format.
- Adding new Regulation 18115.2 to separately address filing officer and filing official duties regarding SEIs filed electronically.

Changes to Regulation 18115

Changes to Regulation 18115 incorporated general provisions already applicable to SEIs filed in both paper format and electronically and modified several of those provisions to improve filer compliance and improve efficiency once statements are filed.

With respect to *filing officer* duties relating to SEIs, the update newly requires the following:

- A filing officer must compile and maintain current lists of: (1) all SEIs required to be filed with the agency and (2) all SEIs actually filed with the agency. (New Regulation 18115(a)(5).) Formerly a filing officer was only required to compile and maintain a current list of all SEIs filed with the office (former Regulation 18115(a)(7)).

¹ This fact sheet is informational only and contains only highlights of selected provisions of the law. It does not carry the weight of the law. For further information, consult the Political Reform Act and its corresponding regulations, advice letters, and opinions.

² The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- A filing officer must make at least two attempts to seek filer compliance, and to obtain updated contact information for the filer, before required reporting of an apparent violation of the Act to the appropriate agencies. (New Regulation 18115(a)(4).) Formerly a filing officer was only required to report an apparent violation, without the associated attempts to seek compliance and obtain updated contact information for the filer. (Former Regulation 18115(a)(6).)

With respect to *filing official* duties relating to SEIs, the update newly requires the following:

- A filing official must compile and maintain current lists of: (1) all SEIs required to be forwarded to and (2) all SEIs actually filed with the filing officer. (New Regulation 18115(b)(4).) Formerly a filing official was only required to compile and maintain a current list of all SEIs forwarded to the filing officer (former Regulation 18115(b)(5)).
- A filing official must annually notify the filing officer by December 15 of the names and positions of every filer whose SEIs are required to be forwarded to the filing officer. (New Regulation 18115(b)(5).) Formerly a filing official was required to annually provide this roster by February 1. (Former Regulation 18115(b)(4).)
- A filing official for an agency for which the Commission is the filing officer must update each filer's information within the Commission's electronic filing system upon the occurrence of certain specified events. (New Regulation 18115(b)(6).) If the agency uses an electronic filing system approved by the Commission pursuant to Section 87500.2(c)(3) and Regulation 18756, the filing official is also required to update each filer's information within that system. These additional requirements were added to improve filing administration and enable autonomous data exchange.

Please also note:

Subdivision (b) expressly defines a "filing official" as the person or agency who receives SEIs and forwards them to a filing officer pursuant to Section 87500.

Subdivision (c) provides that an official who is both a filing officer and filing official must fulfill all duties set forth in the regulation.

And subdivision (d) requires a filing officer who is a city or county clerk to comply with the posting and notification requirements of Section 87505.

New Regulation 18115.1

New Regulation 18115.1 consolidates filing officer and filing official duties with respect to a particular SEI filed in paper format. Many of these duties were previously contained in former Regulation 18115.

New Regulation 18115.2

New Regulation 18115.2 sets forth filing officer and filing official duties for SEIs filed electronically through the Commission's electronic filing system or an electronic filing system approved by the Commission.

-Please also note:

Subdivision (c) provides that an electronically filed SEI which displays the electronic filing system's System Acceptance Number is an "original statement" for purposes of the Act, and that a digital signature on such an SEI satisfies the verification requirements of Section 81004.

Subdivision (d) requires a filing official to forward an electronic copy of an electronically filed SEI to the Commission through the electronic filing system, and to make and retain an electronic copy of the SEI.

Subdivision (e) requires the agency to provide the Commission with the name and contact information for each individual with filing obligations if the Commission assumes filing officer duties for an agency under Section 87500.4(b)(1), relating to use of the Commission's electronic filing system.

Amended Regulations 18735 & 18754

Former Regulations 18735 and 18754 contained unique provisions applicable to certain specified public officials' and their filing of SEIs, such as an official who transfers from a designated position to a specified executive position within the same agency (former Regulation 18735(b)), a designated employee of the Legislature who becomes a member of the Legislature (former Regulation 18735(e)), or a member of a board or commission of a newly created agency (former Regulation 18754(b)).

In order to align these provisions with the current capabilities of approved electronic filing systems, the November 2020 regulatory update amended Regulations 18735 and 18754 to instead provide that these public officials must comply with the Act's general provisions governing the filing of SEIs.