



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **January 15, 2026**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **January 13, 2026**.

BACKGROUND/OVERVIEW:

Governing Statutes. The Commission has “primary responsibility for the impartial, effective administration and implementation of [the Act].” (Section 83111.) The Act and its regulations provide persons accused of violating the Act certain procedural protections beyond those provided by the Administrative Procedures Act found in Sections 11500, et. seq. (the APA). Among them are the requirements that the Commission make a finding of probable cause and that respondents have the right to be heard at a probable cause proceeding. (Section 83115.5.)

Under existing Regulation 18361.4(e), a hearing officer determines whether the evidence, as summarized in a probable cause report prepared by the Enforcement Division, is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a respondent committed a violation after the probable cause conference, if requested, in order for the Commission to make a finding of probable cause against a respondent. (Regulation 18361.4(e).) If the hearing officer, typically a senior attorney in the Legal Division, determines the standard for finding probable cause is met, Enforcement Division staff are authorized to issue an accusation thereby initiating an administrative adjudication. Regulation 18361.4(e) goes on to state that “[a] finding of probable cause by the hearing officer does not constitute a finding that a violation occurred.”

When the Commission determines there is probable cause for believing the Act has been violated, it may hold an administrative hearing to determine if a violation has occurred. (Section 83116.) Notice must be given and the hearing conducted in accordance with the APA (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). (*Ibid.*)

The APA provides for a comprehensive adjudicatory process pre-hearing, during a hearing, and post-hearing, to ensure the due process rights of a respondent are upheld. When an administrative proceeding is initiated after a finding of probable cause, a respondent has the

¹ The Political Reform 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.

opportunity to conduct formal discovery, address evidentiary disputes, participate in a full evidentiary hearing before a neutral fact finder, and has the opportunity to challenge the decision before the Commission and seek judicial review in superior court. (See Section 1150 et seq.)

Under the Act, the probable cause conference is only a preliminary determination that cannot form the basis of a violation of the Act. The purpose of the probable cause proceeding under the Act is to test the sufficiency of the evidence supporting the Enforcement Division's allegations that the Act has been violated. The ultimate determination of a violation is made under the APA's adjudication process.

The hearing officer at a probable cause conference does not decide whether a respondent violated the Act, and the conference is not a trial. The hearing officer's role is limited to determining whether the Enforcement Division's summary of evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a respondent committed a violation of the Act. The hearing officer does not weigh evidence, but determines whether a reasonable person could weigh the evidence summarized by the Enforcement Division and believe or entertain a strong suspicion that the Act was violated.

Amendments to Regulation 18361.4. Regulation 18361.4 is amended to remove the current provisions in Regulation 18361.4(d)(3), and all references thereto, that allow for records production or "discovery" of evidence in probable cause proceedings.

Under subdivision (g) of the amendments, the time-frames for conducting a probable cause conference do not change: the conference must occur at least 75 days after the request for a probable cause conference is received, and if not then the conference must be scheduled at least 14 calendar days later. The amendments eliminate the current procedure that allows any party to make a request to extend any of these times to the hearing officer, supported by good cause. The amendments remove the hearing officer's discretion to grant further extensions of time past the 75 days, plus 14 calendar days provided in the existing regulation, unless the extension is mutually requested by a respondent and the Enforcement Division. This modification places a hard deadline on the scheduling of a probable conference and eliminates the current open-ended extension procedure set forth in the existing regulation. Allowing an exception to this deadline for parties to mutually extend time accounts for instances where parties seek to enter a settlement agreement but need additional time to negotiate an agreement.

The amendments remove provisions allowing for the participation of witnesses or other non-party attendees at the probable cause conference, and eliminate language that allow for parties to submit additional evidence after the probable cause conference.

In addition to these substantive changes, the amendments renumber existing subdivisions and add titles that identify each part of the process. These nonsubstantive changes are intended to provide additional clarity to the probable cause proceedings.

REGULATORY ACTION: Amend 2 Cal. Code Regs. Section 18361.4 – Probable Cause Proceedings.

SCOPE: The Commission may adopt the language noticed herein or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY: Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE: Sections 83115, 83115.5 and 83116, Government Code.

CONTACT: Any inquiries should be made to John Feser, Fair Political Practices Commission, 1102 Q St., Suite 3050, Sacramento, CA 95811; email: jfeser@fppc.ca.gov; telephone (279) 237-5912. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.