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July 3, 2012

Chair Ravel and Commissioners Eskovitz,  
Garrett, Montgomery, and Rotunda  
Fair Political Practices Commission  
428 J Street, Suite 600  
Sacramento, CA 95814

**Re: Agenda Item #17: Adoption of Amendment to Regulation 18640, Lobbyist – Reject Proposed Regulations**

Dear Chair Ravel and Commissioners:

On behalf of California Common Cause and our 400,000 national members, please accept this letter urging the Commission to reject adoption of proposed regulations to §18640.

**Shift from current policy:**

The proposed regulations to §18640 have been characterized verbally by Commission staff as a “clean-up” proposal to regulations; we believe, however, the proposal is more than a simple clean-up. We view the proposal as a general shift in current and long-standing policy as it relates to lobbyist-sponsored events. We urge the Commission to view this proposed regulation under the context of an amendment to current practice and not as a technical change. “Clean-up” regulations have traditionally been non-substantial and allow current practice to continue with clearer regulatory instruction. Common Cause believes this amendment is substantial in nature.

The Commission has enforced §18640 and valuation of activity expenses to include “the value of the gift received is the cost of *the food and beverage consumed by the official and guests accompanying the official, plus* the value of any specified item [emphasis added].” Food and beverages have been considered part of a lobbyist, lobbyist firm, or lobbyist employer’s valuation of activity expenses for nearly a decade. The proposed regulations will strikeout the requirement and *exclude* food and beverages for the official and guest for lobbyist-sponsored events, moving the Commission away from regulations approved in 2005 and 2011.

**Lobbyist, Lobbying Firms, and Lobbyist Employers:**

According to the staff memorandum, the reason for this proposed regulation is

“to provide consistent valuation for ‘drop-in’ visits to invitation-only events, staff recommends that the Commission amend the lobbyist ‘drop-in’ rule under Regulation 18640(b) so that it conforms to the current gift ‘drop-in’ rule under Regulation 18946.2 (e).”

Common Cause respectfully urges the Commission to reject the staff recommendation because we believe lobbying entities described in §18946.2 (f) are considered unique entities within the Act and should have more stringent disclosure rules than the broader regulated community

Lobbying entities should have a higher disclosure standard than non-lobbying entities because the nature of lobbying is to influence public decisions. The more information disclosed by lobbying entities on their Activity Expense Reports, even for drop-in visits, means the public has more information about what is being spent to influence public decision makers. We believe adopting §18640 as proposed does not further the purposes of the Act and would result in less disclosure for lobbying entities at a time when we are in need of more of it

**Commission knowingly adopted different definitions:**

When the Commission unanimously adopted regulation §18946.2 (e) in the December 2011 meeting, the Commission did so with the knowledge that it exempted subdivision (f) and Regulation §18640 from the “drop-in visit” requirements by approving the language “[e]xcept as provided in subdivision (f) of this regulation.”

In addition, based on the minutes of the December 2011 meeting, Commissioners gave no direction to staff that conforming amendments should also be made to §18640. Because of these actions it was Common Cause’s belief that the Commission knowingly adopted a distinct reporting requirement for drop-in visits at lobbyist- or lobbyist employer-sponsored events. Common Cause did not object to the exemption of food in §18946.2 (e) because the Commission kept a stronger disclosure requirement for lobbying entities. We believe those stronger requirements should remain intact.

**Simple test:**

Reporting of drop-in visits would remain simple if the Commission rejected the proposed regulation. Members of the regulated community could comply with §18946.2 (e) or §18640 by applying a simple test: Are you a lobbying entity? If the answer is yes, then the individual would be held to stronger disclosure regulations traditionally required under §18640. If the answer is no, then the individual would be held to §18946.2 (e) and would not be required to report the cost of food and beverage provided to the official and guest.

For these reasons, we urge the Commission to reject the proposed regulations. Please contact me at (916) 520-4070 or [pung@commoncause.org](mailto:pung@commoncause.org) if you have any questions.

Sincerely,



Phillip Ung  
Policy Advocate