



**California Political Attorneys Association**

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January 16, 2019

**VIA E-MAIL**

Chair Alice Germond  
Commissioner Brian Hatch  
Commissioner Allison Hayward  
Commissioner Frank Cardenas  
Fair Political Practices Commission  
1102 Q Street, Suite 3000  
Sacramento, CA 95811

**Re: Agenda Item No. 29 - Proposed Regulations 18360.1 and 18360.2**

Dear Chair and Commissioners:

On behalf the Executive Committee of the California Political Attorneys Association (“CPAA”), we write to oppose the adoption of proposed Streamlined Enforcement/Warning Letter regulations 18360.1 and 18360.2, as they are currently drafted. Particularly, we oppose the proposed regulations so long they contain language that excludes matters from consideration for warning letters and from streamlined enforcement when those matters have to do with failure to file reports within the last seven days before an election. (*See* Proposed Regulation §18360.1(d)(1)(B)(i)(d), (ii)(c) and (ii)(d).)

When the Commission asked the Enforcement Division to examine its standards for warning letters and streamlined enforcement, it was with the intention to include more matters within these categories and divert matters away from mainline enforcement. The goal was to provide greater clarity to the regulated community, as well as to make enforcement of the Political Reform Act (“the Act”) more efficient, preserving Commission resources for more serious violations.

As currently written, the proposed regulation actually *reduces* the number of campaign reporting matters that can be diverted from mainline enforcement. In the last several meetings since the Commission began looking at this issue, there have been numerous matters involving missed 24-hour reports that, under the proposed regulations, would have had to go through mainline enforcement to be resolved.

Chair Alice Germond and Commissioners

January 16, 2019

Page 2

Inadvertently missed 24-hour reports, particularly ones with due dates that fall within the last sixteen days before an election, are not likely to be remedied by filers before an election. While some campaigns and major donors are able to catch those errors before an election, often times they are not identified until the next Form 460 or Form 461 report is filed after the election.

Moreover, as regulation 18360.1 is currently drafted, if a filer missed a 24-hour report that was due within the seven-day window before an election, that matter would automatically proceed through mainline enforcement, no matter how insignificant the violation. In essence, the seven-day provisions in the proposed regulations do not make practical sense, given the other substantive factors that the Enforcement Division must consider in determining whether a matter should be diverted from mainline enforcement, such as intent and public harm.

We further note that proposed regulation 18360.2 already contains provisions that escalate penalties for failing to file reports within seven days of an election. If the existing seven-day provisions are permitted to remain in regulation 18360.2, that would render the escalated penalty provisions essentially ineffective.

Finally, we would like to express our opposition to the graduated monetary cutoffs for streamlined enforcement based on the population of a jurisdiction. These figures appear to have been arrived at with no empirical justification. Why is it that \$8,200 is the cutoff for jurisdictions of 25,001-62,500, etc.? It appears that a large number of city and county committees will end up with a cutoff lower than the current \$25,000 cap. In many smaller jurisdictions, especially ones that are suburbs of major metropolitan areas, campaigns are particularly expensive to run. For example, suburbs of Los Angeles that have small populations, share the same media markets with their larger neighbor and the costs of campaign communications run much higher there than in other, more rural areas with similar population size. Again, given the Enforcement Division's consideration of other factors, such as the seriousness of a given matter, we believe that the population cutoffs are arbitrary and would send non-serious matters to mainline enforcement that would otherwise be appropriate for streamlined enforcement.

Our organization has always sought to work closely with the Commission in crafting regulations that have a material effect on how the Act is implemented and enforced. We appreciate your consideration of these comments and are available to provide further information as requested.

Very truly yours,



Joseph A. Guardarrama  
Executive Committee Member and Immediate Past President

JAG:vcc

cc: Galena West