



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

MEMORANDUM

To: Chair Remke, Commissioners Audero, Hatch and Hayward
From: Jack Woodside, General Counsel
Subject: Proposed Amendment to the *Rios* Opinion, No. O-17-001
Date: October 9, 2017

Section 85305 prohibits a candidate for elective state office or committee controlled by that candidate from making any contribution to any other candidate for elective state office in excess of the contributions limits set forth in subdivision (a) of Section 85301. Section 85315 allows an elected state officer to “accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits set forth in this chapter.”¹

At its July 27, 2017 meeting, the Commission deliberated over issues raised with respect to the interplay between Sections 85305 and 85315, and whether the prohibition in Section 85305 applied to state candidates that are the subject of a recall. The Commission decided to issue an opinion clarifying its interpretation that Sections 85305 and 85315 require that there be no limit on contributions from state candidates to a recall committee controlled by another state candidate to oppose the recall of that state candidate, which was a reversal of the Commission’s previous interpretation. The Commission adopted the opinion (*Rios* Opinion, FPPC No. O-17-001) at its August 17, 2017 hearing.

Regulation 18324(a) requires that any dissenting and concurring opinions be submitted within 30 days after the adoption of the Opinion so that they can be published together with the Opinion. Because the dissenting opinion here was not submitted in time to give the Majority of the *Rios* Opinion an opportunity to respond, and therefore was published without such a response, Commissioner Audero proposes to amend the *Rios* Opinion (see the proposed Amended *Rios* Opinion starting at p. 8) in order to address Chair Remke’s dissenting opinion.

Interested persons are permitted to submit memoranda, briefs, arguments, or other relevant material regarding the proposed Amended Opinion until October 14, 2017, five days prior to the Commission meeting. Public comment is welcome at the October meeting prior to the Commission’s decision to adopt the proposed Amended Opinion.

¹ This refers to Chapter 5, which includes Sections 85100 through 85802.