


How we got here...a brief history of the FPPC's Streamline Programs

November 16, 2023



Origins of the Streamline Programs

Private Civil Actions under Sections 91004 and 91005. Violations of Reporting Requirements and Campaign, Lobbyist, Conflict of Interest Violations

Programs started in 1999


2015 – Compiled the programs together and seeking Commission approval

2018 – Reviewed and added nine types of violations

2020 – Reviewed, added Tier Two, and two types of violations

2023 – Reviewed and added three types of violations

Proposed Changes to Regs. 18360.1 – 18360.3



Proposed Changes (the big ones)

Reformatted all three regulations.

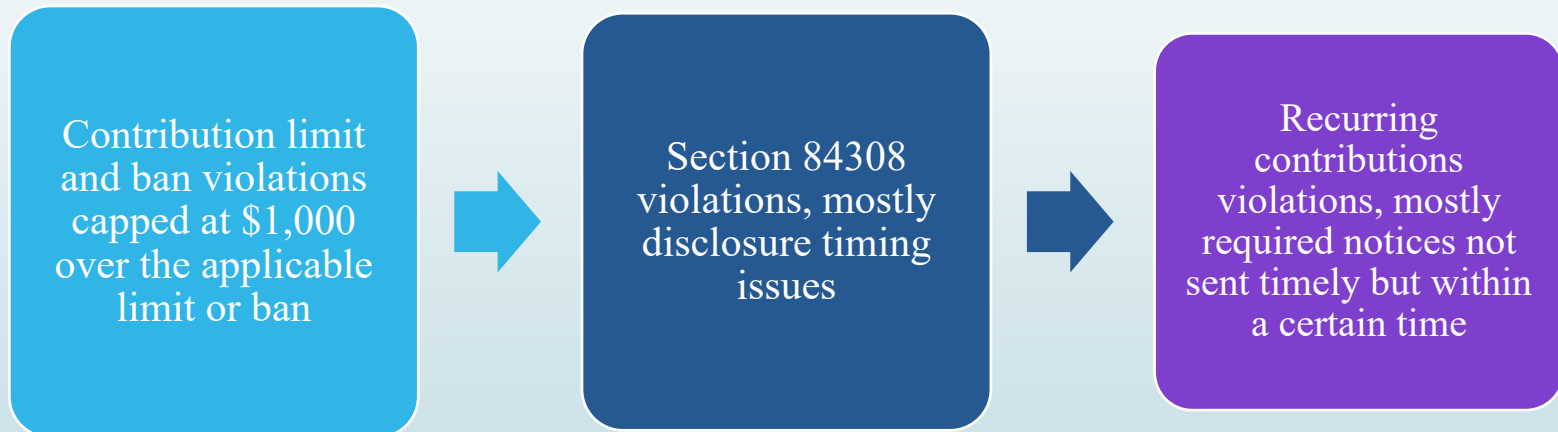
Rewrote the population thresholds to include more smaller committees with campaign reporting and filing violations.

Added when a respondent qualifies for PREP.

Removed rigid settlement amounts corresponding to a certain time in the process.

Broadened Tier Two to include more respondents that would be excluded currently and to compensate for this change increased some of the Tier Two penalties.

Additional Types of Included Violations



A contribution over the limit or ban would qualify for either Tier One or PREP if:

- (i) The contribution(s) was reported timely on the correct campaign statement or report of the committee.
- (i) The contributions from that source totaled not more than \$500 over the applicable limit.
- (i) The contribution was outside the 90-day period preceding the relevant election.

Contribution limit
and ban violations
capped at \$1,000
over the applicable
limit or ban

A Section 84308 violation would qualify for either Tier One or PREP if:

- (i) The contribution(s) was reported timely on the correct campaign statement or report.
- (ii) While a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered in the proceeding, an officer accepted, solicited, or directed a contribution of more than \$250 but less than \$500 from any party or a party's agent, or from any participant or a participant's agent while a proceeding was pending with the officer's agency but *the proceeding was not before the officer*.
- (iii) The officer did not know or have reason to know that the participant had a financial interest in the decision and received a contribution within the preceding 12 months of more than \$250 from the party or from any participant but *did not disclose that fact on the record of the proceeding and the officer has since disclosed the fact in the agency's official records*.
- (iv) A party to a proceeding before an agency disclosed *within 60 days on the record* of a proceeding or in the agency's official records, any contribution in an amount of more than \$250 made within the preceding 12 months by the party or the party's agent to an officer with the agency but that proceeding was not before that officer.

Section 84308 violations, mostly disclosure timing issues

A violation of the recurring contribution rules would result in a **Tier One penalty** if:

- The recurring contribution solicitation required affirmative consent from the person making the recurring contribution but was not sent with the *initial* solicitation but was sent in later solicitations and the recurring contributions, from that source in the aggregate, were more than \$1,000 but *not more than \$10,000*.
- (ii) The recurring contribution solicitation did not provide all necessary information to cancel the recurring contribution in the majority of the communications with the contributor that concerned the contribution and the recurring contributions, from that source in the aggregate, were more than \$1,000 but *not more than \$10,000*.
 - (iii) The recurring contribution was accepted in response to a solicitation that did not require affirmative consent, was returned to the contributor *after 14 days but before 60 days* of the earlier of receipt of a request from the contributor to return the contribution or the date on which the candidate or committee becomes aware that the solicitation of the recurring contribution was in violation and the recurring contributions, from that source in the aggregate, were more than \$1,000 but *not more than \$10,000*.
 - (iv) The recurring contribution was accepted after a contributor requested to cancel a recurring contribution and *not returned within 14 days but before 60 days* of the request to cancel the recurring contribution and the recurring contributions, from that source in the aggregate, were more than \$1,000 but *not more than \$10,000*.

Recurring
contributions
violations, mostly
required notices not
sent timely but within
a certain time

Hypotheticals
applying
Regs. 18360.1
– 18360.3
Demonstrating
Proposed
Changes

Campaign Late Filing

Cash Contributions and Expenditures of
\$100 or more

Campaign Bank Account

Advertising and Mass Mailing
Disclosures

Major Donor Filers

Campaign Late Filing

► Hypo #1

A candidate for Stockton City Council raised \$20,000 for the election, all during the first pre-election period, and filed the statement 13 days late but before the election. Stockton's population is approximately 321,819 in 2022.

► Hypo #2

A candidate for Sacramento City Council raised \$20,000 for the election, all during the first pre-election period, and filed the statement 13 days late but before the election. Sacramento's population is approximately 528,001 in 2022.

Campaign Late Filing

Current law

Hypo #1 – Stockton City Council. Stockton candidate would not qualify for Tier One since the activity cap for that population is \$16,700. Candidate would qualify for Tier Two.

Penalty: \$400 plus 1% of contributions received (\$200) = *\$600 minimum* if they settle quickly, if not, up to \$1,600 plus 1% of contributions received (\$200) = *\$1,800 max.*

Hypo #2 – Sacramento City Council. Sacramento candidate would qualify for Tier One since the activity cap for that population is \$23,900.

Penalty: \$200 plus 1% of contributions received (\$200) = *\$400 minimum* if they settle quickly, if not, up to \$800 plus 1% of contributions received (\$200) = *\$1,000 max.*

Proposed Change

- **Hypo #1** – Stockton City Council and
- **Hypo #2** – Sacramento City Council
 - Since the proposed limit is \$25,000 for city and county jurisdictions under 1 million population, both would qualify for Tier One.
- Penalty for BOTH Hypos: \$200 plus 1% of contributions received (\$200) = *\$400 minimum* up to \$600 plus 1% of contributions received (\$200) = *\$800 max.*
- The \$200 - \$600 base penalty range (\$100 increments) vary based on:
 - the public harm caused by the specific violation,
 - the Respondent's level of experience with the Act's requirements,
 - the level of due diligence to come into compliance, and
 - the level of cooperation to reach a settlement.

Cash Contributions or Expenditures of \$100 or More

► Hypo #3

Candidate for city council had \$3,000 of activity on a campaign statement, which was filed timely (and mostly correct). \$800 was received in cash and reported on the statement.

► Hypo #4

Candidate for city council had \$3,000 of activity on a campaign statement, which was filed timely (and mostly correct). \$800 was received in cash, reported on the statement and used for personal use.

Cash Contributions or Expenditures of \$100 or More

Current Law

Hypo #3 Candidate would be excluded from Tier One because the % of cash contributions of \$100 or more exceeds 25% of total campaign contributions of the committee for the reporting period AND excluded because the reporting was not 100% correct. The candidate would be included in Tier Two because the % of cash contributions of \$100 or more exceeds 25% (not greater than 50%) of total campaign contributions of the committee for the reporting period. Penalty = 50% of the amount of the contribution (*\$400 minimum*) to two times the amount of the contribution (*\$1,600 maximum*)

Hypo #4

Candidate would be excluded from all programs because personal use violations are excluded.

Proposed Law

Hypo #3

Candidate would be included in Tier One because the total amount of cash of \$100 or more for the reporting period did not exceed \$5,000 and the failure to disclose properly included only a de minimis amount.

Penalty = 50% of the contribution (*\$400*)

Hypo #4

Candidate would be excluded from all programs because personal use violations are excluded.

Campaign Bank Account

► **Hypo #5**

The total amount of all expenditures not deposited in a campaign bank account during the statement period by the candidate was \$5,000, which was all the expenditures received during that statement period. The expenditures were properly reported.

► **Hypo #6**

The total amount of all expenditures not deposited in a campaign bank account during the statement period by the candidate was \$15,000, which was 25% of all the expenditures received during that statement period. The expenditures were properly reported.

Campaign Bank Account

Current Law

Hypo #5 – Contributions not processed through the campaign bank acct accounted for 100% of the contributions received that stmt period and exceeds 10% of the total contributions received for that period, this does not qualify for Tier One. Tier Two also does not apply because it is written to only include 10% - 40% and \$10,000 - \$25,000 in activity. This would be a mainline stipulation.

Hypo #6 - This would not qualify for Tier One since it is above \$10,000 and 10% but would qualify for Tier Two because it is less than 40% and \$25,000 in activity.

Penalty - \$400 plus 1% of the amount not processed through the campaign bank account (\$150) = *\$550 min* to \$1,000 plus 1% (\$150) - *\$1,150 max*

Proposed Law

Hypo #5 – Even though the percentage of the contributions that were not processed through the campaign bank account is high (100%), since the amount is low, this candidate qualifies for Tier One. This candidate will also qualify for PREP, if other requirements are met.

Penalty: \$100 - \$500 base penalty plus 1% of the amount not processed through the campaign bank account (\$50) = *\$150 min - \$550 max (apply discretion)*

Hypo #6 - This would qualify for Tier Two because it is less than 40% and \$25,000 in activity.

Penalty: \$600 - \$1,000 base penalty plus 2% of the amount not processed through the campaign bank account (\$300) = *\$900 min - \$1,300 max (apply discretion)*

Advertising and Mass Mailing Disclosures

► Hypo #7

A group of like-minded friends create a small local primarily-formed committee to support a school board candidate. The committee raises and spends around \$3,000 to create some print advertisements supporting the candidate, which are distributed to a limited group of potential voters. The candidate is unsuccessful, and the committee terminates after the election. The committee correctly reports its advertising activity on campaign statements and reports. However, due to the individuals' low level of experience and sophistication with the Act, they fail to include a disclaimer on the advertisements, and it was not otherwise evident who was responsible for the ads. Here, the advertisements were required to include a disclaimer displaying "Ad paid for by" followed by the committee name, along with the required "not authorized" disclaimer.

Advertising and Mass Mailing Disclosures

Current Law

Hypo #7 - This type of violation would be excluded from the streamline program altogether since the ad was likely to cause confusion regarding the identity of the candidate or committee responsible for the ad; and the ads contained more than two of the enumerated disclaimer errors – “ad paid for by” requirement, the “not authorized” disclaimer, and the committee name requirement.

Proposed Law

Hypo \$7 - Under the proposed regulations, the violations here would be eligible for Tier Two streamline.

Penalty - A total penalty of \$1,720 (\$860 for each of two counts, one each for Sections 84502 and 84506.5).

Penalty: \$800 - \$1,200 base penalty plus 2% of each advertisement buy (\$60) = *\$860 min - \$1,260 max (apply discretion)*

When charging advertisement violations with streamline, Sections 84502 and 84506.5 would be separate counts charged for a total penalty of \$1,720 min (\$860 for each count).

Advertising and Mass Mailing Disclosures

► Hypo #8

The controlled committee, Kittle for Monterey City Council 2022, paid \$600 for a mass mailing that included the disclaimer “Paid for by Kittle for City Council” followed by the street address and city of the committee. Although included, the “Paid for by” language was in a color different from the committee name, and street address and city. Here, the mass mailing violated the Act in two ways – (1) the committee name was incorrect in that it failed to include the full name, Kittle for Monterey City Council 2022; and (2) “Paid for by” was not presented in the same color as the rest of the disclaimer.

Advertising and Mass Mailing Disclosures

Current Law

Hypo #8 - This type of violation would be excluded from the Tier One streamline since there were two or more missing or incorrect disclosures or display requirements in the disclaimer and the ad contained one or more of the enumerated disclaimer errors – the committee name requirement. This would be included in Tier Two with a penalty of \$406.

Proposed Law

Hypo #8 - Under the proposed regulations, the violations would be eligible for Tier One.

Penalty - \$206 (\$200 base penalty plus 1% of ad buy \$6).

Penalty: \$200 - \$600 base penalty plus 1% of each advertisement buy (\$6) = \$206 min - \$606 max (apply discretion)

Major Donor Filers

- ▶ **Hypo #9**

A first-time major donor makes a single contribution of \$75,000 and does not file their campaign statement timely. The recipient committee reported the contributions received timely.

- ▶ **Hypo #10**

A major donor with no history of violating the Act makes multiple contributions throughout the year ranging from \$1,000 to \$50,000 totaling \$80,000 and fails to timely file multiple campaign statements and reports. The recipient committees reported the contributions received timely.

Major Donor Filers

Current Law

Hypo #9 – The one late campaign statement stemming from the \$75,000 contribution does not qualify for Tier One since it exceeded \$50,000. The filer would qualify for Tier Two.

Penalty = \$800 - \$1,400 per statement or report

Hypo #10 – Since more than two statements or reports were late during that calendar year, the major donor committee would not qualify for any program under the current rules. This would be a mainline stipulation.

Proposed Law

Hypo #9 – The one late campaign statement stemming from the \$75,000 contribution qualifies for Tier One since the cap was extended to amounts exceeding \$75,000.

Penalty = \$200 min - \$600 max per late statement or report (apply discretion)

Hypo #10 – The major donor committee would qualify for Tier Two since the exclusion for limiting participation to less than three statements or reports late was removed.

Penalty = \$800 min - \$1,200 max per late statement or report (apply discretion)


Additional Materials



Current and Proposed Exclusions

Exclusions from both Streamline Programs include:

- Any evidence of an intent to conceal or violate the Political Reform Act or regulations relating to the Act.
- Presented the FPPC false or altered evidence.
- Made false statements to the FPPC regarding material facts.
- Evidence of intentional interference with a witness in the FPPC matter.
- The extent and gravity of the public harm in the aggregate is more than minimal.
- Has other violations under review for prosecution that do not qualify for a streamline penalty.



Factors for Applying Range of Penalties (Proposed Regulations)

Base penalty range to vary in \$100 increments based on:

- the public harm caused by the specific violation,
- the Respondent's level of experience with the Act's requirements,
- the level of due diligence to come into compliance, and
- the level of cooperation to reach a settlement.

General Requirements for PREP Participation

Respondent meets all the requirements listed in the PREP agreement.

Respondents have not participated in PREP or been ordered to pay a penalty for the same type of violation occurring within the last five years.

Respondent has little or no experience with the section of this title that they violated.

Campaign Statement or Report - Considerations and Factors (Current)

Specific Requirements for Eligibility for Late Statements and Reports. Must file the late statement or report with the appropriate agency unless the relevant information was reported by the person elsewhere or the FPPC determines that the information has been sufficiently disclosed in the stipulation and/or other filings.

Considerations for a **Warning Letter** include a. The committee had less than \$2,000 of activity for the statement period. b. The committee filed an electronic (or paper) statement or report timely for the same period. c. The committee meets the requirements for administrative termination. d. The late statement or report was filed prior to the relevant election. The statement due was a Form 470.

➤ Exclusions from the **Tier One** Streamline Program include:

- (i) The same candidate, committee, or principal officer has paid a prior penalty to the Commission for the same type of violation occurring within the last five years.
- (ii) History of not timely filing statements or reports.

Campaign Statement or Report - Considerations and Factors - Tier One (Current)

► Exclusions from the **Tier One** Streamline Program include:

- a. For all committees, participation in the Tier One Streamline Program is limited based on the population of the jurisdiction of the committee. The population numbers are based on the U.S. Census. Special districts will use the population scale of under 390,625 unless the population of the boundaries of the district are provided. For at large elections, use the entire population of the jurisdiction. For jurisdictions with districts, take the total population of the jurisdiction and divide by the number of districts. The campaign statement or report at issue was required to report contributions or expenditures totaling not more than: 1. \$16,700, for populations under 390,625; 2. \$23,900, for populations between 390,626-976,562; 3. \$34,200, for populations between 976,563-2,441,406; 4. \$48,900, for populations between 2,441,407-6,103,515; 5. \$69,900, for populations between 6,103,516-15,258,789; 6. \$100,000, for populations above 15,258,789.
- b. Pattern of campaign statements or reports not timely filed.
- c. A 24-Hour Report required to be filed by a committee as defined in Section 82013 (a) and (b) during the last 16 days before the election and not filed before the election unless the amount required to be reported was de minimis in relation to the total campaign.
- d. Any 24-Hour Report required to be filed by a committee as defined in Section 82013 (a) and (b) and not filed before the election if the contribution or expenditure was not reported on another report or statement filed by the committee before the election.
- e. The late filed report was filed more than five business days after it was due and the timely reporting of the contribution would have required a change to the disclosure of the committee's top contributors, as required by Sections 84501, subdivision (c) and 84503.

Campaign Statement or Report - Considerations and Factors - Tier Two (Current)

► Campaign Statement or Report - Considerations and Factors.

Violations eligible for possible inclusion in the Tier Two Streamline Program include:

- a. Committees excluded from Tier One because of population limits for the Tier One Streamline Program but limited to a maximum of \$100,000 in activity for the relevant statement or report.
- b. A 24-Hour Report required to be filed by a committee as defined in Section 82013 (a) and (b) during the last 16 days before the election and not filed before the election unless the amount required to be reported was \$50,000 or greater.
- c. Any 24-Hour Report required to be filed by a committee as defined in Section 82013 (a) and (b) and not filed before the election and the contribution or expenditure was not reported on another report or statement filed by the committee before the election, unless the subject contribution or expenditure would have disclosed an advertisement or mass mailing paid for or sent by the committee, and the advertisement or mass mailing failed to disclose the name of the committee in accordance with Section 84502 or 84305.

Exclusions from the Tier Two Streamline Program include:

The late filed report was filed more than five business days after it was due and the timely reporting of the contribution would have required a change to the disclosure of the committee's top contributors, as required by Sections 84501, subdivision (c) and 84503.

Penalties – Campaign Statements and Reports (Current)

Tier One Penalty Amount. The penalty for failing to timely file a campaign statement or report under Tier One is calculated as follows:

\$200 plus 1% of contributions rec'd/expenditures made, whichever greater, per late stmt if filed in response to Enforcement's first contact with the filer (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).

\$400 plus 1% of contributions rec'd/expenditures made, whichever is greater, per late statement if filed prior to issuance of a probable cause report (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).

\$600 plus 1% of contributions rec'd/expenditures made, whichever is greater, per late statement if filed prior to issuance of an accusation (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).

\$800 plus 1% of contributions rec'd/expenditures made, whichever greater, per late stmt if filed prior to adoption of default decision by the Commission (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).

Tier Two Penalty Amount. The penalty for failing to timely file a campaign statement or report under Tier Two is calculated as follows:

\$400 plus 1% of contributions rec'd/expenditures made, whichever greater, per late stmt if filed in response to Enforcement's first contact with the filer (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).

\$800 plus 1% of contributions rec'd/expenditures made, whichever is greater, per late statement if filed prior to issuance of a probable cause (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).

\$1,200 plus 1% of contributions rec'd/expenditures made, whichever is greater, per late statement if filed prior to issuance of an accusation (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).

\$1,600 plus 1% of contributions rec'd or expenditures made, whichever is greater, per late stmt if filed prior to adoption of default by the Commission (unless statement or report was due before the relevant election, but filed later than 7 days before the election, then 3%).


Campaign Statement or Report - Considerations and Factors (Proposed)

Specific Requirements for Eligibility for Late Statements and Reports

Respondents who failed to timely file a campaign statement/report must file the late statement/report with the appropriate agency unless the relevant info was reported by the person elsewhere or the FPPC determines that the information has been sufficiently disclosed in the stipulation and/or other filings.

Considerations for a Warning Letter include:

(a) The committee had not more than \$2,000 of activity for the statement period. (b) The committee filed an electronic (or paper) statement or report timely for the same period. (c) Activity was unrelated to the election that triggered filing requirements. (d) The late statement or report was filed more than three days prior to the relevant election. (e) Activity was reported timely on another campaign statement of the filer. (f) The candidate or candidate's wholly owned business was the source of 75% or more of the funds disclosed on the late statement or report. (g) The statement was filed in the wrong jurisdiction. (h) Raised or spent not more than \$10,000 for the election. (i) Contributions and expenditures on the late statement or report totaled not more than \$5,000 for county or city committees or not more than \$10,000 for state committees. (j) Fraudulent activity of other caused the violation.



Violations eligible for possible inclusion in PREP (Proposed)

Committees whose violations qualified for Tier One.

Committees excluded from Tier One as a result of three or less 24-Hour Reports required to be filed by a committee as defined in Section 82013 (a) and (b) during the last 16 days before the election and not filed before the election, unless the amount required to be reported was \$25,000 or greater for city and county committees in jurisdictions with a population of one million people or less, or \$50,000 or greater for state committees and city and county committees in jurisdictions with a population of over one million.

Committees excluded from Tier One as a result of three or less 24-Hour Reports required to be filed by a committee as defined in Section 82013 (a) and (b) and not filed before the election if the contribution or expenditure was not reported on another report or statement filed by the committee before the election, unless the amount required to be reported was \$25,000 or greater for city and county committees in jurisdictions with a population of one million people or less, or \$50,000 or greater for state committees and city and county committees in jurisdictions with a population of over one million.

Campaign Statement or Report - Considerations and Factors (Proposed, cont.)

Exclusions from the Tier One Streamline Program include:

- (i) The campaign statement or report at issue reported contributions and expenditures totaling \$25,000 or greater for city and county committees in jurisdictions with a population of one million people or less, or \$50,000 or greater for state committees and city and county committees in jurisdictions with a population of over one million.
- (ii) A 24-Hour Report required to be filed by a committee as defined in Section 82013 (a) and (b) during the last 16 days before the election and not filed before the election unless the amount required to be reported was de minimis in relation to the total campaign.
- (iii) A 24-Hour Report required to be filed by a committee as defined in Section 82013 (a) and (b) and not filed before the election if the contribution or expenditure was not reported on another report or statement filed by the committee before the election.

Violations eligible for possible inclusion in the Tier Two Streamline Program include:

- (i) Committees excluded from Tier One because activity for the reporting period was \$25,000 or greater for city and county committees in jxs with a population of 1,000,000 people or less, or \$50,000 or greater for state committees and city and county committees in jxs with a population of over 1,000,000 but limited to a maximum of \$100,000 in activity.
- (ii) Committees excluded from Tier One as a result of a 24-Hour Report required to be filed by a committee (Section 82013(a) and (b)) during the last 16 days before the election and not filed before the election, if the amount required to be reported was \$25,000 or greater for city and county committees in jxs with a population of 1,000,000 people or less, or \$50,000 or greater for state committees and city and county committees in jxs with a population of over 1,000,000 but limited to a maximum of \$100,000.
- (iii) Committees excluded from Tier One as a result of a 24-Hour Report required to be filed by a committee (Section 82013(a) and (b)) and not filed before the election if the contribution or expenditure was not reported on another statement or report filed by the committee before the election, if the amount required to be reported was \$25,000 or greater for city and county committees in jxs with a population of 1,000,000 people or less, or \$50,000 or greater for state committees and city and county committees in jxs with a population of over 1,000,000 but limited to a maximum of \$100,000.

Penalties – Campaign Statements and Reports (Proposed)

- ▶ **Tier One** Penalty Amount. The penalty for failing to timely file a campaign statement or report is \$200 - \$600 plus 1% of contributions received or expenditures made, whichever is greater per late statement or report.
- ▶ **Tier Two** Penalty Amount. The penalty for failing to timely file a campaign statement or report is \$800 - \$1,200 plus 2% of contributions received or expenditures made, whichever is greater, per late statement or report.
- ▶ The base penalties below can vary in \$100 increments based on the extent and gravity of the public harm caused by the specific violation, the level of experience of the respondent(s) with the requirements of the Political Reform Act, the level of diligence to come into compliance, and the level of cooperation to reach a settlement.

Cash Contributions and Expenditures of \$100 or More (Current)

Eligibility Requirements: Refund to the source of the contribution or the State of California General Fund, if the source of a contribution cannot be determined. Disclose the source of the contribution(s) or recipient(s) of the expenditure(s) on the appropriate campaign statement(s) or report(s).

Consideration for a **Warning Letter** includes the aggregate amount received or spent is less than \$500.

Exclusions from the Tier One Streamline Program include: a. Failure to timely disclose the cash contribution(s) or expenditure(s) on campaign statement(s) or report(s). b. The percentage of cash contributions and expenditures of \$100 or more exceeds 25% of total campaign contributions and expenditures of the committee for the reporting period. c. The total amount of cash contributions and expenditures for the reporting period exceeds \$10,000. d. The person made personal use of campaign funds. e. The campaign records were insufficient to determine if use of cash concealed other violations.

Cash Contributions and Expenditures of \$100 or More (Proposed)

Eligibility Requirements: Refund to the source of the contribution or the State of California General Fund, if the source of a contribution cannot be located or is otherwise unavailable to receive the returned contribution. Disclose the source of the contribution(s) or recipient(s) of the expenditure(s) on the appropriate campaign statement(s) or report(s).

Warning Letter consideration if the total amount of cash of \$100 or more received or spent for the reporting period was not more than \$500.

Exclusions from **PREP** and the **Tier One** Streamline Program include:

- (i) Failure to timely disclose more than a de minimis amount of cash contributions or expenditures on a campaign statement or report.
- (ii) The total amount of cash of \$100 or more for the reporting period exceeded \$5,000.
- (iii) The person made personal use of campaign funds.
- (iv) The campaign records were insufficient to determine if use of cash concealed other violations.

Exclusion from the **Tier Two** Streamline Program: the person made personal use of campaign funds.

Violations eligible for possible inclusion in the **Tier Two** Streamline Program include:

- (i) Committees excluded from Tier One because of failing to timely disclose cash contributions or expenditures on a campaign stmt/report if the total amount of cash was not more than \$10,000.
- (ii) Committees excluded from Tier One because of the total amount of cash for the reporting period exceeded \$5,000 but was not greater than \$10,000.

Penalties for Cash Contributions and Expenditures of \$100 or More (Current)

- Tier One Penalty Amount.
 - (A) An amount equal to 25% of the amount of the contribution or expenditure if settled in response to the Enforcement Division's first contact with the person.
 - (B) An amount equal to 50% of the amount of the contribution or expenditure if settled prior to issuance of a probable cause report by the Enforcement Division.
 - (C) An amount equal to 100% of the amount of the contribution or expenditure if settled prior to issuance of an accusation by the Enforcement Division.
 - (D) An amount equal to two times the amount of the contribution or expenditure if settled prior to adoption of a default decision and order by the Commission.
- Tier Two Penalty Amount.
 - (A) An amount equal to 50% of the amount of the contribution or expenditure if settled in response to the Enforcement Division's first contact with the person.
 - (B) An amount equal to 75% of the amount of the contribution or expenditure if settled prior to issuance of a probable cause report by the Enforcement Division.
 - (C) An amount equal to 100% of the amount of the contribution or expenditure if settled prior to issuance of an accusation by the Enforcement Division.
 - (D) An amount equal to two times the amount of the contribution or expenditure if settled prior to adoption of a default decision and order by the Commission.

Penalties for Cash Contributions and Expenditures of \$100 or More (Proposed)

- ▶ **Tier One** Penalty Amount. The penalty for receiving a contribution or making an expenditure of \$100 or more in cash is an amount equal to 50% of the contribution or expenditure.
- ▶ **Tier Two** Penalty Amount. The penalty for receiving a contribution or making an expenditure of \$100 or more in cash is an amount equal to 75% - 100% of the contribution or expenditure.

Campaign Bank Account Tier One (Current)

- Eligibility Requirements: Disclose the contribution(s) or expenditure(s) on the appropriate campaign statement(s) or report(s).
- Considerations for a Warning Letter include: a. Disclosure of the contribution(s) or expenditure(s) was reported timely on the correct campaign statement or report of the committee. b. The candidate or the candidate's wholly owned business is the source of 50% or more of the committee funds for the election. c. Reimbursement, if any, occurred within the time periods prescribed by the Political Reform Act and regulations. d. The activity was isolated to the beginning of the campaign.
- Exclusions from the Tier One Streamline Program include:
 - a. The total amount of all contributions not deposited in a campaign bank account during the statement period exceeds 10% of the total contributions received for that period or the total amount exceeds \$10,000.
 - b. The total amount of all campaign expenditures not from the campaign bank account during the statement period exceeds 10% of the total amount of all campaign expenditures for that period or the total amount exceeds \$10,000.
 - c. The person made personal use of campaign funds.
 - d. The campaign records were insufficient to determine if use of another account concealed other violations.

Campaign Bank Account Tier Two (Current)

- Eligibility Requirements: Disclose the contribution(s) or expenditure(s) on the appropriate campaign statement(s) or report(s).
- **Exclusions** from the **Tier Two** Streamline Program include:
 - a. The person made personal use of campaign funds.
 - b. The campaign records were insufficient to determine if use of another account concealed other violations.
- Violations eligible for possible **inclusion** in the **Tier Two** Streamline Program include:
 - a. The total amount of all contributions not deposited in a campaign bank account during the statement period exceeds 10% but is less than 40% of the total contributions received for that period or the total amount exceeds \$10,000 but is less than \$25,000.
 - b. The total amount of all campaign expenditures not from the campaign bank account during the statement period exceeds 10% but is less than 40% of the total amount of all campaign expenditures for that period or the total amount exceeds \$10,000 but is less than \$25,000.

Campaign Bank Account Tier One (Proposed)

Disclose the contribution(s) or expenditure(s) on the appropriate campaign statement(s) or report(s).

Considerations for a **Warning Letter** include: (i) The contribution(s) or expenditure(s) was reported timely on the correct campaign statement or report of the committee.

(ii) The candidate or the candidate's wholly owned business was the source of 50% or more of the committee's overall contributions. (iii) The activity was isolated to the beginning of the campaign.

Exclusions from the **Tier One** include:

- (i) The total amount raised and spent for the campaign was more than \$10,000 and the total contributions not deposited in the campaign bank account during the statement period exceeded 10% of the total contributions received for that period.
- (ii) The total amount raised and spent for the campaign was more than \$10,000 and the total expenditures not made from the campaign bank account during the statement period exceeded 10% of the total expenditures made for that period.
- (iii) The total amount of activity not deposited into or made from the campaign bank account exceeded \$10,000.
- (iv) The person made personal use of campaign funds.
- (v) The campaign records were insufficient to determine if use of another account concealed other violations.

Violations eligible for possible inclusion in **PREP** include:

- (i) The total amount raised and spent for the campaign was not *more than \$5,000* and the activity was reported *prior* to the relevant election.
- (ii) The total amount raised and spent for the campaign was *not more than \$10,000*, at least 50% of which was from the candidate or the candidate's wholly owned business, and the activity was reported *prior* to the relevant election.

Campaign Bank Account Tier Two (Proposed)

Disclose the contribution(s) or expenditure(s) on the appropriate campaign statement(s) or report(s).

Exclusions from the **Tier Two** include:

- (i) The person made personal use of campaign funds.
- (ii) The campaign records were insufficient to determine if use of another account concealed other violations.

Violations eligible for possible inclusion in the **Tier Two** include:

- (i) Committees excluded from Tier One as a result of the total contributions not deposited in the campaign bank account during the statement period exceeded 10% but was not more than 40% of the total contributions received for that period.
- (ii) Committees excluded from Tier One as a result of the total expenditures not made from the campaign bank account during the statement period exceeded 10% but was not more than 40% of the total expenditures made for that period.
- (iii) Committees excluded from Tier One as a result of the total amount of activity not deposited into or made from the campaign bank account exceeded \$10,000 but was not more than \$25,000.

Penalties for Campaign Bank Account (Current)

Tier One Penalty Amount.

- (A) \$100 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled in response to the Enforcement Division's first contact with the person.
- (B) \$200 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of a probable cause report by the Enforcement Division.
- (C) \$300 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of an accusation by the Enforcement Division.
- (D) \$400 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to adoption of a default decision and order by the Commission.

Tier Two Penalty Amount.

- (A) \$400 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled in response to the Enforcement Division's first contact with the person.
- (B) \$600 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of a probable cause report by the Enforcement Division.
- (C) \$800 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of an accusation by the Enforcement Division.
- (D) \$1,000 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to adoption of a default decision and order by the Commission.

Penalties for Campaign Bank Account (Proposed)

- **Tier One** Penalty Amount.

The penalty for failing to deposit a contribution into the campaign bank account or failing to make an expenditure from the campaign bank account is \$100 - \$500 plus 1% of the amount not processed through the campaign bank account per statement period.

- **Tier Two** Penalty Amount.

The streamline penalty for failing to deposit a contribution into the campaign bank account or failing to make an expenditure from the campaign bank account is \$600 - \$1,000 plus 2% of the amount not processed through the campaign bank account per statement period.

Advertising and Mass Mailing Disclosures Tier One (Current)

- Correction of the advertisement or mass mailing, if feasible, was done.

Exclusions from the **Tier One** include:

- The violation is likely to result in confusion regarding the identity of the candidate or committee responsible for the advertisement, or a top contributor, sponsor, controlling candidate, or ballot measure supported or opposed; whether the advertisement is an independent expenditure; or whether the advertisement was authorized by a candidate or candidate-controlled committee.
- The advertisement or mass mailing contains two or more missing or incorrect disclosures or display requirements in the disclaimer and one or more of the missing or incorrect disclosures is: (1) the committee name requirement, (2) top contributor information (top contributor must be substantially correct), or (3) the statement that the advertisement was not authorized by a candidate or committee controlled by a candidate. A disclosure that fails to meet sizing requirements to the extent that the disclosure is not legible to the average viewer is considered a “missing or incorrect disclosure” and not “substantially correct.”

Examples of minor violations that may qualify for a streamline penalty include the following:

- Failure to include “paid for by” or “ad paid for by” in the same manner and immediately adjacent to a committee name;
- Disclosures in a font type, color, position, or size that does not comply with a requirement but is as legible as the requirement;
- Disclosures that include a committee name that does not match the name as stated in the statement of organization but clearly identifies the source of the advertisement;
- Failure to include a street address but other identifying information, such as a website address, is included;
- Inadvertent failure to list top contributors in proper order but they are all included;
- Required size or time length of disclosure is not correct, but the disclaimer is identifiable, and the remainder of the disclosure is correct;
- Failure to use the precise disclaimer language but the remainder of the disclosure is correct.

Advertising and Mass Mailing Disclosures Tier Two (Current)

- Correction of the advertisement or mass mailing, if feasible, was done.

Violations eligible for possible inclusion in the **Tier Two** include:

- a. The violation resulted from a lack of committee formation through ignorance of the requirements and the committee raised less than \$25,000 and spent less than \$25,000.
- b. The violation was inadvertent or negligent and was disclosed on a campaign statement or report of the committee but is likely to result in confusion regarding the identity of a top contributor, sponsor, controlling candidate, or ballot measure supported or opposed or whether the advertisement is an independent expenditure.
- c. The advertisement or mass mailing contains less than four missing or incorrect disclosures or display requirements in the disclaimer and included in those errors is no more than two of the following: (1) “ad paid for by” or “paid for by” requirement, (2) top contributor information (top contributor must be substantially correct), (3) the statement that the advertisement was not authorized by a candidate or committee controlled by a candidate, or (4) the committee name requirement. Only one of the errors can be a top contributor, and the top contributor must be substantially correct to be included in the Tier Two Streamline Program. A disclosure that fails to meet sizing requirements to the extent that the disclosure is not legible to the average viewer is considered a “missing or incorrect disclosure” and not “substantially correct.”

Advertising and Mass Mailing Disclosures Tier One (Proposed)

- Correction of the advertisement or mass mailing, if feasible, was done.

Examples of minor violations that may qualify for **PREP** or a **Tier One** include the following:

- (i) Failure to include “paid for by” or “ad paid for by” in the same manner and immediately adjacent to a committee name.
- (ii) Disclosures in a font type, color, position, or size that does not comply with a requirement but was as legible as the requirement.
- (iii) Disclosures that include a committee name that does not match the name as stated in the stmt of organization but clearly identifies the source of the ad.
- (iv) Failure to include a street address but other identifying information, such as a website address, was included.
- (v) Inadvertent failure to list top contributors in proper order but they are all included.
- (vi) Required size or duration of disclosure was not correct, but the disclaimer was identifiable, and the remainder of the disclosure was correct.
- (vii) Failure to use the precise disclaimer language but the remainder of the disclosure was correct.

Exclusions from **PREP** and the **Tier One** include:

- (i) The violation was likely to result in confusion regarding the identity of the candidate or committee responsible for the advertisement.
- (ii) b. The advertisement or mass mailing contains two or more of the following missing or incorrect disclosures: (1) the committee name requirement, (2) top contributor information (top contributor must be substantially correct), or (3) the statement that the advertisement was not authorized by a candidate or committee controlled by a candidate.

Advertising and Mass Mailing Disclosures Tier Two (Proposed)

- Correction of the advertisement or mass mailing, if feasible, was done.

Violations eligible for possible inclusion in the **Tier Two** Streamline Program include:

- (i) The violation resulted from a lack of committee formation through ignorance of the requirements and the committee raised not more than \$25,000 and spent not more than \$25,000.
- (ii) The violation was inadvertent or negligent and was disclosed on a campaign statement or report of the committee but was likely to result in confusion regarding the identity of the candidate or committee responsible for the advertisement.
- (iii) The advertisement or mass mailing contains no more than three of the following missing or incorrect disclosures: (1) top contributor information (top contributor must be substantially correct), (2) the statement that the advertisement was not authorized by a candidate or committee controlled by a candidate, or (3) the committee name requirement. Only one of the errors can be a top contributor.

Advertising and Mass Mailing Disclosures Penalties (Current)

- **Tier One** Penalty Amount.

- (A) \$100 plus 1% of each advertisement buy if settled in response to the Enforcement Division's first contact with the person.
- (B) \$200 plus 1% of each advertisement buy if settled prior to issuance of a probable cause report by the Enforcement Division.
- (C) \$300 plus 1% of each advertisement buy if settled prior to issuance of an accusation by the Enforcement Division.
- (D) \$400 plus 1% of each advertisement buy if settled prior to adoption of a default decision and order by the Commission.

- **Tier Two** Penalty Amount.

- (A) \$400 plus 1% of each advertisement buy if settled in response to the Enforcement Division's first contact with the person.
- (B) \$600 plus 1% of each advertisement buy if settled prior to issuance of a probable cause report by the Enforcement Division.
- (C) \$800 plus 1% of each advertisement buy if settled prior to issuance of an accusation by the Enforcement Division.
- (D) \$1,000 plus 1% of each advertisement buy if settled prior to adoption of a default decision and order by the Commission.

Advertising and Mass Mailing Disclosures Penalties (Proposed)

- **Tier One** Penalty Amount.

The penalty for failing to include all required advertisement or mass mailing requirements is

\$200 - \$600 plus 1% of each advertisement buy.

- **Tier Two** Penalty Amount.

The penalty for failing to include all required advertisement or mass mailing requirements is

\$800 - \$1,200 plus 2% of each advertisement buy.

Major Donor Filers Tier One (Current)

- Eligibility Requirements: An individual who failed to timely file a campaign statement or report as a major donor committee must file the late statement or report with the appropriate agency unless the relevant information was reported by the person elsewhere or the FPPC determines that the information has been sufficiently disclosed in the stipulation and/or other filings.
- Considerations for a **Warning Letter** include:
 - a. First-time major donor filer and the individual or committee was not sent the major donor notification as required.
 - b. Contributions for the calendar year were \$30,000 or less.
- Exclusions from the **Tier One** include:
 - a. Contributions for the calendar year exceeded \$50,000.
 - b. The contributions also required 24-Hour Reports to be filed within the last 16 days before the relevant election and the recipient of the contribution did not file a 24-Hour Report before the relevant election.

