

**Notice**  
**Fair Political Practices Commission**  
**Law and Policy Committee Meeting<sup>i</sup>**  
**June 4, 2020 2:00 p.m.**  
**Unapproved Minutes**

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The Law and Policy Committee was called to order at 2:01 p.m.

**1. Public Comment for items not on the agenda**

**2. Approval of May 7, 2020 Law and Policy Committee Minutes**

**MOTION:** Motion to approve the May 7, 2020 Committee minutes. Moved by Commissioner Hayward, seconded by Chair Miadich. The motion was approved 2-0.

**3. Behested Payment Discussion**

Karen Harrison, Senior Commission Counsel, stated that staff has reached out to nonprofits but have only heard back that more time is needed to respond because of the pandemic. Staff has identified other states and local agencies with a ruling on behested payments and has started reaching out to those agencies. A round table meeting is set with the local ethics commissions on June 15, 2020. Staff has also discussed issues and concerns with the State Assembly and Senate. Ms. Harrison added that she will create a summary report of where FPPC stands compared to other states.

Chair Miadich asked if additional refinement would be necessary for the personal benefit of elected officials.

Galena West, Chief of Enforcement, stated that the current law does not address personal benefit or perceived personal benefit. She further stated that personal benefit is an undefined gift standard and analyzing the advice letters is the best way to understand the issue. Ms. West also added that a fact sheet approved by the Commission could be created to address the current standpoint of the advice letters.

Ms. Harrison stated she will research nonprofits following the creation of behested payments to see if more are being created to skirt around reporting issues.

Ashley Titus, Bell McAndrews & Hiltachk LLP, stated defining personal benefit help resolve the ambiguity of whether something is a gift or not a gift. She also discussed ‘consenting to be featured’ and whether that is a behest since the request comes from the private party and not the elected official. How should that payment be reported since it’s not a behested payment or is it considered a behested payment?

Rob Kwan, Los Angeles, stated that there needs to be more guidance for people inside and outside of the government for what is or is not a behested payment on the FPPC website.

Elli Abdoli, Nielsen Merksamer, agreed with Ms. Titus to start with more guidance or a regulation to define personal benefit.

#### **4. Limited Liability Companies**

Toren Lewis, Commission Counsel, gave a brief overview on the proposed regulation and changes made to the regulation since the April Law and Policy Committee meeting and April Commission meeting.

Mike Columbo, Nielsen Merksamer, addressed that the agenda, when posted, did not include the draft regulations or staff memo published for the Limited Liability Companies section until the day of. Mr. Columbo would like this topic to be held over for the next Law and Policy meeting to allow the public to consider the changes and allow more feedback.

**MOTION:** Motion to recommend adoption at the June 2020 Commission meeting.  
Moved by Chair Miadich, seconded by Commissioner Hayward. Motion approved 2-0.

#### **5. FAQs for Committee Naming Requirements**

Commissioner Hayward stated that she is looking for a staff response on committee naming requirements and how we can better educate the public to help gain more compliance.

Chair Miadich stated having a one page ‘decision tree’ as previously discussed with Mr. Bainbridge might capture Commissioner Hayward’s request. Dave Bainbridge, General Counsel, stated he would bring back a document to help route people through the manuals with a goal of presenting at the July Law and Policy Committee meeting.

#### **6. Campaign-Related Mass mailings Sent at Public Expense; Payments by State or Local Governments for Campaign-related**

Chair Miadich suggested a follow up discussion at the August Law and Policy Committee meeting to take the standard that has been proposed and determine if they can adopt that standard through regulation to provide clarity for the regulated public.

#### **7. Legislative Update**

Jay Wierenga, Communications Director, stated that AB 2151 is still moving through the legislature. Loressa Hon, Chief of Administration, stated there is a fiscal on AB 2151 for three additional positions for implementation purposes and the ongoing effort on the legislation.

**MOTION:** Motion to adjourn. Moved by Commissioner Hayward, seconded by Chair Miadich. Motion approved 2-0.

The meeting adjourned at 3:13 p.m.

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<sup>i</sup> The Commission has established two separate two-person standing advisory committees, the Budget and Personnel Committee and the Law and Policy Committee, to allow greater participation by individual Commissioners in making recommendations to the full Commission. In recognition of the public’s interest in the meetings of these committees, the Commission has directed the committees to allow the public to monitor committee deliberations, whenever possible, by publishing a five-day notice of the meeting and allowing callers to listen to the proceeding with a call-in telephone number. Additionally, the Commission is permitting public participation in the noticed meeting in person or via telephone.

As two-person advisory committees, Bagley Keene Open Meeting Requirements (Government Code Sections 11120 - 11132) do not apply to the committee meeting. However, the Commission will be soliciting public comment before and during the meeting. If you would like to comment on an agenda item prior to the meeting, you may email your comments to the Commission Assistant at [CommAsst@fppc.ca.gov](mailto:CommAsst@fppc.ca.gov). Any comments submitted prior to the meeting will be provided to the committee members for consideration at the meeting.