

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18438.1. Officers and Agencies Under Government Code Section 84308.

(a) The officers of an agency exempted by Section 84308(a)(3) are exempted only from proceedings before the exempted agency.

(b) Members of the Governor's Cabinet, when acting in the capacity of agency secretary advising or consulting the Governor's Office, are officers of the Governor's Office and exempt from Section 84308. The member is not exempted from proceedings before the member's agency or other governing body not otherwise exempted.

(c) "Alternate" as used in Section 84308(a)(4) means any person designated to serve as an officer of an agency who has served at least once in the preceding three months, or who knows or has reason to know will serve as an officer of the agency in the next three months.

(d) An officer of an agency includes only those persons who may make, participate in making, or in any way attempt to use their official position to influence a decision in the license, permit, or entitlement for use proceeding, or who exercise authority or budgetary control over the agency of officers who may do so, and:

(1) Serve in an elected position, including any official appointed to an elected position due to an interim vacancy or an election otherwise canceled because the official was the sole candidate for the position;

(2) Serve as a member of a board or commission;

(3) Serve as the chief executive of a state agency or county, city or district of any kind; or

(4) Have decisionmaking authority with respect to the proceeding involving a license, permit, or other entitlement for use and is also a candidate for elected office or has been a candidate for elected office in the 12 months prior to the proceeding.

(e) “Constitutional officer” means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, State Treasurer, and Superintendent of Public Instruction.

CREDITS

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 84308, Government Code.

HISTORY

1. New section filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
2. Amendment filed 3-12-84; effective thirtieth day thereafter (Register 84, No. 11).
3. Amendment filed 2-22-85; effective thirtieth day thereafter (Register 85, No. 8).
4. Editorial correction of section heading filed 5-6-85; effective thirtieth day thereafter (Register 85, No. 19).
5. Amendment of subsections (c) and (d)(2) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).
6. Amendment filed 7-13-2023; operative 8-12-2023 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing and printing pursuant to Fair Political Practices

Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2023, No. 28).