

California Increases Disclosure Required for Charitable Giving at Elected Officials' Request

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California's Fair Political Practices Commission recently adopted several regulations aimed at increasing disclosure related to charitable donations made at the request of elected officials – a practice known as “behested payments.” Elected officials are currently required to report behested payments over \$5,000 from a single source in a calendar year. The reports must disclose the name of the recipient charity, the name and address of the donor, and the date and amount of the payment.

New regulations, adopted October 21, will require additional disclosure by elected officials. For behested payments made through donor-advised funds, the official must report the name of the person directing the payment through the donor-advised fund, to the extent this information is known. Previously, officials could simply list the donor-advised fund as the payor, leaving out information about the person or organization who directed the payment. Elected officials will also be required to disclose any relationship they have with the recipient charity and any pending matters involving the donor under the official's authority. Finally, the regulations will allow an elected official to provide a good-faith estimate for the date and payment amount of the behested payment if the official cannot determine this information despite reasonable efforts to do so. Estimates must be corrected within 10 days of the elected official receiving accurate payment information.

California's new regulations will become effective 30 days after they are filed with the Secretary of State's office. The regulations have not been filed with the Secretary of State at time of publication but have been submitted to the Office of Administrative Law for review.

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In addition to California, at least 12 states, along with the District of Columbia, have some sort of ban or disclosure requirements for behested payments. Several municipal locations throughout the country also regulate behested payments. Individuals and organizations should be aware of the rules surrounding donations made at the request of elected officials and should be vigilant for behested payment laws any time such a payment is made.