



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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EXECUTIVE DIRECTOR

Date: June 7, 2010  
To: Members, Ethics Commission  
From: John St. Croix, Executive Director  
By: Mabel Ng, Deputy Executive Director  
Re: Proposed amendments to Regulation 3.234-5(a)(1)

At its meeting on May 10, 2010, the Commission considered and approved several amendments to regulations governing San Francisco Campaign and Governmental Conduct Code ("C&GC Code") section 3.234, which sets forth three post-employment restrictions governing City officers and employees. However, the Commission requested that staff refine some of the proposed language in Ethics Commission Regulation 3.234-5(a)(1). Staff indicated that it would revisit its recommendations and bring the subsection back to the Commission for consideration.

The regulation in question defines the term "department, board, commission, office or other unit of government, for which the officer or employee served" in C&GC Code section 3.234(a)(2). The relevant portion of the ordinance is:

- (2) One-Year Restriction on Communicating with Former Department.  
(A) No current or former officer or employee of the City and County, for one year after termination of his or her service or employment with any department, board, commission, office or other unit of the City, shall, with the intent to influence a government decision, communicate orally, in writing, or in any other manner on behalf of any other person (except the City and County) with any officer or employee of the department, board, commission, office or other unit of government, for which the officer or employee served.

Staff proposes the following changes to Regulation 3.234-5(a)(1). Additions are in ***bold italic underline*** text; deletions are in ***~~bold italic strike-through~~*** text; changes adopted by the Commission at its May 10, 2010 meeting are in ***bold italic*** text.

### Regulation 3.234-5. Definitions

For the purposes of Section 3.234, the terms listed below shall mean:

(a) Department, board, commission, office or other unit of government for which a **former** City officer or employee served.

(1) The department, board, commission, office or other unit of government for which a **former** City officer or employee served shall be:

(A) the unit of City government that the officer or employee directly served at the time he or she left City service or transferred to another department, board, commission, office or other unit of City government, including any government unit to which the officer or employee was loaned at that time; and

(B) any other unit of City government subject to the direction and control of the body of City government described in subsection (a)(1)(A) of this regulation.

(2) The following factors shall be used to determine the unit of government for which a **former** officer or employee directly served **at the time the officer or employee left City service**:

(A) the unit of government that controlled the budget, personnel and other operations related to the officer's or employee's position;

(B) the department or agency on which the officer's or employee's position was is listed in the City's conflict of interest code (Article III, Chapter 1 of the San Francisco Campaign and Governmental Conduct Code);

(C) whether the law creating a unit of government suggests that it was is a separate entity; and

(D) any other factors the Ethics Commission deems relevant.

*Example 1. The General Services Agency (GSA) is comprised of a broad array of departments, divisions, programs, and offices reporting to the Office of the City Administrator. Among the departments under GSA's oversight is the Department of Technology (DT). A former employee of DT would be considered a former employee of the DT and not of GSA or the other departments under GSA's control. Although DT is under the direction and control of GSA, DT and the other departments under GSA function as separate departments. In contrast, a former employee in the City Administrator's Office would be considered to have served GSA and DT and all other departments under GSA because all those departments are under the direction and control of the City Administrator.*

~~*Example 1. The Board of Directors of the Municipal Transportation Agency oversees both the Department of Parking and Traffic and the Municipal Railway. A former employee of the Department of Parking and Traffic would be considered a former employee of the Department of Parking and Traffic and not of the Municipal Transportation Agency or the Municipal Railway. Although both the Department of Parking and Traffic and the Municipal Railway are under the direction and control of the Municipal Transportation Agency's Board of Directors, the Charter sets up an organizational structure within the Municipal Transportation Agency so that both the Department of Parking and Traffic and the Municipal Railway function as separate departments. In contrast, a member of the Board of Directors of the Municipal Transportation Agency would be considered to have served both the Department of Parking and Traffic and the Municipal Railway because both the Department*~~

***of Parking and Traffic and the Municipal Railway are under the direction and control of the Municipal Transportation Agency's Board of Directors.***

*Example 2.* A former employee of the Bureau of Street Use and Mapping at the Department of Public Works would be considered a former employee of the Department of Public Works. Although the Department of Public Works is divided into several different bureaus, the Director of Public Works is responsible for the budget, personnel and operations of each bureau; positions within the Bureau of Street Use and Mapping are listed in the City's conflict of interest code under the Department of Public Works; and the laws creating the Department of Public Works do not suggest that each bureau is a separate department.

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