

**THE
SAN FRANCISCO
ETHICS COMMISSION
MANUAL
ON
GOVERNMENTAL ETHICS
LAWS**

**A Guide to State and Local Laws
Governing the Conduct of
Public Officials and Employees**



San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, California 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Website: www.sfethics.org
E-Mail: ethics.commission@sfgov.org

| | | | |
|------------------------------------------------------------------------------------------------------------------------|----|----------------------------------------------------------------------------------------|----|
| I. INTRODUCTION | 3 | 6. Prohibition on Voting on Own Character or Conduct | 17 |
| II. STATE LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS | 3 | 7. Decisions Involving Family Members | 17 |
| A. THE POLITICAL REFORM ACT | 3 | 8. Disclosure of Personal, Professional and Business Relationships | 17 |
| 1. The Basic Prohibition Against Conflicts of Interest | 3 | 9. Receipt of Benefits for Referrals and Requiring Particular Contractors | 17 |
| 2. Financial Disclosure Under The Political Reform Act .. | 9 | 10. Limitations on Gifts | 18 |
| 3. Limits And Reporting Requirements For Certain Types Of Income - Gifts, Honoraria, Travel, And Loans | 11 | 11. Restrictions on Use of City Resources and Political Activity | 18 |
| B. CONFLICTS OF INTEREST UNDER GOVERNMENT CODE SECTION 1090 | 14 | 12. Incompatible Activities | 19 |
| 1. What is a “Financial Interest”? | 14 | 13. Sunshine Training | 19 |
| 2. What Constitutes Making a Contract? | 14 | 14. Post-employment Restrictions | 19 |
| 3. Remote Interests | 15 | B. LOCAL LAWS REGULATING LOBBYISTS | 20 |
| 4. Noninterests | 15 | IV. OBLIGATIONS OF CITY OFFICERS AND EMPLOYEES | 20 |
| C. INCOMPATIBILITY | 15 | A. COOPERATING AND ASSISTING IN ENFORCEMENT INVESTIGATIONS | 20 |
| 1. Incompatible Activities | 15 | B. PROHIBITION ON FILING FALSE CHARGES | 20 |
| 2. Incompatible Offices | 15 | C. PROHIBITION ON AIDING AND ABETTING | 20 |
| D. SOLICITATION OR RECEIPT OF CONTRIBUTIONS BY APPOINTED OFFICIALS: GOVERNMENT CODE SECTION 84308 | 15 | APPENDIX A: RESOURCE GUIDE | 21 |
| 1. Who Must Comply With Section 84308? | 15 | | |
| 2. What Types of Proceedings Are Covered? | 15 | | |
| 3. Who are Parties, Participants and Agents? | 15 | | |
| 4. What Disclosure Is Required? | 16 | | |
| 5. When is Disqualification Required? | 16 | | |
| E. CONSTITUTIONAL PROHIBITION ON TRAVEL DISCOUNTS | 16 | | |
| F. CONFLICTS OF INTEREST UNDER THE COMMON LAW 16 | | | |
| G. POLITICAL ACTIVITY | 16 | | |
| III. LOCAL LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS | 16 | | |
| A. LOCAL ETHICS LAWS GOVERNING THE CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES ... 16 | | | |
| 1. Prohibition on Representing Private Parties Before Other City Officers and Employees -- Compensated Advocacy | 16 | | |
| 2. Dual Office Holding for Compensation | 17 | | |
| 3. Prohibition on Contracting with the City | 17 | | |
| 4. Prohibition on Disclosing or Using Confidential Information | 17 | | |
| 5. Appointments and Nominations | 17 | | |

I. INTRODUCTION

The San Francisco Ethics Commission (the “Commission”) was established by the voters in 1993 to administer and implement the provisions of the Charter and City ordinances relating to campaign finance, lobbying, conflicts of interest, and governmental ethics. One of the Commission’s duties is to educate public officials, as well as the public, about the ethics laws and reporting requirements applicable to City officers and employees.

This manual summarizes the State and local ethics laws applicable to City officers and employees, answers frequently asked questions about these laws and disclosure requirements, and lists resources for obtaining additional information and assistance.

The discussion of the governmental ethics laws in this manual is necessarily general. The summaries should provide readers a basic understanding of the laws. Any specific questions regarding these laws or their application should be directed to the Commission staff at (415) 252-3100, or to the agency identified in a particular section. You may also visit the Commission’s website at www.sfethics.org. The website includes general information about the Commission, as well as the laws it enforces.

Please be aware that although the Commission may administer, interpret, and enforce several of the laws described in this manual, the Commission does not have authority to interpret and enforce all of these laws.

We hope you find this manual helpful and look forward to assisting you in the future.

II. STATE LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS

A. THE POLITICAL REFORM ACT

1. The Basic Prohibition Against Conflicts of Interest

California’s Political Reform Act (hereinafter referred to as the “Act”) prohibits public officials from making, participating in making, or in any way seeking to influence, governmental decisions in which they have a disqualifying conflict of interest. Gov’t Code section 87100.

A public official has a conflict of interest in a decision if the decision will have a reasonably foreseeable material financial effect on one or more of the official’s economic interests, unless that effect is indistinguishable from the effect on the public generally or the official’s participation is legally required.

When a public official has a disqualifying conflict, the official must abstain from participating in the decision. In some cases, the official also must disclose the conflict on the public record.

The following section discusses the basic prohibition on conflicts in greater detail. Specific inquiries about the meaning and application of these rules should be addressed to the City Attorney’s Office or the California Fair Political Practices Commission (the “FPPC”), at (866) 275-3772. The FPPC, not the Ethics Commission, interprets and enforces the conflict of interest provisions of the Act.

a. Who is a “Public Official”?

The term “public official” means a “member, officer, employee, or consultant” of a local government agency. The term “member” includes any member of a board or commission with decision-making authority.

b. When is a Public Official “Making, Participating in Making, or Attempting to Influence” a Governmental Decision?

Making a decision. A public official makes a decision when he or she votes, appoints a person to a position, obligates the agency to a course of action, or enters into a contract for the agency. Deciding not to act, unless based on a disqualification under the Act, also constitutes “making a decision.”

Participating in making a decision. Participating in making a decision includes negotiating, providing advice by way of research, investigation, or preparation of reports or analyses for the decision-maker, if these functions are performed without significant intervening review.

Participating in making a decision does not include ministerial or clerical actions; appearing before an agency to represent the official’s personal interests; or actions by a public official with regard to his or her compensation for services or the terms or conditions of his or her employment or contract.

Influencing a decision. A public official may not use his or her official position to influence a decision in which the official has a financial interest. “Influence” includes contacting, appearing before, or otherwise attempting to influence any member, officer, employee or consultant of the official’s agency, or an agency appointed by or subject to the budgetary control of the official’s agency. Attempts to

influence include appearances or contacts by the official on behalf of a business entity, client, or customer.

c. What Are a Public Official's Economic Interests?

Under the Act's conflict of interest provisions, a public official has an economic interest in:

Investments. Any business entity in which the public official has an investment worth \$2,000 or more. This includes an investment owned by the spouse, registered domestic partner, dependent child, or agent of the public official, or by a business entity or trust in which the official (or the official's spouse, dependent children or agent) owns a 10 percent or greater interest.

Property. Any real property in which the public official has an interest worth \$2,000 or more. This includes an investment owned by the spouse, registered domestic partner, dependent child, or agent of the public official, or by a business entity or trust in which the official (or the official's spouse, registered domestic partner, dependent children or agent) owns a 10 percent or greater interest.

Source of income or gifts. Any source of income aggregating \$500 or more in value, or any source of gifts of \$440 or more in value, provided to, received by, or promised to the public official within 12 months prior to the time the decision is made. Income includes personal loans other than those made by commercial lending institutions in the regular course of business on terms available to the public without regard to official status.

Management positions. Any business entity in which the public official is a director, officer, partner, trustee or employee or holds any position of management.

Income, assets, and expenses. The income, assets and expenses of the public official or the public official's spouse, registered domestic partner, or dependent children.

d. When Does a Decision Materially Affect an Economic Interest?

Under the Act, a conflict exists only if the effect of a decision on the official's economic interest will be "material." Determining materiality usually requires estimating the dollar value of the effect of a decision on the official's economic interest. The FPPC's regulations set forth specific standards for determining when a decision's effect is material. Application of those standards will turn in part on whether the official's economic interest is directly or indirectly involved in the decision.

Direct involvement. A decision directly involves a public official's economic interest if the economic interest is the subject of the decision. For example, if a public official is appealing the denial of a permit for her property, the public official's economic interest in the property is directly involved in the appeal. If a company in which an official has an interest of \$2,000 or more is seeking a contract with the official's department, the official has a direct interest in decisions about the contract.

If a public official's economic interest is directly involved in the decision before the official, then the decision has a material effect on the public official's interest unless the official can show that a decision will have absolutely no financial effect on the official's interest.

Indirect involvement. Any time a public official's economic interest is affected by a decision, but that interest is not the specific subject of the decision, the interest is indirectly involved in the decision. Legislation of general applicability often indirectly involves public officials' economic interests that could be affected by the legislation. For example, a decision about health inspection fees will indirectly affect the economic interests of a public official who owns a restaurant.

If a public official's economic interest is indirectly involved in a decision, whether the effect is material will depend upon the impact of the decision on the official's economic interest. The regulations contain detailed standards for determining whether a decision will have a material effect on an economic interest indirectly involved in the decision. These standards are set forth below.

i. Decisions Involving an Economic Interest in a Business Entity

Direct Involvement. The effect of a decision is presumed to be material on a business entity which is directly involved in a governmental decision. This presumption may be rebutted by proof that it is not reasonably foreseeable that a governmental decision will have any financial effect on the business entity. However, when an official has an investment of \$25,000 or less in an entity listed in the Fortune 500 or the New York Stock Exchange (NYSE) or that meet the criteria for listing on the NYSE, the decision is material only if the standards set forth below for indirect involvement are met.

Indirect Involvement. The effect of an indirect decision is material if for any business entity in which an official has an economic interest the following standards (which vary with the size of the business) are met:

For a business entity listed in the Fortune 500, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$10,000,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$2,500,000 or more; or
- An increase or decrease in the value of assets or liabilities of \$10,000,000 or more.

For a business entity listed or that meets the financial criteria for listing on the New York Stock Exchange, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$500,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$200,000 or more; or
- An increase or decrease in the value of assets or liabilities of \$500,000 or more.

For a business entity listed or that meets the standards for listing on the NASDAQ/AMEX, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$300,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$100,000 or more; or
- An increase or decrease in the value of assets or liabilities of \$300,000 or more.

For any business entity that does not meet any of the above standards, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$20,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$5,000 or more; or
- An increase or decrease in the value of assets or liabilities of \$20,000 or more.

ii. Decisions Involving an Economic Interest in Real Property

Direct Involvement. Property within 500 feet of property that is the subject of the decision is generally directly involved, and decisions about that property are presumed to have a material effect. This presumption may be rebutted by proof that it is not reasonably foreseeable that the governmental decision will have any financial effect on the real property, or in the case of a leasehold interest, any effect on the tenancy.

Indirect Involvement. Property beyond 500 feet of property that is the subject of the decision is generally indirectly involved, and decisions about that property are presumed not to have a material effect. This presumption may be rebutted by proof that there are specific circumstances that make it reasonably foreseeable that the decision will have a material financial effect on the property. Examples include decisions that affect:

- the development potential or income producing potential of the property;
- the use of the property;
- the character of the neighborhood including substantial effects on traffic, view, privacy, intensity of use, noise levels, air emissions, or similar traits of the neighborhood; or
- the amount of rent paid by the official by five percent or more during any 12-month period following the decision.

iii. Decisions Involving an Economic Interest in Persons who are Sources of Income or Gifts

Direct Involvement. When an official's source of income or gifts is directly involved in a decision before the official's agency, the effect of the decision is material.

Indirect Involvement. When an official's source of income or gifts is indirectly involved in a decision before the official's agency, the following standards apply:

Business Entity. If the source of income or gifts is a business entity, the materiality standards described above for business entities indirectly involved apply.

Nonprofit Entity. If the source of income or gifts is a nonprofit entity, including a governmental entity, the following standards apply:

- For an entity with gross annual receipts of \$400,000,000 or more, the effect of the decision is material if it will:
 - affect gross revenues for a fiscal year by \$1,000,000 or more;
 - affect expenses for a fiscal year by \$250,000 or more; or
 - affect assets or liabilities by \$1,000,000 or more.
- For an entity with gross annual receipts of between \$100,000,000 and \$400,000,000, the effect of the decision is material if it will:
 - affect gross revenues for a fiscal year by \$400,000 or more;
 - affect expenses for a fiscal year by \$100,000 or more; or
 - affect assets or liabilities by \$400,000 or more.

- For an entity with gross annual receipts of more than \$10,000,000 but less than or equal to \$100,000,000, the effect of the decision is material if it will:
 - affect gross revenues for a fiscal year by \$200,000 or more;
 - affect expenses for a fiscal year by \$50,000 or more; or
 - affect assets or liabilities by \$200,000 or more.
- For an entity with gross annual receipts of more than \$1,000,000 but less than or equal to \$10,000,000, the effect of the decision is material if it will:
 - affect gross revenues for a fiscal year by \$100,000 or more;
 - affect expenses for a fiscal year by \$25,000 or more; or
 - affect assets or liabilities by \$100,000 or more.
- For an entity with gross annual receipts of more than \$100,000 but less than or equal to \$1,000,000, the effect of the decision is material if it will:
 - affect gross revenues for a fiscal year by \$50,000 or more;
 - affect expenses for a fiscal year by \$12,500 or more; or
 - affect assets or liabilities by \$50,000 or more.
- For an entity with gross annual receipts of \$100,000 or less, the effect of the decision is material if it will:
 - affect gross revenues for a fiscal year by \$10,000 or more;
 - affect expenses for a fiscal year by \$2,500 or more; or
 - affect assets or liabilities by \$10,000 or more.

Individuals. If the source of income or gifts is an individual, the effect of a decision indirectly affecting that individual is material if:

- The decision will affect the individual’s income investments or other tangible or intangible assets or liabilities (other than real property) by \$1,000 or more; or
- The decision will affect the individual’s real property interest in a manner that is considered material under the materiality standards applicable to real property indirectly involved in a decision.

Nexus. Any reasonably foreseeable financial effect on a person who is a source of income to a public official is material if the public official receives or is promised the income to achieve a goal or purpose which would be achieved, defeated, aided or hindered by the decision.

iv. Decisions Involving Personal Financial Effect

A decision will have a material effect on a public official’s personal assets – other than real property or business investments – if the decision will have a reasonably foreseeable effect of at least \$250 in any 12-month period.

e. What is Reasonably Foreseeable?

To be disqualifying, a material financial effect must be reasonably foreseeable. If the financial interest is a named party in or the subject of the governmental decision, it is presumed that the effect is reasonably foreseeable. If the financial interest is not explicitly involved, the official needs to make an assessment of the circumstances. To be reasonably foreseeable, the financial effect does need to be likely to occur. If the financial effect is a realistic possibility, and more than hypothetical or theoretical, it is reasonably foreseeable.

f. Is the Effect of the Decision on the Official’s Economic Interest Distinguishable from the Effect on the Public Generally?

Even if the an official has a conflict of interest, disqualification is required only if the effect is different from the effect on the public generally. For this exception to apply, a decision must affect the official’s interest in substantially the same manner as it would affect a significant segment of the public. The FPPC regulations contain specific rules for determining when the “public generally” test has been met.

g. Is the Public Official’s Participation Legally Required?

Even where an official has a conflict of interest, the official may participate if his or her participation is legally required. This exception is very narrow. Participation is legally required only if there is no other officer or entity that may make the decision consistent with the purposes and terms of the statute authorizing the decision.

h. What are the Penalties?

Any person who knowingly or willfully violates the Act is guilty of a misdemeanor, which is punishable by a fine of up to \$10,000. A violation of the Act may also result in civil or administrative penalties and subject the individual to discipline by the official’s agency. Additionally, because the City has incorporated the Act’s conflict of interest provisions into the local Government Ethics Ordinance, a violation could also be punishable by an administrative or civil penalty of up to \$5,000.

i. What Should an Official With a Conflict of Interest Do?

When a public official determines that a particular governmental decision will foreseeably and materially affect his or her economic interest in a manner different from the decision's effect on the general public, the official has a conflict of interest.

An official with a conflict is not counted for purposes of establishing a quorum and must not vote on, make, participate in any way in, or attempt to influence the decision. In addition, a public official cannot attend a closed session regarding the decision or obtain or review a recording or any non-public information regarding the governmental decision in which he or she has a prohibited conflict of interest.

Certain public officials -- members of the Board of Supervisors, members of the Planning Commission, members of the Retirement Board, the Mayor, the City Attorney, the District Attorney, the City Treasurer, and all City officials who manage public investments – must announce their financial interest on the public record and leave the room while the matter is being discussed and decided.

(continued on next page)

j. General Guidelines for Identifying Conflicts of Interest under the Political Reform Act

1.
DETERMINE WHETHER THE INDIVIDUAL IS A PUBLIC OFFICIAL.



If not, the Act does not apply.

2.
DETERMINE WHETHER THE PUBLIC OFFICIAL WILL BE MAKING, PARTICIPATING IN MAKING, OR USING OR ATTEMPTING TO USE HIS OR HER OFFICIAL POSITION TO INFLUENCE A GOVERNMENTAL DECISION.



If not, the Act does not apply.

3.
IDENTIFY THE OFFICIAL'S ECONOMIC INTERESTS THAT ARE POTENTIALLY INVOLVED.

| | | | |
|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Investments | Real Property | Sources of Income | Business Positions |
|  |  |  |  |

If the official has no economic interest covered by the Act, the Act does not apply.

4.
DETERMINE WHETHER THE OFFICIAL'S ECONOMIC INTEREST(S) WILL BE DIRECTLY OR INDIRECTLY INVOLVED IN THE GOVERNMENTAL DECISION.



Proceed to Step 5.

5.
DETERMINE WHETHER THE APPLICABLE STANDARD FOR ANALYZING WHETHER THE EFFECT OF THE DECISION ON THE OFFICIAL'S ECONOMIC INTEREST(S) INVOLVED WILL BE MATERIAL.



Proceed to Step 6.

6.
DETERMINE WHETHER IT IS REASONABLY FORESEEABLE THAT THE GOVERNMENTAL DECISION WILL HAVE A MATERIAL FINANCIAL EFFECT ON THE OFFICIAL'S ECONOMIC INTEREST.



If it is, the official has a conflict of interest.

7.
DETERMINE WHETHER THE REASONABLY FORESEEABLE MATERIAL FINANCIAL EFFECT IS DISTINGUISHABLE FROM THE EFFECT ON THE PUBLIC GENERALLY.



If not, the official may participate in the decision.

8.
DETERMINE WHETHER THE OFFICIAL'S PARTICIPATION IS LEGALLY REQUIRED.



If so, the official may participate in the decision.

k. Commonly Asked Questions/Scenarios Regarding Conflicts of Interest



1. I have a conflict of interest, but if I don't vote, our commission can't act on a matter because one other commissioner is sick and we have a vacancy on the commission. Does the rule of necessity allow me to vote?

No. The rule of necessity may be invoked only if there are no alternative means of decision-making. In this case, you could postpone the vote until the absent member returns, or until the vacancy on the commission is filled.

2. Do I have an economic interest in my former employer if I still have a retirement plan with my old company that includes some stock in the company?

Yes. If you have more than \$2,000 invested in a business entity that does business in San Francisco, you are precluded from making decisions that have a material effect on that business.

3. My father just left each of my two children some stock in a company that is regulated by my department. Could the stock create a potential conflict of interest for me?

Yes, if you claim your children as dependents. You have a financial interest in any business entity in which you, your spouse, registered domestic partner, or your dependent children have an investment of \$2,000 or more. You may not make, participate in making, or seek to influence decisions having a reasonably foreseeable material effect on such an interest.

4. My commission is voting on a permit for a building across the street from my house. Should I recuse myself from this decision?

You will almost certainly be required to recuse yourself. A decision affecting real property within 500 feet of your property presumptively has a material financial effect on your property. Although you may participate in the decision if you can demonstrate absolutely no financial effect on your property, this is extremely difficult to do.

5. My former law partner is seeking a contract with my department. We have not worked together for five years. Do I have a conflict?

The Act prohibits public officials from participating in decisions that will have a material effect on the official's economic interests. If you have no economic interest in your former law partner, the Act does not preclude you from working on matters involving him.

But section 3.214 of the Campaign and Governmental Conduct Code requires City officers and employees to disclose on the public record any personal, professional or business relationship with someone who is the subject of, or has a financial interest, in a government decision if the public official's ability to act for the benefit or the public could reasonably be questioned. See section III.A.8. Under section 3.214, you may be required to publicly disclose your past relationship with your former law partner.

6. My board is going to be voting on the appeal from the denial of a permit for a building across the street from my house. I am going to vote to deny the appeal, which is really against my interests because this building would be good for our neighborhood. Do I have a conflict if I am voting against my interests?

Yes. The Act does not distinguish between decisions that help or hurt the public official's financial interests. As long as there is a material financial effect, the official is disqualified.

~~~~~

**2. Financial Disclosure Under The Political Reform Act**

The Political Reform Act requires that public officials and employees with decision-making authority disclose their personal financial interests. The financial disclosure informs the public about the decision-maker's economic interests and potential conflicts of interest.

**a. Who is Required to File "Statements of Economic Interests"?**

All local public officials (including elected officials, candidates for elective office, appointed officials, and employees) who make, or participate in making, governmental decisions that could affect their personal financial interests are required to file financial disclosure forms called "Statements of Economic Interests" ("SEIs" or "Form 700s"). The list of local appointed officials and employees who are required to file SEIs is set forth in San Francisco's Conflict of Interest Code, found in the Campaign and Governmental Conduct Code at section 3.1-100, et seq. In this manual, we will use the term "filer" to mean every City employee or officer who is required to file a SEI. You can review the list on the Commission's website at

[http://www.municode.com/Resources/ClientCode\\_List.asp?cn=San%20Francisco&sid=5&cid=4201](http://www.municode.com/Resources/ClientCode_List.asp?cn=San%20Francisco&sid=5&cid=4201).

For more specific information about who is required to file SEIs, contact the Commission at (415) 252-3100.

**b. What Must be Disclosed on SEIs?**

Filers are required to disclose some or all of their interests in real property located in San Francisco, investments, business positions, and income (including gifts and loans) received during the reporting period. The specific disclosure requirements, which are determined by the Board of Supervisors and set forth in the City’s Conflict of Interest Code, depend upon the nature of the position held by the filer. (For some public officials, such as elected City officials and members of the Planning Commission, State law specifies the information that must be disclosed.) Each filer should check the Code to determine his or her disclosure obligations.

**c. When Must SEIs be Filed?**

Filers must submit SEIs at three points in time during their tenure with the City:

- An initial “assuming office SEI” within 30 days after taking office;
- A “leaving office SEI” within 30 days after leaving office; and
- An “annual SEI” on or before April 1 of each year the filer holds office.

For positions newly added to San Francisco’s Conflict of Interest Code, initial SEIs must be filed within 30 days of the effective date of the code amendment.

Candidates for elective office must file SEIs no later than the deadline for filing the declaration of candidacy.

**d. Where are Statements of Economic Interests Filed?**

**i. Ethics Commission**

The following persons must file their SEIs with the Ethics Commission:

- Members of City boards and commissions;
- Members of the Community College District Board of Trustees, Health Authority Board, Housing Authority Commission, Law Library Board of Trustees (excluding *ex officio* members), and San Francisco Unified School District Board of Education ;

- City department heads;
- Agency heads of the Community College District, Health Authority, Housing Authority, Law Library, and the San Francisco Unified School District.

**ii. The Executive Officer of the Superior Court**

Members of the Civil Grand Jury must file their SEIs with the Executive Officer of the Superior Court.

**iii. Department Heads**

All other designated employees listed in the City’s Conflict of Interest Code must file their SEIs with their department heads, or the persons designated to receive SEIs, at their agency.

Blank SEIs may be obtained at <http://www.fppc.ca.gov> or from the Commission, which also provides assistance in completing the forms. Deputy City Attorneys Jon Givner (415) 554-4694 and Andrew Shen (415) 554-4780 will assist you with questions regarding completion of the forms.

**e. What are the Consequences of Not Filing the SEIs or Not Disclosing Required Information?**

Failure to comply with these reporting requirements may result in criminal, civil or administrative sanctions up to \$5,000 per violation. There is also a \$10 per day fine (up to a maximum of \$100) for late filings. In addition, failure to file an SEI within 30 days of receiving notice from the Ethics Commission of your failure to file subjects you to discipline by your appointing authority, including removal from office or termination of employment.

**f. May You Amend Your SEI?**

Yes. If you discover an error in your filing, you must amend your SEI. The Commission has amendment forms for this purpose.

**g. Who has Access to SEIs?**

SEIs are public records. Any member of the public may review and copy an SEI.

~~~~~

3. Limits And Reporting Requirements For Certain Types Of Income - Gifts, Honoraria, Travel, And Loans

The Act imposes limits on gifts and prohibits honoraria payments received by SEI filers. This section summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. Local law further restricts officials' ability to accept gifts, as discussed below in section III.A.10.

a. Gifts to Public Officials

i. The Gift Limit

Local elected officers, candidates for local elective office, members of the Planning Commission, the City Administrator, City officials who manage public investments, and judicial candidates may not accept gifts from any single source totaling more than \$440 in a calendar year.

Designated employees may not accept gifts from any single source totaling more than \$440 in a calendar year if they are required to report income or gifts received from that source on their SEIs.

ii. What is a "Gift"?

Under the Act, a gift is any payment or other benefit provided to a public official that confers a personal benefit for which the official does not provide goods or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public.

Except as discussed below, an official has "received" or "accepted" a gift when the official knows that he or she has actual possession of the gift or when the official takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person.

iii. Exceptions to the Definition of "Gift"

The following are not considered "gifts" under the Act:

- Gifts that the official returns unused to the donor, or for which the official reimburses the donor, within 30 days of receipt.
- Gifts that the official donates unused to a non-profit, tax-exempt (501(c)(3)) organization or a government agency within 30 days of receipt without claiming a tax deduction.

- Gifts from the official's spouse or former spouse, child or step-child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, grand-aunt, grand-uncle, grand-niece, grand-nephew, first cousin, first cousin once removed or the spouse of former spouse of any such person (other than a former in-law), or from someone with whom the official is in a bona fide dating relationship, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift.
- Gifts of hospitality involving food, drink or occasional lodging which the official receives in an individual's home when the donor or a member of the donor's family is present. The donor must also be a person with whom the official has a relationship, connection, or association unrelated to the official's position.
- Gifts approximately equal in value exchanged between the official and another individual on holidays, birthdays, or similar occasions.
- Informational material provided to assist the official in the performance of his or her official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.
- A bequest or inheritance.
- Campaign contributions, including rebates or discounts received in connection with campaign activities. However, campaign contributions must be reported in accordance with campaign finance laws.
- Personalized plaques and trophies with an individual value of less than \$250.
- Tickets to fundraisers for political campaigns, if the candidate or committee supported by the fundraiser directly provides the ticket to the official and the official uses the ticket. The official may accept up to two tickets for each event, for the official's own use and a guest.
- Tickets to fundraisers for 501(c)(3) nonprofit organizations, if the nonprofit organization directly provides the ticket to the official, and the official uses the ticket. The official may accept up to two tickets for each event, for the official's own use and a guest.
- Free admission, refreshments, and similar non-cash nominal benefits provided to the official at an event at which he or she gives a speech, participates in a panel or seminar, or provides a similar service within the United States.

- Gifts given directly to members of an official's family are presumed not to be gifts to the official, except when there is no established working, social, or similar relationship between the source of the gift and the official's family member, or there is evidence suggesting that the source of the gift intended to influence the official through the official's family member.
- Gifts made by a third party at an elected official's behest for a legislative, governmental, or charitable purpose. Although these payments are not gifts, the elected official must report payments made by a single source totaling \$5,000 or more in a calendar year. The elected official must file a report within 30 days after the total amount reaches or exceeds \$5,000; once the \$5,000 threshold is met, the elected official must report all subsequent payments by the same source during the calendar year within 30 days of the payment. Forms for reporting are available from the Ethics Commission.

iv. Gifts Not Subject to the Gift Limit That May Be Reportable

Although an official may not be prohibited from accepting the types of gifts described below, the official may be required to report the gifts. In addition, depending on the value of the gifts, the official may be disqualified from making or participating in making decisions affecting the donor.

- Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below.
- Wedding gifts are not subject to the gift limit but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse.

v. Valuation of Gifts

The value of a gift is the fair market value of the item. For example, the value of a pass or ticket that provides one-time admission is the face value of the pass or ticket, or the price which would be offered to the general public. The value of a pass or ticket that provides repeated admission or access to facilities, goods, services, or other benefits is the fair market value of the official's actual use of the pass or ticket, including guests who accompany the official and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person to whom the official transfers the privilege or use of the pass or ticket.

b. Honoraria

i. The Honoraria Prohibition

Local elected officers, candidates for local elective office, members of the Planning Commission, the City Administrator, City officials who manage public investments, and judicial candidates may not accept any honoraria payments. Designated employees may not accept honoraria payments from any source if they are required to report income or gifts from that source on their SEIs.

ii. What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

iii. Exceptions to the Prohibition on Honoraria

The Act and FPPC regulations provide certain exceptions to the prohibition on honoraria. The payments described below are not prohibited and are not required to be disclosed on an SEI.

- An honorarium that the official returns unused to the donor or the donor's agent or intermediary within 30 days of receipt.
- An honorarium that is delivered to the official's government agency within 30 days for donation to the agency's general fund or equivalent account for which the official does not claim a tax deduction.
- A payment that is not delivered to the official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However, the donation cannot have any reasonably foreseeable financial effect on the official or on any member of his or her immediate family, and he or she may not:
 - make the donation a condition for his or her speech, article, or attendance;
 - claim the donation as a tax deduction; or
 - be identified to the non-profit organization in connection with the donation.
- A payment received from the official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided the person is not acting as an agent or intermediary for someone else.

- Certain informational material, campaign contributions, plaques and trophies valued under \$250, and non-cash nominal benefits provided to the official at an event at which he or she gives a speech, participates in a panel or seminar, or provides a similar service.

iv. Honoraria Not Subject to the Prohibition That May Be Reportable

The following payments are not considered “honoraria” but may be reportable and, depending on their value, may disqualify a public official from making or participating in making governmental decisions affecting the source of the honoraria.

- Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. However, such payments are reportable income.
- Income earned for personal services if the services are provided in connection with a bona fide business, trade, or profession (such as teaching, practicing law, medicine, insurance or real estate) and the services are customarily provided in connection with the business, trade, or profession. This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches.
- Free admission, food, beverages, and other non-cash nominal benefits provided at any public or private conference, convention, meeting, social event, meal, or similar gathering, whether or not the official provides any substantive service at the event. Although these items are not considered honoraria, they may be reportable gifts and subject to the gift limit.

Certain payments for transportation, lodging, and subsistence are not considered honoraria, but may be subject to the gift rules. Such payments are discussed below.

c. Travel Payments

The Act and FPPC regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. The term “travel payment” includes payments, advances, and reimbursements for travel, including actual transportation, lodging, and food and drink.

i. Travel Payments that are Not Subject to Either the Gift Limit or the Reporting Requirements

The following types of travel payments are not subject to the gift limit and are not reportable on an SEI.

→ Travel payments provided by the City: Travel payments provided to the official by his or her government agency.

→ Travel payments provided by any other State, local, or federal government agency for which the official provides equal or greater consideration and which the official treats as income.

→ Nonprofit travel: Reimbursements for travel expenses provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration.

→ Campaign travel: Travel payments provided to the official directly in connection with campaign activities. However, these payments must be reported in accordance with the campaign disclosure provisions of the Act and San Francisco’s Campaign Finance Reform Ordinance.

→ Gift exceptions: Any payment that is excluded from the definition of “gift” as described earlier in this manual.

ii. Travel Payments that are Not Subject to the Gift Limit but that Must be Reported on SEIs

The following travel payments are not subject to the gift limit but must be reported on an SEI (on Schedule E):

- Speech-related travel in the U.S.: For travel within the U.S. in connection with an event at which the official gives a speech, participates in a panel or seminar, or provides a similar service, the following payments must be reported but are not subject to the gift limit: transportation, lodging, food and drink expenses on the day immediately preceding, the day of, and the day immediately following the speech, panel, or other service.
- Travel that is not speech-related: Travel not in connection with giving a speech, participating in a panel or seminar, or providing a similar service but which is reasonably related to a legislative or governmental purpose, or to an issue of State, national, or international public policy, and which is provided by:
 - a government, government agency, foreign government, or government authority;
 - a bona fide public or private educational institution defined in section 203 of the Revenue and Taxation Code;

- a nonprofit organization that is exempt from taxation under section 501 (c)(3) of the Internal Revenue Code; or
- a foreign organization that substantially satisfies the requirements for tax exempt status under section 501(c)(3) of the Internal Revenue Code.

d. Loans

Personal loans received by elected officials, appointed officials, and designated employees are subject to limits and other restrictions and, in some circumstances, a personal loan that is not repaid or is repaid below certain amounts may be a gift to the recipient.

i. Limitations on Loans from Agency Officials, Consultants, and Contractors

Elected officials, members of the Planning Commission, the City Administrator, and City officials who manage public investments may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of their government agency or an agency over which their agency exercises direction and control.

In addition, they may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with their government agency or an agency over which their agency exercises direction and control.

ii. Loan Terms

Elected officials may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments.

iii. Loans That are Not Subject to Either Limitations or Documentation Requirements

Some loans are not subject to these rules, including loans received from certain family members and loans received from commercial lending institutions in the normal course of business.

iv. Loans as Gifts

Under some circumstances, a personal loan received by any public official may become a gift and be subject to gift reporting and limitations. For instance, if a loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:

- The date the loan was made;
- The date the last payment of \$100 or more was made on the loan; or
- The date upon which the official has made payments aggregating less than \$250 during the previous 12 months.

B. CONFLICTS OF INTEREST UNDER GOVERNMENT CODE SECTION 1090

California Government Code section 1090 prohibits public officials from being financially interested in a contract made by them *or* by the boards or commissions of which they are members. In some circumstances, the conflicted official’s recusal from the decision will not cure the conflict. Contracts made under such circumstances are void, and violation of section 1090 may subject a public official to severe sanctions.

1. What is a “Financial Interest”?

Section 1090 does not define the term “financial interest.” However, the courts interpret the term broadly to include any interest that “would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the [City].” *People v. Honig* (1996) 48 Cal.App.4th 289, 315. Among other interests, an official has a financial interest under section 1090 in contracts with the official’s employer, the official’s landlord or tenant and the official’s clients.

2. What Constitutes Making a Contract?

Section 1090 does not define what it means to “make” a contract. But courts have held that the term extends to the planning, preliminary discussion, compromises, drawing of plans and specifications, and solicitations of bids that led up to the formal making of the contract.

3. Remote Interests

Government Code section 1091 identifies several “remote interests” to section 1090. An official with a “remote interest” may remain on the board or commission considering the contract, but the official must announce his or her interest on the record and abstain from voting or participating in any way. An employee with a remote interest in a contract similarly must abstain from participating in making the contract.

4. Noninterests

Government Code section 1091.5 identifies some “noninterests.” If a member of a board or commission or an employee has a noninterest, he or she may participate fully in the decision.

C. INCOMPATIBILITY

1. Incompatible Activities

Government Code section 1126 prohibits City officials from engaging in compensated activities that are incompatible with their official duties. Public officials should check the rules of their departments regulating incompatible activity. The Ethics Commission has approved Statements of Incompatible Activities (“SIA”) that govern all City officers and employees. Each SIA has the force of law, and violations may subject an officer or employee to criminal, civil and administrative penalties. Each department is required to provide employees notice of the respective SIA. *See* section III.A.12.

Example. An engineer for a City Department is considering undertaking part-time work as a consultant. If the department has identified this type of outside work as incompatible with City employment, the engineer may not engage in it.

2. Incompatible Offices

The common law prohibits public officials from holding “incompatible offices.” Offices are incompatible if the duties of the two offices will result in a significant clash of loyalties, if the dual office-holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power over the other.

Example. A member of a San Francisco Commission that oversees the expenditure of grant funds would like to serve on the State Board that oversees the implementation of the grant program. The State Board audits expenditure of the City’s funds. Because the State office has the power to audit the local commission’s

award of grants, these offices would likely be deemed incompatible. Taking the second office would result in vacating the first office, unless a statute authorized holding both positions.

D. SOLICITATION OR RECEIPT OF CONTRIBUTIONS BY APPOINTED OFFICIALS: GOVERNMENT CODE SECTION 84308

Government Code section 84308 prohibits appointed officials from soliciting or receiving campaign contributions from parties, participants, or parties’ agents appearing before them in proceedings involving licenses, permits, or other entitlements for use. The law requires an appointed official’s disqualification in such proceedings if the official has received campaign contributions of more than \$250 from a party or participant within the 12 months preceding the decision. In addition, section 84308 prohibits solicitation or receipt of campaign contributions in excess of \$250 during such proceedings, or for 90 days after the decision, from parties, participants or their agents.

1. Who Must Comply with Section 84308?

All appointed members of local boards or commissions who make decisions in proceedings that involve licenses, permits, or other entitlements for use must comply with section 83408. Elected officials are not covered by the law, except when sitting as a member of another board to which the official was not elected.

2. What Types of Proceedings are Covered?

The law applies to proceedings to grant, deny, revoke, restrict, or modify licenses, permits, or other entitlements for use. The statute defines these terms to mean all business, profession, trade and land use licenses and permits, all entitlements for land use, all franchises, and all contracts, other than competitively bid labor or personal employment contracts.

3. Who are Parties, Participants and Agents?

Parties. A party is any person (including a business entity) who files an application for, or is the subject of, a covered proceeding.

Participants. A participant is any person who is not an actual party to the proceeding but who (1) actively supports or opposes a particular decision and (2) has a financial interest in the outcome of the decision.

Agents. An agent is an individual who represents a party or participant in a proceeding. If an individual agent is an employee or member of a law, architectural,

engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are considered agents.

Campaign contributions made by a party or participant are aggregated with those made by the party or participant's agent within the 12 months preceding the decision or the period of the agency relationship, whichever is shorter.

4. What Disclosure Is Required?

Prior to making any decision, each officer who received a campaign contribution of more than \$250 within the preceding 12 months from a party, participant, or his or her agent must disclose that fact on the record of the proceedings.

5. When is Disqualification Required?

Disqualification is required when, prior to making a decision, an officer learns that a party or participant in a proceeding has made a contribution of more than \$250 to the officer within the preceding 12 months. Disqualification is not required, however, if the officer returns the contribution within 30 days of the officer's learning of the contribution and proceeding.

E. CONSTITUTIONAL PROHIBITION ON TRAVEL DISCOUNTS

Article XII, section 7 of the California Constitution prohibits public officers (but not employees) from accepting free passes or discounts from transportation companies. This prohibition applies to free airline upgrades but does not apply to a public officer's receipt of "frequent-flyer" miles earned without regard to official status.

F. CONFLICTS OF INTEREST UNDER THE COMMON LAW

Before the enactment of State statutes on conflicts of interest, State courts had developed a common law conflict of interest doctrine. Generally, the doctrine provides that a public official owes an undivided duty of loyalty to the public. Where a governmental decision involves a conflict between a public official's duty of loyalty to the public and duty of loyalty to a private interest, the public official should avoid participating in the decision.

G. POLITICAL ACTIVITY

Local officers and employees may not use public resources to engage in political activity related to candidates or ballot measures before the voters. In addition, local officers may not directly or indirectly solicit funds from other officers or employees of the local agency or from persons on employment lists of the local agency, unless

the solicitation is part of a solicitation made to a significant segment of the public that may include officers or employees of the agency. Officers and employees may not participate in political activities of any kind while in uniform. Additional local provisions governing political activity are discussed in section III.A.12.

H. ETHICS TRAINING

Under State law, elected City officers, members of boards and commissions and department heads who file their Statements of Economic Interests with the Ethics Commission must complete an ethics training course at least once every two years.

III. LOCAL LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS

In addition to the restrictions imposed by State law, discussed earlier in this manual, public officials are subject to a number of local restrictions designed to prevent conflicts between the officials' outside activities and public duties. These restrictions are codified in the Government Ethics Ordinance, Campaign & Governmental Conduct Code section 3.200 et seq. The following is a brief description of some of these provisions.

A. LOCAL ETHICS LAWS GOVERNING THE CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES

1. Prohibition on Representing Private Parties Before Other City Officers and Employees -- Compensated Advocacy

Section 3.224 of the Campaign and Governmental Conduct Code prohibits any City officer from representing, for compensation, anyone other than the City before any other City officer or employee. The prohibition does not apply to an officer acting on behalf of a business, union or organization of which the officer is a member or full-time employee; or to an officer acting in his or her capacity as a licensed attorney in communications with the City lawyers or representatives.

Example. A client of a City commissioner has a matter pending before another department. The client's interest is completely unrelated to anything the commissioner does as a City officer. Section 3.224 prohibits the commissioner from representing the client for pay before the department or its staff. It is not relevant that the matter is not related to the commissioner's work as a City officer.

2. Dual Office Holding for Compensation

Campaign and Governmental Conduct Code section 3.220 prohibits any person holding a public office in San Francisco with an annual salary of more than \$2,500 from holding any other City, State or federal office with such a salary. A person who violates this provision is deemed to have vacated the City and County office. As used in this law, the term “salary” does not include per diem or payment for attendance at meetings or non-cash benefits, such as health insurance.

3. Prohibition on Contracting with The City

S. F. Campaign and Governmental Conduct Code section 3.222 prohibits City officers from contracting with the City, the School District, the Housing Authority, or the Community College District.

This provision applies to any contract or subcontract of \$10,000 or more. This prohibition does not apply to contracts or subcontracts with nonprofit organizations, to contracts or subcontracts existing at the time of appointment, or to agreements to provide goods or services to the City at substantially below fair market value.

The prohibition also does not apply to contracts or subcontracts with business entities for which a City officer works unless the officer exercises management and control over the business.

4. Prohibition on Disclosing or Using Confidential Information

Campaign and Governmental Conduct Code section 3.228 prohibits City officers and employees from disclosing or using for personal gain any confidential information concerning the City. Confidential information means information that at the time of use or disclosure was not subject to disclosure under the Sunshine Ordinance or California Public Records Act.

5. Appointments and Nominations

Campaign and Governmental Conduct Code section 3.208 provides that no person may give or promise, and no officer or employee of the City and County may solicit or accept, any money or other valuable thing in exchange for anyone’s nomination or appointment to any City office, employment, promotion, or for other favorable employment action.

6. Prohibition on Voting on Own Character or Conduct

Campaign and Governmental Conduct Code section 3.210 prohibits City officers and employees from knowingly voting on or in any way attempting to influence a governmental decision involving their own character or conduct, or their appointment to any office, position, or employment. This section does not prohibit an officer or employee from responding to allegations or inquiries, applying for a position, or participating in the decision of a board or commission to choose a chairperson or other officer.

7. Decisions Involving Family Members

Section 3.212 of the Campaign and Governmental Conduct Code prohibits City officers and employees from making, participating in making, or seeking to influence a City decision regarding an employment action involving a relative.

But an officer or employee can provide a personal reference for a relative who is applying for a City position unless the position is in the officer or employee’s department or agency or in any department or agency subject to control of the officer or employee’s department or agency.

When this section prohibits a department head from participating in an employment action involving a relative, the department head must delegate in writing to an employee within the department any decisions regarding such employment action.

8. Disclosure of Personal, Professional and Business Relationships

Section 3.214 of the Campaign and Governmental Conduct Code requires City officers and employees to disclose on the public record any personal, professional, or business relationship with any individual who is the subject of, or has an ownership or financial interest in, the subject of a governmental decision being made by the officer or employee. This disclosure requirement applies only if, as a result of the relationship, the ability of the officer or employee to act for the benefit of the public could reasonably be questioned. Disclosure on the public record means inclusion in the minutes of a public meeting, or if the decision is not being made at a public meeting, recorded in a memorandum kept on file at the offices of the City officer or employee’s department, board, or commission.

9. Receipt of Benefits for Referrals and Requiring Particular Contractors

Section 3.226 of the Campaign and Governmental Conduct Code prohibits an officer or employee from receiving anything of value from anyone other than the City for referring a member of the public to another person or entity for any advice, service or product related to the processes of the City.

Section 3.226 also prohibits an officer or employee from conditioning any governmental action on a member of the public hiring, employing or contracting with any specific person or entity.

10. Limitations on Gifts

In addition to the Political Reform Act's requirements, the City has adopted additional gift restrictions, described below. Departments may also impose additional gift restrictions on their officers or employees.

a. Prohibition on bribery

Section 3.216(a) of the Campaign and Governmental Conduct Code prohibits any person from offering or making, and any officer or employee from accepting, any gift with the intent that the City officer or employee will be influenced thereby in the performance of any official act.

b. Limits on gifts from a restricted source

Under section 3.216(b) of the Campaign and Governmental Conduct Code, no officer or employee of the City and County may solicit or accept any gift from a person who the officer or employee knows or has reason to know is a restricted source. A restricted source is any person or entity that is contracting or seeking to contract with the employee or officer's department, or that has attempted to influence the employee or officer in the previous 12 months.

There are several exceptions to the prohibition on receiving gifts from restricted sources. Employees and officers may accept the following gifts even though they come from restricted sources:

- Voluntary gifts, other than cash, with an aggregate value of \$25 or less per occasion, up to four times during a calendar year.
- Voluntary gifts of food and drink to be shared in the office among officers and employees.
- Free attendance at a widely attended conference appropriate to the official duties of the officer or employee.
- Certain business-related meals paid for by members of the investment community, the maritime industry, or the aviation industry.

Example: A restricted source sends five pizzas to an employee to be shared with her coworkers as a goodwill gesture. Because this is a gift of food to be shared in the office, staff may share the pizza.

Example: A restricted source sends two opening day Giants tickets to a staff person. The staff person may not accept the tickets because their value exceeds \$25.

Example: A restricted source sends a baseball cap to the department head. The department head may accept the baseball cap because its value is \$25 or less, provided that the department head has not already accepted gifts with a value of \$25 or less from the restricted source on four occasions during the calendar year.

Example: Staff of a City department are invited to attend a forum on best practices in the industry that is sponsored by a restricted source. At this conference, staff may accept food, refreshments, entertainment or instructional material furnished to all attendees as an integral part of the event.

c. Gifts from subordinates

Section 3.216(c) of the Campaign and Governmental Conduct Code prohibits officers and employees from soliciting or accepting anything of value from any subordinate, or employee or from any candidate or applicant for a position as an employee or subordinate under him or her. There are several exceptions to this rule, including gifts worth \$25 or less on occasions when gifts are traditionally given, gifts associated with personal hospitality, and gifts given in recognition of an occasion of special personal significance.

d. Gifts for doing one's job

The City's Statements of Incompatible Activities prohibit any officer or employee from receiving or accepting gifts from anyone other than the City for the performance of specific City duties, or for providing advice related to the officer or employee's duties and responsibilities. The SIAs permit employees and officers to accept de minimis gifts, such as non-cash gifts with an aggregate value of \$25 or less per occasion, and gifts such as food and drink to be shared in the office among officers and employees.

11. Restrictions on Use of City Resources and Political Activity

Local law prohibits officers and employees from directly or indirectly soliciting funds from other officers or employees of the City or from persons on employment lists of the City, unless the solicitation is part of a solicitation made to a significant segment of the public. Officers and employees also may not participate in political activities of any kind while in uniform.

Officers and employees may not engage in political activity during working hours or on City premises, except on property that is made available to the public to be used for political purposes.

12. Incompatible Activities

Campaign and Governmental Conduct Code section 3.218 prohibits City officials from engaging in activities that are incompatible with their official duties, as set forth in a Statement of Incompatible Activities (“SIA”).

Each department’s SIA lists those activities that are inconsistent, incompatible or in conflict with the duties of the officers and employees of the particular department, board, commission or agency. The list includes, but is not limited to, activities that involve:

- using City time, facilities, equipment and supplies or the prestige or influence of the City officer or employee’s position for private gain or advantage;
- engaging in activities that are subject directly or indirectly to the control, inspection, review, audit, or enforcement of the City officer or employee’s department, board, commission or agency; and
- time demands that would materially impair the performance of the officer and employee’s duties.

Each year, every department, board, commission, and agency must provide to its officers and employees a copy of its SIA.

13. Sunshine Training

All City employees and officers who are required to file a Statement of Economic Interests with the Ethics Commission, must file an annual affidavit with the Ethics Commission declaring under penalty of perjury that they have attended, or will attend when next offered, a training session on the Sunshine Ordinance.

The City Attorney’s Office provides both Sunshine and ethics training biannually and on its website. Copies of the required declaration form are available on the Ethics Commission’s website.

14. Post-employment Restrictions

Section 3.234 of the Campaign and Governmental Conduct Code restricts the activities of City employees and officers after their service with the City ends. In addition, state and local law impose restrictions on making decisions affecting future employers.

a. Provisions Applicable to All Officers and Employees

i. Permanent ban on switching sides

City officers and employees are permanently barred from acting as an agent, attorney, or otherwise representing any other person, *other than the City and County*, before any court or administrative agency in connection with a particular matter if:

- the City and County is a party or has a direct and substantial interest in the matter;
- the former officer or employee participated personally and substantially as a City officer or employee in the matter; and
- the matter involved a specific party or parties at the time of the officer or employee’s participation.

City officers and employees also cannot aid, advise, counsel, consult or assist another person (other than the City and County) in any proceeding in which the officer or employee would be precluded from participating personally.

ii. One year ban on communicating with former department

City officers and employees are prohibited for one year after terminating their City service from, with an intent to influence a government decision, communicating orally, in writing, or in any other manner on behalf of any other person (except the City) with any officer or employee of the department, board, commission, or other unit of government for which the officer or employee served. (A special, more restrictive version of this rule applies to the Mayor, members of the Board of Supervisors and their senior staffs.)

iii. Waiver

The Commission may waive these post-employment restrictions in certain circumstances.

iv. Future Employment

City officers and employees are subject to two additional limits on future employment:

- *One year ban on employment with certain city contractors*

Section 3.234(a)(2) prohibits City officers and employees from being employed by or otherwise receiving compensation from any person or entity that entered into a contract with the City in the previous 12 months, where the officer or employee personally and substantially participated in the award of the contract.

The Ethics Commission may waive this prohibition if the Commission determines that imposing the restriction would cause extreme hardship for the officer or employee.

- ***Making decisions affecting a person with whom an officer or employee is negotiating future employment***

Campaign and Governmental Conduct Code section 3.206(c) also prohibits City officers and employees from making, participating in making, or seeking to influence, government decisions affecting a person or entity with whom the officer or employee is discussing or negotiating future employment.

b. Provisions applicable to the Mayor and Members of the Board of Supervisors and their Senior Staff

i. One year ban

For purposes of the one year ban discussed above, the prohibition for a former Mayor, former member of the Board of Supervisors, or their former senior staff members, extends to communications with *any* City board, commission, department, employee, officer or representative.

ii. City service

No former Mayor or member of the Board of Supervisors is eligible for a period of one year after the last day of service for appointment to any full time, compensated employment with the City. This restriction does not apply to a former Mayor or Supervisor elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to a board or commission in the executive branch.

B. LOCAL LAWS REGULATING LOBBYISTS

The Lobbyist Ordinance, Campaign and Governmental Conduct Code section 2.100, et seq. provides for the registration of lobbyists and regulation of lobbying activity in San Francisco. The Commission is charged with administration of the Ordinance, including receiving information required to be filed and assessing late filing fines where applicable. Persons who that qualify as lobbyists must:

- Register with the Commission;
- Pay registration fees; and
- File monthly reports detailing their lobbying activity.

The monthly reports include information about: contacts with City officers, payments received from clients to influence local legislative or administrative action; other expenses incurred relating to lobbying; political contributions; and other lobbying activity.

IV. OBLIGATIONS OF CITY OFFICERS AND EMPLOYEES

A. COOPERATING AND ASSISTING IN ENFORCEMENT INVESTIGATIONS

Under section 3.240 of the Campaign and Governmental Conduct Code, City employees and officers must cooperate with the Ethics Commission, District Attorney, or City Attorney in investigations of any alleged violations of the Government Ethics Ordinance. City employees and officers may not provide false or fraudulent evidence, documents, or information or conceal any information that is material to an investigation.

B. PROHIBITION ON FILING FALSE CHARGES

Section 3.238 of the Campaign and Governmental Conduct Code prohibits all persons, including City officers and employees, from knowingly and intentionally filing with the Ethics Commission, the District Attorney, or the City Attorney any false charge alleging a violation of Government Ethics Ordinance.

C. PROHIBITION ON AIDING AND ABETTING

Section 3.236 of the Campaign and Governmental Conduct Code prohibits any person, including City officers and employees, from knowingly and intentionally providing assistance or otherwise aiding and abetting any other person in violating the Government Ethics Ordinance.

**APPENDIX A:
RESOURCE GUIDE**

SAN FRANCISCO ETHICS COMMISSION

25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
(415) 220-3100
(415) 252-3112 (fax)
sfgov.org/ethics

The Commission's website includes the following:

- San Francisco Campaign Contribution Databases
- Campaign Finance Audit Program
- Lobbyist Ordinance and Regulations
- Lists of Registered Lobbyists, Employees of Lobbyists, Clients of Lobbyists
- Lobbyists on Behalf of the City
- Campaign Consultant Ordinance and Regulations
- Campaign Consultant Manual and Forms
- List of Registered Campaign Consultants and their Clients
- Complaint Form and Instructions
- Whistleblower Ordinance and Hotline
- Database of Statements of Economic Interests
- Ethics Commission Bylaws
- Ethics Commission Agendas
- Ethics Commission Minutes
- Ethics Commission Annual Reports
- Advice Letters Issued by Ethics Commission

~~~~~

**SAN FRANCISCO CITY ATTORNEY'S OFFICE**

City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
(415) 554-4700  
(415) 554-4745 (fax)  
[www.sfgov.org/cityattorney](http://www.sfgov.org/cityattorney)

~~~~~

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION

428 J Street, Suite 800
Sacramento, CA 95814
Phone (Toll Free) 1-866-ASK-FPPC (866-275-3772)
Fax (916) 327-2026
www.fppc.ca.gov

The FPPC's website includes the following:

- Information about state campaign finance, lobbying and ethics laws
- Advice about the Political Reform Act of 1974
- Technical assistance for completing state campaign and financial disclosure forms
- Information on reporting violations of state campaign finance, ethics, and lobbying laws

~~~~~

**CALIFORNIA SECRETARY OF STATE**

Political Reform Division  
P.O. Box 1467 (95812-1467)  
1500 11th Street, Room 495  
Sacramento, CA 95814  
Phone (916) 653-6224  
Fax (916) 653-5045  
[www.ss.ca.gov](http://www.ss.ca.gov)

The Secretary of State's website includes the following:

- On-line search of state candidates' campaign fundraising and expenditure activities
- Copies of campaign disclosure statements for all state candidates and state ballot measures
- State elections and voter information
- How to obtain campaign Committee Identification Numbers
- How to terminate a committee

~~~~~

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL

1300 I Street, Suite 1740

Sacramento, CA 95814

Phone (800) 952-5225

Fax (916) 323-5341

www.caag.state.ca.us

The Attorney General's website includes the following:

- Information about California's open meetings laws ("The Brown Act")
- How to avoid conflicts of interest when acting on government contracts (California Government Code section 1090)

~~~~~

S:\Conflicts of Interest\Manual on Ethics Laws\version 5.2013.doc