

# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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JOHN ST. CROIX  
EXECUTIVE DIRECTOR

Date: November 20, 2013

To: Members, Ethics Commission

From: John St. Croix, Executive Director  
By: Mabel Ng, Deputy Executive Director

Re: Proposed regulation to clarify SF C&GC Code section 3.216(d)

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Section 3.216(d) of the San Francisco Campaign and Governmental Conduct Code addresses a narrow gift issue. Under section 3.216(d), elected officials must provide detailed reporting concerning gifts of out-of-state travel paid for by 510(c)(3) non-profit organizations (or their foreign equivalent). Section 3.216(d) does not prohibit the receipt of such gifts of travel or place any limits on their value – it is merely a reporting requirement. Section 3.216(d) also specifically requires that this reporting must be completed before the elected officials leave on their trips.

Section 3.216(d) provides the following:

**(d) Gifts of Travel.**

(1) **Gifts to Elected Officers.** In addition to the gift limits and reporting requirements imposed by the Political Reform Act and this Code, no elected officer may accept a gift of transportation, lodging, or subsistence for any out-of-state trip paid for in part by an individual or entity other than the City and County of San Francisco, another governmental body, or a bona fide educational institution, defined in Section 203 of the Revenue and Taxation Code, unless the officer has first disclosed on a form filed with the Ethics Commission:

(A) the name of the individual or entity and the total amount that will be paid by the individual or entity to fund the trip, including but not limited to the amount directly related to the cost of the elected officer's transportation, lodging, and subsistence;

(B) the name, occupation and employer of any contributor who has contributed more than \$500 to the individual or entity funding the trip and whose contributions were used in whole or in part to fund the trip;

(C) a description of the purpose of the trip and the itinerary; and

(D) the name of any individual accompanying the official on the trip who is:

(i) a City employee required to file a Statement of Economic Interests,

(ii) a lobbyist or campaign consultant registered with the Ethics Commission,

(iii) an employee of or individual who has any ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission, or

(iv) the individual funding the trip, or an employee or officer of the entity funding the trip.

(2) **Reimbursement of Gifts of Travel.** In addition to any other reporting requirements imposed by the Political Reform Act or local law, an elected officer who reimburses an individual or entity for a gift of transportation, lodging or subsistence related to out-of-state travel and thereby avoids having received or accepted the gift shall file a form with the Ethics Commission within 30 days of such reimbursement disclosing:

(A) the name of the individual or entity that originally paid for the transportation, lodging or subsistence;

(B) the amount paid by the individual or entity for the elected officer's transportation, lodging or subsistence;

(C) the amount reimbursed by the elected officer to the individual or entity and the process used to determine that amount; and

(D) a description of the purpose of the trip and the itinerary.

(3) **Format.** The Ethics Commission shall provide forms for the disclosure required by this subsection and shall make the completed forms available on its website.

(4) **Definition.** For the purpose of this subsection, the term "elected officer" means the Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Public Defender, Assessor, Treasurer, and Sheriff.

(e) **Restrictions.** Nothing in this section shall prohibit a City department, agency, board or commission from imposing additional gift restrictions on its officers or employees.

Since passage of section 3.216(d) in 2006, elected officers have complied by filing the Form SFEC-3.216(d) with the Commission. The Ethics Commission has authority under the City Charter to adopt regulations interpreting this provision, but the Commission has not done so. However, several questions continuously arise; thus, staff proposes the following regulation to help clarify the filing requirements of section 3.216(d). The draft regulation has four parts, as discussed below.

### **Regulation 3.216(d)-1: Gifts of Travel**

#### **(a) Form.**

*(1) To comply with the reporting requirements of section 3.216(d), elected officials shall use the Ethics Commission Form SFEC-3.216(d). This form may be filed in person, by mail or facsimile, or as a PDF attachment to an email. If the Commission implements a system for electronic filing of the form, it shall prescribe the manner in which the form may be filed. In its discretion, the Commission may require that the form be submitted using only the Commission's electronic filing system.*

The draft regulation clarifies that the Form SFEC-316(d) may be filed in person, by mail or facsimile, or as a PDF attachment to an email. Because staff anticipates that electronic filing of the form may be possible in the future, the regulation would allow the Commission to require electronic filing of the form.

#### **Decision Point 1a:**

Shall the Commission approve draft Regulation 3.216(d)-1(a)?

**(b) Reporting of individual or entity funding the trip.**

(1) If a single trip taken by an elected official is paid for by multiple individuals or entities, the elected official shall report the trip on a single Form SFEC-3.216(d).

This draft regulation puts into writing oral advice given by staff that if multiple individuals or entities pay for a single trip, the elected official should report the trip on a single Form SFEC-3.216(d).

**Decision Point 1b:**

Shall the Commission approve draft Regulation 3.216(d)-1(b)?

**(c) Reporting cost of trip.**

(1) Contributions. A contribution “used in whole or in part to fund the trip,” when directed towards a particular elected official, shall constitute a gift to that elected official for the purposes of the Political Reform Act and the San Francisco Campaign and Governmental Conduct Code.

(2) Family members. An elected official who receives a payment from an individual or entity for an out-of-state trip must report any travel payments for a family member accompanying the elected official on the trip.

Example: A sister city committee is organizing an overseas trip for a group of City officials, including elected officers, to visit the sister city. The sister city committee is a 501(c)(3) non-profit organization. In advance of the trip, the sister city committee fundraises for the trip’s costs by approaching local companies, asking them for specific contributions to fund this particular trip, and informing them which City officials will be participating. Because the companies contributing to the trip are aware of which officials are joining the trip, the elected officials benefiting from such contributions should treat their pro rata share of the company’s contribution as a gift, subject to gift limits and reporting requirements.

This draft regulation clarifies that a contribution to help fund the trip for an elected official may be a gift to that official under local and state law. If so, then the elected official may need to be careful that accepting the gift will not violate any other gift limits or rules.

**Decision Point 1c:**

Shall the Commission approve draft Regulation 3.216(d)-1(c)?

**(d) Amendments.**

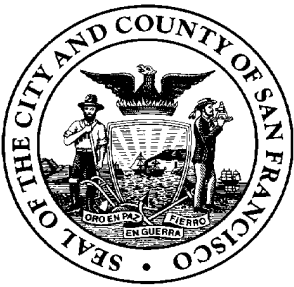
(1) Elected officials may amend a Form SFEC-3.216(d) after returning from an out-of-state trip paid for in part by an individual or entity other than the City and County of San Francisco, another governmental body, or a bona fide educational institution. Any amendments should be filed no later than 30 days after completing such a trip.

Oftentimes, the elected official learns about the precise costs of a trip or the identities of the individuals accompanying the official on the trip only during or after the trip. This draft regulation would clarify that elected officials may amend a Form SFEC-3.216(d) after returning from a trip, as long as the amendment is filed within 30 days after completion of the trip.

**Decision Point 1d:**

Shall the Commission approve draft Regulation 3.216(d)-1(d)?

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# ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

## Form SFEC-3.216(d) Gifts of Travel Instructions

### ***Who is required to file this form?***

Under section 3.216(d) of the San Francisco Campaign and Governmental Conduct Code, this form must be filed by an elected officer who either

- accepts a gift of transportation, lodging, or subsistence for any out-of-state travel that is paid for in part by an entity other than the City and County of San Francisco, another governmental body, or a bona-fide educational institution as defined in section 203 of the Revenue and Taxation Code, or that is paid for by the City in whole or in part with funds donated from any entity other than another governmental body or bona fide educational institution as defined in Section 203 of the Revenue and Taxation Code; or
- reimburses the entity for the gift of transportation, lodging or subsistence in order to avoid receiving a gift.

### ***Who is an elected officer for the purposes of the restrictions in section 3.216(d)?***

The elected officers who are governed by section 3.216(d) include the Mayor, any member of the Board of Supervisors, the City Attorney, the District Attorney, the Public Defender, the Assessor-Recorder, the Treasurer and the Sheriff.

### ***When must the elected officer fill out this form?***

The elected officer must fill out this form and file it with the Ethics Commission ***before accepting*** a gift of transportation, lodging or subsistence that is paid for in part by an entity other than the City and County of San Francisco, another governmental body or a bona fide educational institution as defined in Section 203 of the Revenue and Taxation Code.

The elected officer must fill out this form and file it with the Ethics Commission ***before accepting*** a gift of transportation, lodging or subsistence that is paid for by the City in whole or in part with funds donated from an entity other than another governmental body or a bona fide educational institution as defined in Section 203 of the Revenue and Taxation Code.

If the elected officer ***reimburses*** the gift of transportation, lodging or subsistence, the elected officer must fill out this form and file it with the Ethics Commission ***within 30 days*** of such reimbursement.

### ***What is a gift of transportation, lodging or subsistence?***

A gift of transportation, lodging or subsistence is a benefit that is provided to and confers a personal benefit to the elected officer for which the officer does not provide goods or services of equal or greater consideration.

***Are there other rules related to the acceptance of a gift of out-of-state transportation?***

Yes. Both state and local law require additional reporting of gifts accepted by individuals and on behalf of the City, as well as place restrictions on gifts that elected officers may receive. ***Please note that all gift limits and reporting requirements imposed by the Political Reform Act and local law remain applicable.*** Please see the Ethics Commission's Manual on Governmental Ethics Laws or the City Attorney's Good Government Guide for additional information. If you have questions, please call the Ethics Commission or the City Attorney's Office.

***An entity provides the gift of transportation to your agency. Are you still required to file a report even though it is not deemed a gift to you?***

Yes, if you are the elected officer who is taking the out-of-state travel, lodging or subsistence, you must fill out and file Form SFEC-3.216(d) before you travel.

***Are you required to fill out the entire form?***

No. Depending on the circumstances, you are required to fill out and file Schedule A, B or C. In addition, you must fill out, sign and file the cover page. Estimates may be used in advance; but if expenses vary from estimates, the form must be amended after travel is completed.

- If you are reporting a gift of transportation, lodging or subsistence for any out-of state travel paid for in whole or in part by an entity other than the City and County of San Francisco, another governmental agency, or a bona fide educational institution, please fill out the cover page and Schedule A. Please file these pages with the Ethics Commission before you travel.
- If you are reporting a gift of transportation, lodging or subsistence for any out-of-state travel paid for by the City in whole or in part with funds donated from an entity other than another governmental body or bona fide educational institution, please fill out the cover page and Schedule B. Please file these pages with the Ethics Commission before you travel.
- If you are reporting the reimbursement of a gift of transportation, lodging or subsistence related to out-of-state travel in order to avoid having received or accepted the gift, please fill out the cover page and Schedule C. Please file these pages with the Ethics Commission within 30 days of the reimbursement.

*In filling out Form SFEC-3.21(d), please type or print legibly in ink. Please use additional sheets if necessary.*

If you have questions, please contact the Ethics Commission at 415/252-3100.

**Form SFEC-3.216(d)**  
**Cover Page**

*Please type or print legibly in ink.*

<b>1. Information regarding Elected Officer:</b>			
Name (Last)	(First)	(Middle)	Daytime Telephone
			(      )
Mailing Address	Street	Zip	Fax Telephone
			(      )
Office Held	Email Address		

<b>2. Purpose of Travel:</b>
_____
_____
_____
_____

<b>4. Schedule Summary:</b>
Total number of pages, including this cover page _____
<i>Check applicable schedules:</i>
<b>Schedule A</b> <input type="checkbox"/> <b>Yes – schedule attached</b> <i>Gift of transportation, lodging or subsistence</i>
<b>Schedule B</b> <input type="checkbox"/> <b>Yes – schedule attached</b> <i>Gift to the City of transportation, lodging or subsistence</i>
<b>Schedule C</b> <input type="checkbox"/> <b>Yes – schedule attached</b> <i>Reimbursement to the City of gift of transportation, lodging or subsistence</i>

<b>3. Dates of Travel and Itinerary:</b>
Month/Day/Year _____ City, State, Country _____
_____
_____
_____
_____
_____
_____

<b>5. Verification:</b>
I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge, the information contained herein and in any attached schedules is true and complete.
<b>I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</b>
Date signed _____
Signature _____

## Form SFEC-3.216(d) Schedule A – Gifts of Travel

**1. Information regarding entity funding gift of transportation, lodging or subsistence**

Full Name of Entity:  
\_\_\_\_\_

Address:  
\_\_\_\_\_  
\_\_\_\_\_

Street City State Zip

Name of Contact Person:  
\_\_\_\_\_

Email Address: Telephone:  
\_\_\_\_\_ ( ) \_\_\_\_\_

**3. Cost of transportation, lodging or subsistence**

A. Please list the total amount of costs that will be paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.  
\_\_\_\_\_

B. Please list the amount in Item A that is directly related to the cost of the officer's transportation, lodging and subsistence.  
\_\_\_\_\_

**2. Information regarding contributors who contributed more than \$500 to the entity to fund the trip**

Please list the name, occupation and employer of any contributor who contributed more than \$500 to the entity funding the trip and whose contributions were used in whole or in part to fund the trip:

\_\_\_\_\_  
Name of Contributor

\_\_\_\_\_  
Occupation of Contributor

\_\_\_\_\_  
Employer of Contributor

\_\_\_\_\_  
Name of Contributor

\_\_\_\_\_  
Occupation of Contributor

\_\_\_\_\_  
Employer of Contributor

\_\_\_\_\_  
Name of Contributor

\_\_\_\_\_  
Occupation of Contributor

\_\_\_\_\_  
Employer of Contributor

Check box if additional schedules are attached.

**4. Information regarding persons accompanying the elected officer**

Please list the name of any individual who is

- (a) a City employee required to file a Statement of Economic Interests,
- (b) a lobbyist or campaign consultant registered with the Ethics Commission;
- (c) an employee of or individual who has an ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission; or
- (d) an employee or officer of the entity that will pay for the gift of transportation, lodging or subsistence, and

who is accompanying the elected officer on the trip.

*Please identify whether the individual is category (a), (b), (c), or (d), as described above.*

Name of Individual	Category
_____	_____
_____	_____
_____	_____

Check box if additional schedules are attached.



**Form SFEC-3.216(d)**  
**Schedule B – Gifts to the City**

**1. Information regarding entity that donated funds to the City that will be used by the City to fund the elected officer's transportation, lodging or subsistence**

Full Name of Entity:  
 \_\_\_\_\_

Address:  
 \_\_\_\_\_

Street City State Zip  
 \_\_\_\_\_

Name of Contact Person:  
 \_\_\_\_\_

Email Address: Telephone:  
 \_\_\_\_\_ ( ) \_\_\_\_\_

**3. Cost of Transportation, Lodging or Subsistence**

A. Please list the total amount of costs that will be paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.  
 \_\_\_\_\_

B. Please list the amount in Item A that is directly related to the cost of the officer's transportation, lodging and subsistence.  
 \_\_\_\_\_

**2. Information regarding contributors who contributed more than \$500 to the entity to fund the trip**

Please list the name, occupation and employer of any contributor who contributed more than \$500 to the entity funding the trip and whose contributions were used in whole or in part to fund the trip:

Name of Contributor  
 \_\_\_\_\_

Occupation of Contributor  
 \_\_\_\_\_

Employer of Contributor  
 \_\_\_\_\_

Name of Contributor  
 \_\_\_\_\_

Occupation of Contributor  
 \_\_\_\_\_

Employer of Contributor  
 \_\_\_\_\_

Name of Contributor  
 \_\_\_\_\_

Occupation of Contributor  
 \_\_\_\_\_

Employer of Contributor  
 \_\_\_\_\_

Check box if additional schedules are attached.

**4. Information regarding persons accompanying the elected officer**

Please list the name of any individual who is

- (a) a City employee required to file a Statement of Economic Interests,
- (b) a lobbyist or campaign consultant registered with the Ethics Commission;
- (c) an employee of or individual who has an ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission; or
- (d) an employee or officer of the entity that will pay for the gift of transportation, lodging or subsistence, and

who is accompanying the elected officer on the trip.

*Please identify whether the individual is category (a), (b), (c), or (d), as described above.*

Name of Individual	Category
_____	_____
_____	_____
_____	_____

Check box if additional schedules are attached.

**Form SFEC-3.216(d)**  
**Schedule C - Reimbursement**

**1. Information regarding entity that originally paid for the elected officer's transportation, lodging or subsistence**

Full Name of Entity:  
\_\_\_\_\_

Address:  
\_\_\_\_\_

Street City State Zip  
\_\_\_\_\_

Name of Contact Person:  
\_\_\_\_\_

Email Address: Telephone:  
\_\_\_\_\_ ( ) \_\_\_\_\_

**2. Cost of transportation, lodging or subsistence**

Please list the total amount of costs that was paid by the entity to fund the elected officer's travel, including but not limited to the amount directly related to the cost of the officer's transportation, lodging and subsistence.

\_\_\_\_\_

**3. Information regarding the Amount reimbursed by the elected officer to the entity**

Please list the amount reimbursed by the elected officer to the entity.

\_\_\_\_\_

Please describe the process used to determine the fair-market value of the cost of the officer's transportation, lodging and subsistence, as reported in item 3(a).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_