



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM  
EXECUTIVE DIRECTOR

**Date:** September 20, 2017

**To:** Members of the Ethics Commission

**From:** Kyle Kundert, Senior Policy Analyst

**Re:** **AGENDA ITEM 5 – Policy Report**

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**Summary:** This memorandum provides updates on major ongoing policy projects to assist the Commission, the public, and Staff in tracking pending projects and proposals for Fiscal Year 2017.

**Action Requested:** No action is required by the Commission, but staff seeks the Commission's guidance and input on the schedule of the Commission's policy initiatives.

### Background

Staff has previously updated the Commission on ongoing policy projects as part of the Executive Director's report. With our new Policy unit now staffed, we are better positioned to provide a monthly Policy report with fuller information about the number and scope of policy projects either ongoing or planned as a separate discussion item on the Commission's agenda to help keep the Commission and public abreast of those projects.

### Monthly Update on Current Policy Initiatives

2017 San Francisco Anti-Corruption and Accountability Ordinance: Since the Commission's August meeting, Staff continued to research and amend a draft ordinance, the 2017 San Francisco Anti-Corruption and Accountability Ordinance, based on the Commission's requests at the August meeting. Staff held two meetings with interested persons to explore the impact that certain provisions of the ordinance, especially the behested payment rules in Section 1.126, would have on members of the regulated community. Following these meetings, Staff made changes to the terms of the ordinance. The latest draft of the ordinance, supporting documentation and a memorandum outlining the changes to the draft since the August meeting appear in Agenda Item 4.

Form 700 – Non-voting ordinance: At the initiation of Commissioner Kopp, the Commission requested staff to evaluate and provide draft language for the Commission on an ordinance that would restrict members of City Boards and Commissions from voting on substantive matters if those individuals have not timely filed a Statement of Economic Interest (FPPC Form 700). Such an ordinance was presented to the Commission at its August meeting as Agenda Item 6. The Commission voted to amend the ordinance by removing the exceptions contained

therein. The Commission then voted to approve the ordinance as amended. Staff has made the relevant amendments to the ordinance, and the ordinance is now ready to be presented to the Board of Supervisors.

Supervisor Cohen Legislation: Supervisor Cohen introduced legislation on June 13, 2017 that would require the Commission to accept disclosures and enforce rules related to spending in races for the elected positions on the Health Services Board, Retirement Board and Retiree Health Care Trust Fund Board. On September 11, Staff sent a letter of comment to the Clerk of the Rules Committee conveying overall support of the intent and purpose of the legislation but also providing some considerations for the Board of Supervisors to strengthen the proposals, its implementation and enforcement. At its September 13 meeting, the Rules Committee voted to continue the matter. Staff is currently arranging a discussion with Supervisor Cohen's office regarding Staff's proposed changes to the ordinance.

Ethics and Sunshine training: Currently, certain City officials and employees must complete an ethics and sunshine ordinance training. The ethics training, under California Government Code Section 53235, is required to be completed within one year of assuming office and again within two years of the last training. Under the City Administrative Code Section 67.33, officials and employees must attest, under penalty of perjury, that they have attended or will attend a sunshine ordinance training session at least once annually. Commission staff is currently working to implement a revised schedule for the ethics and sunshine ordinance training that brings it into line with the current requirements for filing of the Form 700. The code section addressing the Form 700 filers requires individuals to complete the Form 700 within thirty days of assuming office and annually thereafter. Through its review of the ethics and sunshine training provisions, Staff is working to implement regulations that would align the requirements of the ethics and sunshine training with the form 700 filing requirements to improve the administration of these programs and advance the educational and training outcomes these programs seek to accomplish. Staff has drafted initial regulations to carry out this change in the training requirements and has distributed these drafts to the City Attorney and the Department of Human Resources.

California Assembly Bill 249 – The California Disclose Act: AB 249, a bill aimed at creating greater financial disclosure requirements for political advertisements, was passed by both houses of the California Legislature and is now awaiting signature by the Governor. Staff continues to analyze the terms of this bill in anticipation of its becoming law. Primarily, Staff will be analyzing how AB 249 will amend the Political Reform Act in ways that affect filing and disclaimer requirements for committees making political expenditures in San Francisco.

Several additional pieces of legislation were passed last week in the final days of the Legislature's session. Staff will continue to review the legislation that pertains to ethics, campaign finance, and other areas that pertain to the Commission and will update the Commission on any relevant changes in state law.

Preparations for Operative Legislation: On January 1, 2019, two new pieces of legislation will become operative, and both will create new rules that the Commission will enforce. Staff has drafted notices that will inform interested persons of the major changes to existing law.

One of the new pieces of legislation is Ordinance 001-17, proposed by Supervisor Peskin. On January 10, 2017, the Board of Supervisors voted 11-0 to require behested payments reports by City Board and Commission members under certain circumstances. The ordinance was signed by the Mayor on January 20, 2017. As adopted, the ordinance requires members of boards and commissions who are required to file a Form 700 to disclose if they directly or indirectly request or solicit charitable contributions of \$1,000 from parties or participants (or their agents) while certain matters are pending before that commissioner's board. The disclosure requirement applies to both monetary and non-monetary contributions to a government agency, educational institution, and both 501(c) and Section 527 tax-exempt organizations.

The other new piece of legislation is Proposition T, approved by the voters of San Francisco in the November 2016 General Election. Proposition T will: ban lobbyists from making campaign contributions to elected officials at agencies the lobbyists are registered to lobby and to candidates seeking election to those offices; ban lobbyists from transmitting to those officials and candidates' contributions collected from others, a practice commonly known as "bundling;" and, ban lobbyists from giving City officers gifts of any value, including gifts of travel, or making such payments through others.

### **Overview of Upcoming Projects**

During the remainder of calendar year 2017, Staff will commence two long-term projects intended to improve the code sections and regulations that underpin the Commission's operation. These projects will run simultaneously to one another.

Review of Conflict of Interest Code: Staff will review the Conflict-of-Interest Code to identify areas for strengthening and updating. Most likely, this project will culminate in a proposed conflict-of-interest ordinance that Staff will present to the Commission.

Review of Campaign Finance Reform Ordinance Regulation: Staff will also review the regulations that accompany CFRO for the purpose of strengthening and updating those regulations. This project will also include the development of regulations to carry out the new requirements of the 2017 San Francisco Anti-Corruption and Accountability Ordinance, if that ordinance becomes law. Most likely, this project will culminate in a set of regulations that Staff will present to the Commission.

# San Francisco Ethics Commission - Annual Policy Plan

Fiscal Year 2018 (July 1, 2017 - June 30, 2018)

Policy Issue or Topic		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
<b>General</b>	Policy Summit Convened by Ethics Commission											△	SR
	Annual Budget and Status Report											△	EC
	Policy Planning Project - Annual Policy Plan			IM									
<b>Enforcement</b>	Enforcement Regulations Project	SR	EC	SR		EC							
	Probable Cause Determination Process Review	SR	SR			EC							
<b>Lobbying</b>	Lobbying Code Review										△	SR	
	Lobbying Regulations Review												△
	Expenditure Lobbying Program Review										△	SR	
	Proposition T Regulation Implementation			△	SR		EC						
	Permit Consultant Program Review										△	SR	
<b>Campaigns</b>	Public Financing Program Review	SR		SR	SR		EC		SR		EC		
	CFRO Code Review and Revision	SR	EC	EC	BOS								
	Slate Mailer Filings to Ethics Project	SR	SR										
	Behest Payment Disclosure Review			△	SR		EC						
	CFRO Regulation Review			△	SR		EC						
	Campaign Consultant Program Review										△	SR	
<b>Ethics</b>	E-filing for Form 700 Project	SR	EC		SR						EC		
	Ethics Code Review			△	SR		EC		SR		EC		

- △ Planned Project Start
- SR Staff Review & Public Comment
- EC Before Commission
- BOS Before Board of Supervisors

- IM Implementation
- ▭ Tentative Dates