

Lobbyist Regulations (San Francisco Campaign and Governmental Conduct Code Section 2.100 et seq)

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Regulation 2.105-1: Construction.

The provisions of Section 2.100 et seq. of the Campaign and Governmental Conduct Code, as well as its implementing regulations, shall be construed in a manner that provides for the greatest disclosure of lobbyist activity in the City and County.

Regulation 2.105-2: Lobbyist Employer; Definition.

“Lobbyist employer” includes, but is not limited to, a person that is: (a) required to provide an Internal Revenue Service Form W-2 wage and tax statement to an employee who performs lobbyist services; or (b) owned by a lobbyist and which performs and charges clients for lobbyist services, even if the person is not required to provide an Internal Revenue Service Form W-2 wage and tax statement to an employee who performs lobbyist services.

Regulation 2.105-3: Lobbyist Services; Definition.

For purposes of Section 2.105, “lobbyist services” include but are not limited to, contacting officers of the City and County and preparing for such contacts, as well as conducting analysis, performing research, providing advice and recommending strategy with respect to any pending, proposed or potential local legislative or administrative action.

Regulation 2.105-4: Activity Expenses; Disclosure.

Activity expenses made, incurred or arranged by a lobbyist, a lobbyist’s client at the behest of the lobbyist, or a lobbyist employer at the behest of the lobbyist shall be reported pursuant to Section 2.110(c)(7).

Regulation 2.105-5: Expenditure Lobbyist Definition.

- (a) A person “makes payments” for an activity to solicit, request, or urge other persons to communicate directly with an officer of the City and County in order to influence a matter of local legislative or administrative action, at the time the activity takes place.
- (b) For the purposes of qualifying as an Expenditure Lobbyist, a person must make payments totaling \$2,500 or more in a calendar month for activities to solicit, request, or urge other persons to communicate directly with officers of the City and County in order to influence local legislative or administrative action.
 - (i) Any payment made for these activities will count towards the \$2,500 threshold if within 6 months of the payment, the services or work product paid for are cited, incorporated, or quoted in any communication urging other persons to lobby officers of the City and County on local legislative or administrative action.
- (c) Charitable organizations that act as a fiscal sponsor to other charitable projects are not required to register as an expenditure lobbyist for the activities of those projects that it sponsors. Nothing in this regulation prevents a nonprofit organization that acts as a fiscal

sponsor for charitable projects from qualifying as an expenditure lobbyist through its own activities.

(d) Salary paid by an employer to an employee for activities to solicit, request, or urge other persons to communicate directly with an officer of the City and County in order to influence a matter of local legislative or administrative action shall not constitute a payment toward the \$2,500 qualifying threshold

(e) No payments made by any person prior to the February 1, 2016 implementation date of the Proposition C amendments approved on November 3, 2015 shall count toward the qualifying threshold or for reporting purposes.

Regulation 2.105-6: Payments for Communications with Members.

“Member” means an employee or shareholder of an organization, a person who pays dues or fees to an organization or any other person who affirmatively requests to regularly receive an organization’s communications.

Regulation 2.106-1: Contacts; Use of Intermediary.

A “contact” for purposes of Section 2.106 includes but is not limited to any communication for the purposes of influencing local legislative or administrative action with a member of the staff of an officer of the City and County when it is understood, or could be reasonably expected, that the staff member will transmit the terms of the communication to an officer of the City and County.

Examples of such staff members include, but are not limited to, the legislative aides of members of the Board of Supervisors, the Mayor’s Chief of Staff, and the deputy directors of City departments.

Example #1: A lobbyist meets with the legislative aide of a member of the Board of Supervisors to advocate on behalf of a client for an amendment of pending legislation sponsored by the Board member. Although the Board member does not attend the meeting, the lobbyist should presume that the aide will convey the substance of that meeting to the Board member and thus the lobbyist has made a contact.

Example #2: Paid representatives of a real estate developer meet with staff at the Planning Department to discuss possible modifications to the draft Environmental Impact Report for the developer’s project. The staff members do not state or otherwise indicate, and the representatives have no reason to believe, that they will have the substance of their conversation conveyed to either the Planning Director or the Zoning Administrator. The representatives have not made a lobbying contact.

Regulation 2.106-2: Contacts; Modes of Communication.

A “contact” for purposes of Section 2.106 includes, but is not limited to, an in-person meeting, telephone call, video conference, letter, fax, e-mail, and text message.

Example #1. A lobbyist sends an e-mail to the personal e-mail address of a member of the Board of Supervisors. The message includes a personal message about their pick-up basketball game the night before as well as an attempt to influence the member’s vote on an upcoming resolution. The lobbyist has made a contact.

Example #2. A lobbyist sends a text message to a member of the Board of Supervisors in order to urge the member to vote against an ordinance. The lobbyist has made a contact.

Regulation 2.106-3: Contacts; Determining Number.

This regulation sets forth the rules for determining the number of contacts an individual has with an officer of the City and County. These rules are illustrative and the principles contained therein shall be applied to other situations not directly addressed in this regulation.

- (a) A meeting with an officer regarding a single local legislative or administrative action constitutes one contact, a meeting regarding two local legislative or administrative actions constitutes two contacts, etc.
- (b) A meeting with an officer and a member of that officer’s staff regarding a single local legislative or administrative action constitutes one contact with that officer.
- (c) A meeting with two officers regarding a single local legislative or administrative action constitutes two contacts.
- (d) Meeting or otherwise communicating multiple times in the same day with an officer to discuss the same local legislative or administrative action discussed earlier in the day constitutes one contact.
- (e) Each letter, fax, e-mail, text message, or similar communication, or copies thereof sent to other recipients, that pertains to a single local legislative or administrative action constitutes a separate contact even if such letters, faxes, e-mails, text messages, or other communications are identical or substantially similar. However, multiple copies of the same communication sent from the same individual to the same officer shall constitute only one contact.
- (f) For purposes of this regulation only, various matters concerning a single real estate project, shall be considered a single local legislative or administrative action, and contacts regarding these matters shall be reported by referencing that single project.

Example #1: A lobbyist sends an e-mail on behalf of a client to four of the seven members of the SFMTA Board urging them to vote in support of a particular agenda item. The lobbyist copies the Executive Director of the SFMTA on the e-mail. The lobbyist has made five contacts.

Example #2: A lobbyist sends a text message on behalf of his employer to a member of the Board of Supervisors and to her legislative aide urging the Board member to vote in favor of a proposed ordinance. The lobbyist has made one contact.

Example #3: A lobbyist sends an e-mail on behalf of a client to a member of the Board of Supervisors urging her to vote in favor of a proposed ordinance. The same day, the lobbyist sends the same e-mail to the Board member's legislative aide regarding the same ordinance. The lobbyist has made one contact.

Example #4: A lobbyist meets with a member of the Board of Supervisors on behalf of a client to discuss various required permits and other regulatory and legislative actions in connection with a single proposed real estate development project. The lobbyist has made one contact.

Regulation 2.106-4: Contacts; Exemptions Generally.

A communication with an officer regarding multiple local legislative or administrative actions is exempt from the definition of "contact" for purposes of Section 2.106 only when an exemption exists with respect to each local legislative or administrative action mentioned in the communication.

Example #1: A lobbyist and an engineer meet with a member of the Board of Supervisors. The lobbyist urges the Board member to oppose a proposed ordinance on behalf of a client. The engineer provides purely technical data and analysis related to that ordinance, and the lobbyist will report that the engineer was present at the meeting when disclosing this contact. Later in the meeting, the engineer urges the Board member at the behest of his employer to support a different ordinance with respect to employment issues. The engineer has made one lobbying contact.

Example #2: A paid representative of a City employee labor union meets with the Mayor's Chief of Staff regarding the working conditions of the union's members. During the conversation, the paid representative also asks that the Mayor support a particular land use measure. The union representative has made one lobbying contact.

Regulation 2.106-5: Labor union lobbying.

A person communicating with a City officer on behalf of a labor union to influence a decision regarding a legislative or administrative matter other than the working conditions of employees represented by a collective bargaining agreement or memorandum of understanding with the City is making a contact under the Ordinance.

Regulation 2.107-1: Practice of Law; Determination.

Any determination of whether communications with an officer of the City and County or other activities constitute the practice of law shall be based on an analysis of whether those communications or activities would constitute the unauthorized practice of law if performed by a layperson instead of a licensed attorney, and shall not be based on whether the person engaging in that communication or those activities is in fact a licensed attorney.

Example #1: An attorney is representing a corporation that opposes a proposed ordinance. The attorney and the Chief Executive Officer of the corporation meet with the Mayor's Chief of Staff. The attorney begins the meeting by stating that he represents the corporation, and that he is acting in his capacity as an attorney for the corporation. Throughout the meeting, the attorney and the CEO urge that the Mayor should oppose the proposed ordinance because it would adversely affect the corporation and other companies in the same business sector. The attorney and the CEO have each made a contact.

Example #2: An attorney is representing a person involved in ongoing litigation with the City and County. The attorney contacts the City Attorney and urges him to dismiss the City's complaint against his client, arguing that the City's legal claims are not supported by existing law. The attorney has not made a contact.

Example #3: An attorney representing a trade association sends a letter to the City Attorney on behalf of her client urging a change to the wording of a proposed ordinance and provides a legal analysis in that letter supporting her position. The attorney has made a contact.

Regulation 2.110-1: Economic Consideration; Client Payments.

A lobbyist shall report on his or her monthly disclosure reports economic consideration received or expected by the lobbyist or the lobbyist's employer from each client during the reporting period for the provision of lobbyist services, as defined in Section 2.105 and Regulation 2.105-3, as well as reimbursements for travel costs and other expenses related to lobbyist services. The lobbyist is not required to report payments for other services provided by the lobbyist to the client that are not related to lobbyist services.

Regulation 2.110-2: Economic Consideration; Shared Client Reporting.

If two or more lobbyists work for the same employer, all economic consideration received or expected from the employer's clients for lobbyist services may be reported by a single lobbyist on his or her monthly disclosure report so long as that lobbyist discloses all such economic consideration in that manner throughout the calendar year.

Regulation 2.110-3: Economic Consideration; Employer Payments.

The amount of reportable economic consideration received or expected by a lobbyist from his or her employer in a given month shall be calculated by multiplying the lobbyist's salary, plus any bonuses or other incentive compensation not directly related to the lobbyist services, received or expected by the lobbyist in that month by the percentage of the lobbyist's time spent performing lobbyist services, as defined in Section 2.105 and Regulation 2.105-3, in that month. It shall also include the full amount of any bonuses or other incentive compensation directly related to the lobbyist services.

Example #1. A public policy expert at a social welfare organization is a registered lobbyist and earns a salary of \$5,000 per month. He spends 20 percent of his time one month performing lobbyist services for his employer. He must report \$1,000 in economic consideration received or expected for lobbyist services.

Example #2. The Director of Governmental Affairs at a large corporation is a registered lobbyist and earns a salary of \$10,000 per month. She spends 10 percent of her time in December performing lobbyist services for her employer. She also earns a year-end bonus of \$10,000 in December based on her overall work performance. She must report receiving \$2,000 in economic consideration for lobbyist services in December.

Regulation 2.110-4: Contributions; Disclosure.

(a) Contributions that are reportable pursuant to Section 2.110 include, but are not limited to, those contributions that are made by the lobbyist and those contributions that the lobbyist knows or has reason to know were raised as a result of fundraising activity by the lobbyist, the lobbyist's agent, or the lobbyist's employer.

(b) "Fundraising activity" includes, but is not limited to:

- (1) Requesting that another person make a contribution;
- (2) Inviting a person to a fundraising event;
- (3) Supplying names to be used for invitations to a fundraising event;
- (4) Permitting one's name or signature to appear on a solicitation for contributions or an invitation to a fundraising event;
- (5) Providing the use of one's home or business for a fundraising event;
- (6) Paying for at least 20 percent of the costs of a fundraising event;
- (7) Hiring another person to conduct a fundraising event;
- (8) Delivering a contribution, other than one's own, either by mail, by messenger, or in person;
or

(9) Acting as an agent or intermediary in connection with the making of a contribution.

Example #1. A lobbyist employer's name is listed as a co-host on the invitation to a campaign fundraiser for a candidate for the Board of Supervisors, which is paid for by the candidate's committee. Contribution checks totaling \$5,000 are collected by the campaign at the event from ten attendees. The lobbyist must disclose those ten contributions.

Example #2. A lobbyist invites 5 people to attend a campaign fundraiser held by a candidate for the Board of Supervisors. Contribution checks totaling \$10,000 are collected by the campaign at the event. The five persons invited by the lobbyist made contributions totaling \$1,000 at the event. The lobbyist must disclose those five contributions.

Example #3: A lobbyist hosts a fundraising event at his home for a candidate for the Board of Supervisors. The event is attended by twenty guests. Contribution checks totaling \$5,000 are collected by the campaign at the event from ten attendees. A few weeks later, five other event attendees make contributions directly to the candidate without informing the lobbyist. The lobbyist must disclose only the \$5,000 in contributions collected at the event.

Example #4: A lobbyist solicits a contribution from one person to a candidate for the Board of Supervisors. The solicited person specifically indicates that he will mail the contribution check for \$500 to the candidate the next day. After confirming the next day that the contribution has been made, the lobbyist must disclose that contribution.

Regulation 2.110-5: Contributions; Multiple Parties.

(a) If two or more lobbyists working for the same employer together arrange contributions, or if the lobbyist's employer arranges such contributions, whether through a fundraising event or otherwise, all such arranged contributions may be reported by a single registered lobbyist.

(b) If two or more lobbyists not working for the same employer together arrange contributions, or if two or more lobbyist employers and/or lobbyists arrange such contributions, whether through a fundraising event or otherwise, all such arranged contributions shall be reported either: (1) according to which lobbyist or employer bore primary responsibility for soliciting the contribution; or (2) in approximate proportion to each lobbyist's or employer's participation in the fundraising activity.

(c) If a lobbyist arranges contributions with another individual who is not a lobbyist and is not employed by the lobbyist's employer, all such contributions shall be reported by the lobbyist.

Regulation 2.110-6: Lobbyists and Permit Consultants; Separate or Single Registration/Reporting.

(a) An individual who qualifies as both a lobbyist and a permit consultant must register as a lobbyist pursuant to Section 2.110 and as a permit consultant pursuant to Section 3.410.

(b) An individual who qualifies as both a lobbyist and a permit consultant shall either (1) file separate disclosure reports under Sections 2.110 and 3.410 or (2) file only monthly lobbyist disclosure reports under Section 2.110 so long as the individual discloses all information required under that section with respect to his or her permit consulting services.

(c) Any individual qualifying as both a lobbyist and a permit consultant who elects to file only as a lobbyist under Section 2.110 must file in that manner through the end of the calendar year, or until he or she terminates as both a lobbyist and a permit consultant, whichever is earlier.

Example: A permit consultant decides to lobby members of the Board of Supervisors regarding a land use ordinance on behalf of a client for whom the consultant is currently providing permit consulting services. The consultant may register as a lobbyist and file monthly lobbying reports in addition to filing quarterly reports as a permit consultant. Alternatively, the consultant may register as a lobbyist and only file monthly lobbying reports that disclose, among other things, the date of each contact in connection with permit consulting activity.

Regulation 2.110-7: Registration Termination.

(a) A lobbyist's registration shall automatically terminate if the lobbyist fails to pay the annual fee due on February 1.

(b) At other times of the year, a lobbyist who has ceased all activity requiring registration and reporting shall terminate his or her lobbyist registration by filing a final monthly disclosure report covering all activity through the date of termination and indicating on the report that it constitutes the lobbyist's termination statement.

Regulation 2.110-8: Lobbyist registration; photograph required.

At the time of registration with the Ethics Commission, the lobbyist must supply a digital color photograph of the lobbyist's head and shoulders. The photograph must be delivered via email or compact disc and must be recent and of professional-like quality.

Regulation 2.110-9: Reporting by firms for lobbyists.

A business, firm or organization may register and submit reports on behalf of individual lobbyists who are employed by the business, firm or organization. Such business, firm or

organization must comply with the provisions of Section 2.110 regarding registration and disclosures.

Regulation 2.110-10: Registration and Reporting.

- (a) For registration, Expenditure Lobbyists shall use SFEC Form 2110A.
- (b) For monthly reports, Expenditure Lobbyists shall use SFEC Form 2110B.
- (i) As used in Sec 2.110(c)(2)(B) and (C) payments are “made” on the date the activity to solicit, request or urge other persons to communicate directly with officers of the City and County in order to influence local legislative or administrative action occurs.
- (ii) For purposes of disclosing campaign contributions, reportable contributions include contributions that would be required to be disclosed under SFEC Regulation 2.110-4.
- (iii) Salary paid to an employee of an Expenditure Lobbyist shall not constitute a payment for the purpose of reporting.
- (c) Registered Expenditure Lobbyists must continue to file monthly reports until they cease all expenditure lobbying activity and affirmatively terminate their registration.

Regulation 2.110-11: Fees.

The Ethics Commission shall waive the \$500 registration fee and the \$500 annual re-registration fee for 501(c)(3) nonprofit organizations that file or reasonably intend to file an IRS Form 990-EZ or IRS Form 990-N or otherwise demonstrate that their annual budget is \$500,000 or less.

Regulation 2.140-1: Online filing requirement.

Under Chapter 1, Article 2 of the Campaign and Governmental Conduct Code (“Lobbyist Ordinance”), each individual lobbyist must register with the Ethics Commission and submit information required under the Lobbyist Ordinance using the Commission’s online filing system.

Regulation 2.145-1: Calculating late fines; holidays and weekends.

In calculating the number of days late for which a late fine will be assessed under Campaign and Governmental Conduct Code section 2.145(a), when a filing deadline falls on the day before a weekend or holiday, the Commission will not count any weekend days or holiday that immediately follow the filing deadline. For purposes of this regulation, the term “weekend” means Saturday and Sunday and the term “holiday” means any holiday on which the Ethics Commission is authorized by law to close.