

1 Excerpt from 2024 Ethics Commission Ballot Measure
2 (Full Measure Available Here: <https://sfethics.org/Ethics-Measure-Adopted-8-18-2023>)
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4 **SEC. 3.218. INCOMPATIBLE ACTIVITIES.**

5 ~~(a) **Prohibition.** No officer or employee of the City and County may engage in any~~
6 ~~employment, activity, or enterprise that the department, board, commission, or agency of which~~
7 ~~he or she is a member or employee has identified as incompatible in a statement of incompatible~~
8 ~~activities adopted under this Section. No officer or employee may be subject to discipline or~~
9 ~~penalties under this Section unless he or she has been provided an opportunity to demonstrate~~
10 ~~that his or her activity is not in fact inconsistent, incompatible or in conflict with the duties of the~~
11 ~~officer or employee.~~

12 ~~(b) **Statement of Incompatible Activities.** Every department, board, commission, and~~
13 ~~agency of the City and County shall, by August 1 of the year after which this Section becomes~~
14 ~~effective, submit to the Ethics Commission a statement of incompatible activities. No statement~~
15 ~~of incompatible activities shall become effective until approved by the Ethics Commission after a~~
16 ~~finding that the activities are incompatible under the criteria set forth in Subsection (c). After~~
17 ~~initial approval by the Ethics Commission, a department, board, commission or agency of the~~
18 ~~City and County may, subject to the approval of the Ethics Commission, amend its statement of~~
19 ~~incompatible activities. The Ethics Commission may, at any time, amend the statement of~~
20 ~~incompatible activities of any department, board, commission or agency of the City and County.~~

21 ~~(c) **Required Language.** Each statement of incompatible activities shall list those~~
22 ~~outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers~~
23 ~~and employees of the department, board, commission, or agency of the City and County. This~~
24 ~~list shall include, but need not be limited to, activities that involve: (1) the use of the time,~~
25 ~~facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or~~
26 ~~influence of the City and County officer or employee's position for private gain or advantage; (2)~~
27 ~~the receipt or acceptance by an officer or employee of the City and County of any money or other~~

1 ~~thing of value from anyone other than the City and County for the performance of an act that the~~
2 ~~officer or employee would be required or expected to render in the regular course of his or her~~
3 ~~service or employment with the City and County; (3) the performance of an act in a capacity~~
4 ~~other than as an officer or employee of the City and County that may later be subject directly or~~
5 ~~indirectly to the control, inspection, review, audit or enforcement of the City and County officer~~
6 ~~or employee's department, board, commission or agency; and (4) time demands that would~~
7 ~~render performance of the City and County officer or employee's duties less efficient. The Ethics~~
8 ~~Commission may permit City boards and commissions to exclude any required language from~~
9 ~~their statement of incompatible activities if their members, by law, must be appointed in whole or~~
10 ~~in part to represent any profession, trade, business, union or association.~~

11 ~~(d) **Meet and Confer.** No statement of incompatible activities or any amendment thereto~~
12 ~~shall become operative until the City and County has satisfied the meet and confer requirements~~
13 ~~of State law.~~

14 ~~(e) **Notice.** Every department, board, commission and agency of the City and County~~
15 ~~shall annually provide to its officers and employees a copy of its statement of incompatible~~
16 ~~activities.~~

17 ~~(f) **Existing Civil Service Rules.** Rules and Regulations relating to outside activities~~
18 ~~previously adopted or approved by the Civil Service Commission shall remain in effect until~~
19 ~~statements of incompatible activities are adopted pursuant to this Section.~~

20 ~~(a) **Prohibitions.** City officers and employees shall not engage in the following~~
21 ~~activities:~~

22 ~~(1) **Activities Subject to the Department's Jurisdiction.** City officers and~~
23 ~~employees shall not engage in activities that are subject to the control, inspection, review, audit,~~
24 ~~permitting, enforcement, contracting, or are otherwise within the responsibility of the officer or~~
25 ~~employee's department. But City officers and employees may engage in certain activities~~
26 ~~including, but not limited to, the following: being a party to a matter before or otherwise~~
27 ~~appearing before one's own department or commission on behalf of oneself or one's immediate~~

1 family, filing or otherwise pursuing claims against the City on one's own behalf, making a public
2 records disclosure request or other request for information as permitted by law, attending and
3 participating in a meeting of a board, commission, or other policy body under the Brown Act or
4 Sunshine Ordinance, and engaging in non-compensated, volunteer activity for a nonprofit
5 organization with tax exempt status under 26 United States Code Section 501(c)(3) or 501(c)(5).
6 Incompatible activities prohibited by this subsection (a)(1) shall include, but are not limited, to
7 the following:

8 (A) contracting with one's own department or serving on the board of
9 directors for an entity that contracts with one's own department (but this prohibition shall not
10 extend to any entity solely because an officer or employee's spouse or registered domestic
11 partner serves as a member of its board of directors);

12 (B) acquiring an ownership interest in real property, if the officer or
13 employee had participated personally and substantially in the permitting or inspection of that
14 property within the 12 months prior to the acquisition; and

15 (C) having or acquiring a financial interest in any financial products
16 issued or regulated by the officer or employee's department.

17 (2) **Selective Assistance.** City officers and employees shall not provide
18 assistance or advice that is not generally available to all persons, in a manner that confers an
19 advantage on any person who is doing business or seeking to do business with the City. This
20 subsection (a)(2) shall not prohibit an officer or employee from communicating with individual
21 applicants regarding the individual's application, bid, or proposal, provided that such assistance
22 is provided on an impartial basis to all applicants who request it and is part of the officer or
23 employee's City duties.

24 (3) **Use of City Resources.** City officers and employees shall not engage in the
25 use, other than minimal or incidental use, of the time, facilities, equipment, or supplies of the
26 City for private gain or advantage. Nothing in this subsection (a)(3) shall be interpreted or
27 applied to interfere with, restrict, or supersede any rights or entitlements of employees,

1 recognized employee organizations, or their members under state law or regulation or pursuant
2 to provisions of a collective bargaining agreement to use City facilities, equipment, or resources.

3 (4) Use of Prestige of Office. City officers and employees shall not engage in the
4 use of any marker (including without limitation a badge, uniform, or business card), prestige, or
5 influence of the City officer or employee's position for private gain or advantage.

6 (5) Use of City Work Product. City officers and employees shall not sell,
7 publish, or otherwise use, in exchange for anything of value and without appropriate
8 authorization, any non-public materials that were prepared on City time or while using City
9 facilities, property (including without limitation, intellectual property), equipment, or other
10 materials. Nothing in this subsection (a)(5) shall be interpreted or applied to interfere with,
11 restrict, or supersede any rights or entitlements of employees, recognized employee
12 organizations, or their members under state law or regulation or pursuant to provisions of a
13 collective bargaining agreement to use public materials for collective bargaining agreement
14 negotiations.

15 (6) Acting as an Unauthorized City Representative. City officers and employees
16 shall not hold themselves out as a representative of their departments, or as an agent acting on
17 behalf of their departments, unless authorized to do so, including the use of City letterhead, title,
18 e-mail, business card, or any other resource for any communication that may lead the recipient
19 of the communication to think that the officer or employee is acting in an official capacity when
20 the officer or employee is not.

21 (7) Compensation for City Duties or Advice. City officers and employees shall
22 not receive or accept a payment from anyone other than the City for the performance of a
23 specific service or act the officer or employee would be expected to render or perform in the
24 regular course of their City duties or for advice about the processes of the City directly related
25 to the officer or employee's duties and responsibilities or the processes of the officer or
26 employee's department.

1 (8) **Lobbying Activity.** City officers and employees shall not receive or accept a
2 payment from anyone other than the City in exchange for communicating with any other City
3 officer or employee within their own department with the intent to influence an administrative or
4 legislative action.

5 (b) **Excessive Time Demands or Regular Disqualifications.** No City appointed
6 department head or employee may engage in any activity that either imposes excessive time
7 demands such that it materially impairs the appointed department head's or employee's
8 performance of their City duties or that disqualifies the appointed department head or employee
9 from their City assignments or responsibilities on a regular basis.

10 (1) **Advance Written Determination.** An appointed department head or
11 employee may seek an advance written determination from the decision-maker specified in
12 subsection (b)(2) below as to whether a proposed outside activity would impose excessive time
13 demands or require regular disqualifications and would therefore be prohibited under this
14 subsection (b).

15 (2) **Decision-Maker.**

16 (A) For a request by an employee, the department head of the employee's
17 department or the department head's designee shall be the decision-maker on a request for an
18 advance written determination. If the department head delegates the decision-making to a
19 designee and if the designee determines that the proposed activity imposes excessive time
20 demands or results in regular disqualifications, the employee may appeal that determination to
21 the department head.

22 (B) For a request by an appointed department head, the department
23 head's appointing authority shall be the decision-maker on a request for an advance written
24 determination.

25 (C) The decision-maker shall respond to the request by providing a
26 written determination to the requestor by mail, email, personal delivery, or other reliable means.
27 For a request by an employee, the decision-maker shall provide the determination within a

1 reasonable period of time depending on the circumstances and the complexity of the request, but
2 not later than 20 working days from the date of the request. If the decision-maker does not
3 provide a written determination to the employee within 20 working days from the date of the
4 employee's request, the proposed activity will be determined not to violate this Subsection
5 3.218(b).

6 (3) **Effect.** An advance written determination approved by the appropriate
7 decision-maker that an activity does not impose excessive time demands or require regular
8 disqualifications provides the officer or employee immunity from any subsequent enforcement
9 action for a violation of subsection (b) if the material facts are as presented in the appointed
10 department head or employee's request for an advance written determination. An advance
11 written determination cannot exempt the requestor from any other applicable laws.

12 (4) **Public Records.** Requests for advance written determinations and advance
13 written determinations, including approvals and denials, are public records.

14 (c) **Statements of Incompatible Activities.** Statements of Incompatible Activities adopted
15 and approved prior to March 5, 2024 are hereby repealed and shall no longer have any legal
16 effect. Any administrative or disciplinary proceedings initiated prior to the repeal of a Statement
17 of Incompatible Activities alleging violations of the Statement of Incompatible Activities may
18 continue.

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