



# San Francisco Ethics Commission

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Date: November 3, 2023

To: Members of the Ethics Commission

From: Michael Canning, Acting Policy and Legislative Affairs Manager

Re: **AGENDA ITEM 06 – Update, discussion, and possible action regarding the March 2024 Ethics Commission Ballot Measure focused on gifts, training, and other City ethics laws.**

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## Summary and Action Requested

This memo provides the Commission with an update on the status of the [ballot measure](#) that the Commission approved for the March 5, 2024 ballot during its August meeting. In addition to an update regarding the development of additional regulations, this memorandum also presents a revised draft ballot argument for the Commission to consider and recommends that the Commission vote to authorize the Chair to submit a ballot argument and potential rebuttal argument to the Department of Elections on behalf of the Commission.

## Update Regarding the Development of Additional Regulations

As discussed in previous meetings, Staff have been moving forward with the development of potential regulations regarding Section 3.218 of the Campaign and Governmental Conduct Code, as potentially amended by the March 2024 Ethics Commission Ballot Measure.

Section 3.218 of the Campaign and Governmental Conduct Code currently sets forth rules regarding departmental Statements of Incompatible Activities (SIAs). The Ethics Commission's 2024 ballot measure would amend Section 3.218 to eliminate departmental SIAs and move the rules from those SIAs into the amended Section 3.218.

On October 17 and October 19, the Commission held [two interested persons meetings](#) to discuss potential regulations regarding Section 3.218, should it be approved by voters. The purpose of these meetings was to create additional opportunities for stakeholders and members of the public to share their thoughts and priorities with the Commission regarding regulations for the potential implementation of this section.

The interested persons meetings in October were attended by various stakeholders, including those affiliated with the Mayor's office, the War Memorial Board of Trustees, the League of Women Voters, and the San Francisco Human Services Network. During these meetings, Staff facilitated discussions covering the topics described in the meeting announcement, as well as any other issues or questions raised regarding Section 3.218. In general, participants were supportive of the Commission developing and enacting regulations to address the questions raised in the meeting announcement.

Staff are currently in the process of drafting regulations regarding Section 3.218 and incorporating feedback from stakeholders. Staff anticipates providing draft language to the Commission at its December meeting for feedback before working with the Department of Human Resources (DHR) to notice any potential draft regulations to City bargaining units, which may result in a meet-and-confer process over the regulations.

As with the Section 3.205 and Section 3.216 regulation amendments already approved by the Commission in August, any subsequent regulations regarding the ballot measure would only become operative if, and when, the ballot measure becomes operative. If approved by voters in March, the ballot measure would become operative roughly six months after the results of the election are certified.

### **Approval and Submission of Ballot Arguments and Rebuttals**

The official Voter Information Pamphlets produced by the Department of Elections generally contain “ballot arguments” regarding each measure on the ballot. Additionally, shorter “rebuttal arguments” can be submitted in response to the ballot arguments of another party. In the past, the Ethics Commission has provided proponent arguments for the ballot measures it has placed on the ballot. The deadline for submitting ballot arguments for the March 5, 2024 election is December 14 and the deadline for submitting a potential rebuttal argument will be December 18.

A draft ballot argument has been provided for discussion in **Attachment 1**. This draft has been revised based on commissioner feedback received since last month’s meeting. The draft in **Attachment 1** also includes information from the Department of Elections regarding the word limit and word count rules. The Commission’s ballot argument must be limited to factual information and not be used to express a political message for or against the ballot measure. The draft in **Attachment 1** has been reviewed by the City Attorney’s Office, which has confirmed that the language used is not prohibited by the City’s rules against political activity. Note that the draft currently refers to the measure as “Proposition TBD” as the Department of Election will not designate the official letter for the ballot measure until December 11.

The Department of Elections has said it will accept ballot arguments from the Chair on behalf of the Commission without requiring any additional documentation or authorization. However, after consulting with the City Attorney’s Office, Staff is recommending that for good measure, the Commission vote to explicitly authorize the Chair to submit a ballot argument and potential rebuttal on behalf of the Commission.

As the upcoming submission deadlines will not allow time for extensive feedback from all commissioners prior to submission, it is important that the Chair have the authority to submit the ballot arguments on behalf of the Commission. Once ballot designations are assigned on December 11, the ballot argument language will need to be finalized and submitted within three days by December 14. Following which, any potential errors identified by the Department of Elections will need to be corrected by the next day. Any potential rebuttal argument will need to be developed, finalized, and submitted within four days. Given these tight deadlines, Staff believes it is important for the Chair to be able to submit these arguments on behalf of the Commission. However, Staff will continue to share drafts with other commissioners and incorporate their feedback to the extent possible.

### **Recommended Next Steps**

The Commission should also discuss the attached draft ballot argument and communicate any suggested revisions or thoughts for the Chair to consider regarding either the ballot argument or potential rebuttal. Staff then recommends the Commission vote to formally authorize the Chair to submit a ballot argument and potentially a rebuttal argument to the Department of Elections on behalf of the Commission.

### **Attachments:**

**Attachment 1:** Draft Ethics Ballot Measure Argument - 11.3.23

# ATTACHMENT 1

<b>Ethics Commission Draft Ballot Argument</b> For Ethics Proposition on March 2024 Ballot	Words Per Line:
Proposition TBD was placed on the ballot by a unanimous vote of the San Francisco Ethics Commission in response to recent incidents involving corruption on the part of City officials and those doing business with the City. Proposition TBD addresses issues identified through anti-corruption investigations, provides more consistent rules across City departments, and promotes government decisions that are, and appear to be, made on a fair and impartial basis.	12 6 11 8 8 9 11 T = 65
<b>Gifts and Bribery:</b> Proposition TBD would clarify and expand an existing rule that prohibits City officials from accepting gifts from people who have attempted to influence them and those doing business with their departments. This is accomplished, in part, by removing certain exceptions and applying the rule in additional situations. Proposition TBD would also clarify and expand the City’s anti-bribery rule and require department heads to disclose gifts given to City departments.	10 11 11 9 9 11 10 T = 71
<b>Ethics Training:</b> Proposition TBD would require annual ethics training for all City officials who are required to disclose their financial interests because they participate in making governmental decisions.	9 11 7 T = 26
<b>Incompatible Activities:</b> Proposition TBD would provide standardized rules for all City officials prohibiting outside activities that conflict with their City duties, including activities that are subject to their department’s control and the misuse of City resources or positions for private gain.	6 11 10 11 2 T = 40
<b>Disclosure of Relationships:</b> Proposition TBD would allow a City official to be penalized for failing to disclose, as required by law, any personal, professional, or business relationships they have with anyone who is the subject of a government decision being made by the official.	9 13 11 10 T = 43
<b>Safeguarding Ethics Laws:</b> Proposition TBD would amend chapters of the Campaign and Governmental Conduct Code to require future legislative amendments be approved by supermajorities of both the Ethics Commission and Board of Supervisors. The power of voters to amend these chapters would not be affected.	8 5 9 8 7 T = 37
Information on all aspects of Proposition TBD is available at: <a href="http://sfethics.org">sfethics.org</a>	T = 10
<i>San Francisco Ethics Commission</i>	1
<b>Total: 65+71+26+40+43+37+10+1 =</b>	<b>293</b>

## Word Limit and Word Count Rules

CAEC §9(a); SFMEC §§550, 575

Official Proponent Arguments and Opponent Arguments may not exceed 300 words, Rebuttal Arguments are limited to 250 words. Paid Ballot Arguments may not exceed 300 words. The Department uses the following guidelines for counting words. The decision of the Director of Elections concerning word count is final. Argument authors are encouraged to consult the Department regarding word count prior to submission.

Examples	Number of Words
Title of document, signature	n/a
Punctuation	n/a
Abbreviations or acronyms (SFSU, PTA, SFPD, U.S.M.C.)	1
Proper nouns, including geographical names (San Francisco, San Franciscans, Haight Ashbury)	1
Dates, whether numbers or a combination of words and numbers (3/5/2024 or March 5, 2024)	1
Numbers consisting of one or more digits (1,000,000), percentages (12%), fractions ( $\frac{1}{2}$ )	1
Numbers that are spelled out (one hundred)	Varies; count each word
Characters used in place of a word or number (&, #)	1
Phone numbers or internet addresses	1
True Source of Funds	n/a