



# San Francisco Ethics Commission

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Date: April 8, 2024

To: Members of the Ethics Commission

From: Michael Canning, Policy and Legislative Affairs Manager

Re: **AGENDA ITEM 06 – Discussion and possible action regarding proposed amendments to campaign finance regulations.**

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## Summary and Action Requested

This memo provides an overview of proposed amendments to the Ethics Commission’s regulations regarding the City’s campaign finance rules.

Staff recommends the Commission review, discuss, and approve the proposed regulation amendments as drafted.

## Proposed Amendments to Campaign Finance Regulations

These potential regulation amendments were identified over the last two election cycles as ways to simplify, streamline, and make more transparent the operation of the City’s campaign finance laws.

During the Commission’s office closures due to the COVID-19 pandemic, the Commission instituted temporary processes for accepting campaign disclosure statements electronically, which did not require committee officers to physically visit the Commission’s office. Since the Commission’s physical office reopened last year, the Commission has continued to use these temporary processes, instead of returning to the pre-pandemic processes that required physical office visits. The pre-pandemic processes are outdated, cumbersome for filers, and unnecessary given the availability of secure alternative methods for signing documents electronically. Amending the Commission’s regulations to update this electronic filing process was the impetus for the regulation changes currently before the Commission. More information on the proposed electronic filing process change can be found below in **Table 1**.

Beyond the proposed changes to the electronic filing process, Staff is also presenting several other amendments to the [Ethics Commission’s regulations regarding the City’s campaign finance rules](#). These draft amendments are described in **Table 1** below and presented in full in **Attachment 1**. These recommendations were developed by the Policy Division based on feedback from, and in collaboration with, the Commission’s other various divisions (Engagement and Compliance, Electronic Disclosure and Data Analysis (EDDA), Enforcement, and Audits). The proposed amendments are intended to clarify rules and processes and allow Staff to streamline various Commission functions.

Staff held [two interested persons meetings in March](#) regarding potential amendments to the Commission’s campaign finance regulations. Roughly half a dozen people participated in the interested persons meetings, with most attendees being from the regulated community (committee treasurers,

etc.). The majority of these meetings were focused on the electronic signature changes, of which attendees were overwhelmingly supportive.

The draft regulations from **Attachment 1** have been noticed to the public more than 10 days prior to the Commission’s April meeting, as required by [Charter Section 4.104](#). Thus, the Commission may vote to adopt the proposed regulations during its April meeting if desired.

The following table provides an overview of each proposed regulation amendment and explains the rationale for the amendments presented in **Attachment 1**.

**Table 1: Overview of Proposed Regulation Amendments**

<b>Regulation Amendment or Addition</b>	<b>Description &amp; Rationale</b>
<p><b>1.108-4: Bank Account Location (New)</b></p>	<p><a href="#">Section 1.108(a)</a> of the C&amp;GCC requires each treasurer of a candidate committee to establish a campaign contribution trust account for the committee “at an office of a bank located in the City and County of San Francisco.”</p> <p>Modern banking is increasingly done remotely, and many banks are opting to close some of their physical office spaces. The Commission’s ability to administer and enforce City rules is not impacted by the bank having a physical location in the City, as long as the bank is legally authorized to be business within the City. As such, it is unnecessary for the Commission to interpret Section 1.108 as requiring committees to establish their campaign contribution trust accounts only at brick-and-mortar bank locations in the City.</p> <p>The proposed regulation would specify “at an office of a bank located in the City and County of San Francisco” includes the office of any bank that is authorized to do business in the City and that accounts may be established online, over the phone, or at a physical office located outside of the City.</p>
<p><b>1.112-2: Electronic Campaign Disclosure (Amended)</b></p>	<p>San Francisco requires political committees to file their campaign disclosure statements electronically. Per Regulation 1.112-2, all committee officers responsible for signing such disclosure statements are currently required to have a Signature Verification Card on file with the Ethics Commission in order for their statements to be accepted. This process requires each committee officer to visit the Ethics Commission’s office, so that the <a href="#">Form SFEC-112a</a> can be signed in the presence of Ethics Commission staff or for the officer to have the form notarized with an original signature and delivered to the Ethics Commission’s office. Upon receipt of a Signature Verification Card, the Commission issues committee officers an identification number and PIN code that is used to sign electronic statements.</p> <p>During the COVID-19 pandemic, the Ethics Commission’s physical office was closed due to the City’s Public Health Order. During that time, the Commission instituted temporary processes for accepting campaign disclosure statements electronically, which did not require committee officers</p>

	<p>to physically visit the Commission’s office. Last year, the Commission’s physical office reopened, but the Commission has continued to allow the temporary processes that were enacted when the office was closed.</p> <p>The proposed regulation amendment would allow the Commission to institute a new process for accepting electronic signatures, which would be fully electronic and not require committee officers to visit the office or have forms notarized. This change would streamline the process for establishing a committee and make it easier for committees to securely file their documents with the Commission. This new signature process would align with recent changes at the State level, which have increasingly moved towards allowing electronic signatures on required documents. The new signature process would also closely mirror a process already implemented in the City of Oakland.</p> <p>This new process would discontinue the current Signature Verification Card (Form SFEC-112a) and instead require committees to file a revised Form SFEC-112b. This revised form would be used to collect the information required to create a NetFile account and to delegate authority to those authorized to sign forms electronically on behalf of the committee. This change would be similar to the way other forms are submitted to the Commission, such as lobbyist forms, which do not require a signature verification and allow signing authority to be delegated.</p> <p>Based on Staff interactions with the regulated community (committee treasurers, etc.), there is overwhelming support for this change as the current signature verification card is considered cumbersome and unnecessary.</p> <p>In addition, the proposed changes would enable the Commission to accept the Candidate Intention Statement (FFPC Form 501) and Statement of Organization (FPPC Form 410) filings online, thus making the entire process to establish a committee electronic. Staff met with representatives from the Secretary of State’s Office and the Fair Political Practices Commission to confirm that the proposed change to enable electronic filing of those forms is acceptable and not disruptive to the State’s practices.</p> <p>The proposed regulation change will allow for the Commission to take advantage of recent advancements in secure electronic signature technology and move to a more modern, streamlined approach, that will make it easier for committees to sign and submit their campaign documents.</p>
<p><b>1.126-7: Contributor Information (Amended)</b></p>	<p>Regulation 1.126-7 specifies that a candidate will meet the due diligence requirements of the contractor contribution ban in <a href="#">Section 1.126</a> if the contributor attests to the candidate that they are not a City contractor using the language provided in the regulation.</p> <p>This regulation creates a safe harbor for the contractor contribution ban that is similar to the safe harbor that exists in <a href="#">Section 1.127(c)(2)</a> regarding the prohibition on contributions by persons with pending land use matters.</p>

	<p>The proposed regulation change would further align the safe harbor for Section 1.126, with the one found Section 1.127 by specifying that the certification from the contributor to the candidate must be made “under penalty of perjury” and in writing, which can include an electronic format.</p> <p>The proposed change would make Regulation 1.126-7 consistent with Regulation 1.127-3 and provide clarity regarding how an attestation must be made to create a safe harbor.</p>
<p><b>1.127-3: Contributions by Persons with a Financial Interest in a Land Use Matter – Contributor Attestation (Amended)</b></p>	<p>As referenced above, <a href="#">Section 1.127(c)(2)</a> creates a safe harbor regarding the prohibition on contributions by persons with pending land use matters. The Code specifies that “[a] candidate or committee would satisfy [their] due diligence requirement if the person making the contribution to [the] candidate or committee attests under penalty of perjury that the contribution is not prohibited” by the Section.</p> <p>In the current version of Regulation 1.127-3, which provides more detailed information on the attestation required for the safe harbor, the “under penalty of perjury” language is not included, despite it existing in the Code.</p> <p>The proposed amendment to Regulation 1.127-3 would insert the “under penalty of perjury” language so that it is in alignment with the Code.</p>
<p><b>1.126-9 and 1.127-4: Hosting Home or Office Fundraisers (New)</b></p>	<p><a href="#">Section 1.126</a> contains the prohibition on contributions by City contractors and <a href="#">Section 1.127</a> contains the prohibition on contributions by persons with pending land use matters. Both of these sections use the definition of “contribution” that is found in the Political Reform Act, as specified in <a href="#">Section 1.104</a>.</p> <p>The definition of “contribution” in the Political Reform Act exempts payments “made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less” (per <a href="#">Section 82015(c)(2)</a>).</p> <p>Applying the State’s definition to Sections 1.126 and 1.127 creates a loophole that undermines the City’s prohibitions. Currently, an individual who is prohibited from contributing to a local candidate, because they are either a City contractor or have a pending land use matter, is still allowed to host a fundraiser for that candidate in their home or office.</p> <p>The State’s definition of “contribution” was created for the State’s disclosure interests, not with the City’s local prohibitions in mind, hence the State’s definition does not align with the policy goals that the City’s rules were created to promote. Using the State’s definition in this way allows activity that the City’s rules are clearly designed to prohibit.</p> <p>The proposed regulations would close this loophole and specify that “a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office is a</p>

	<p>contribution, regardless of the value, as is the value of the use of the home or office as a fundraising event venue.”</p> <p>This change would mirror how the State treats lobbyists, who are prohibited from making contributions to State candidates and are also prohibited from hosting home or office fundraisers for them. The City’s rules regarding City contractors and those with pending land use matters are similar to the prohibitions on contributions from lobbyists, as such it is appropriate to similarly not apply the home/office fundraiser exception to Sections 1.126 and 1.127.</p>
<p><b>1.142-6: Certification (Amended)</b></p>	<p>Regulation 1.142-6(b)(1) describes when the Executive Director may conditionally certify a candidate for the Board of Supervisors for participation in the City’s public financing program. This regulation references the eligibility requirement found in <a href="#">Section 1.140(b)(3)</a>, which states the candidate must “[b]e opposed by another candidate who has either established eligibility to receive public financing, or whose candidate committee has received contributions or made expenditures which in the aggregate equal or exceed \$10,000.”</p> <p>However, the current regulation incorrectly states the dollar value from Section 1.140(b)(3) as being \$5,000 instead of \$10,000.</p> <p>The proposed amendment will correct this error so that the accurate amount is reflected in the regulation.</p>
<p><b>1.170-1: Provision of Documents (New)</b></p>	<p><a href="#">Section 1.150</a> requires the Commission to audit all candidate committees whose candidates receive public financing and allows the Executive Director to initiate additional audits as desired, which could include ballot measure committees, independent expenditure committees, and general purpose committees. <a href="#">Section 1.170</a> covers penalties for violations of the Chapter and specifies that failing to furnish any records, documents, or other required information to the Commission may result in penalties.</p> <p>While the Code clearly prohibits withholding required documents from Commission auditors and investigators and most committees already supply their documents via the methods requested, there have been issues with how such documents are provided to the Commission. For example, some committees will allow Commission staff to access their documents, but only through a cloud sharing program controlled by the committee, where the documents can be viewed, but not downloaded, archived, or organized by auditors. Such methods of document transmission can be cumbersome for auditors and investigators and delay and impede their work.</p> <p>Additionally, a committee’s third-party cloud sharing tool may not have been approved by the City’s Department of Technology (DT) and could raise cyber security concerns for the City.</p> <p>The Commission already regularly asks for documents to be provided through electronic means and this is generally not an issue, however Section 1.170</p>

	<p>does not explicitly state that the Commission may dictate the method in which documents are provided.</p> <p>The proposed regulation would explicitly allow the Commission to specify and require the method by which evidence, records, documents, and information is provided for audits and investigations, including in electronic format. Failure to provide such evidence, records, documents, or information in the format specified by the Commission would constitute withholding such materials.</p> <p>This change would align campaign finance audits with how lobbyist audits are already treated in the Code. Per <a href="#">Section 2.135</a>, all information required by the Commission for lobbyist audits must be provided “in [a] format designated by the Commission.”</p> <p>With this change, the Commission would be able to require documents to be submitted via a standardized method, using technology that has been approved by DT. However, Staff would retain the ability to accept documents in alternate formats, when there is good cause to do so.</p> <p>This proposed change would help streamline audit processes, increase the speed at which audits can be completed, and help prevent future audit backlogs.</p>
<p><b>1.170-2: Provision of Documents (New)</b></p>	<p>As stated above, <a href="#">Section 1.170</a> covers penalties for violations of the Article I, Chapter 1, and specifies that failing to furnish any records, documents, or other required information to the Commission may result in penalties. <a href="#">Section 1.171</a> allows the Ethics Commission to issue subpoenas in the furtherance of its Charter duties regarding the auditing of committees and the enforcement of the Chapter.</p> <p>The proposed regulation would clarify that failing to provide evidence, records, documents, or other information requested via subpoena would be considered withholding those materials.</p> <p>Ethics Commission subpoenas already include language stating that failure to comply with the subpoena may result in penalties. This proposed regulation would further clarify that not complying with a subpoena is the same as withholding information and may result in penalties.</p>

**Recommended Next Steps**

Staff recommends the Commission vote to approve the proposed regulations as drafted.

**Attachments:**

**Attachment 1:** [Ethics Commission Regulation Amendments – Noticed Publicly on 4/1/24](#)

# ATTACHMENT 1



**ETHICS COMMISSION**

**NOTICE OF PROPOSED REGULATIONS CONCERNING CAMPAIGN FINANCE**

4/1/24

**Draft Regulation Amendments to San Francisco Campaign and Governmental  
Conduct Code Section 1.100 et seq**

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**Regulation 1.108-4: Bank Account Location.**

For the purposes of Section 1.108, “an office of a bank located in the City and County of San Francisco” includes the office of any bank that is authorized to do business in the City and County of San Francisco. Accounts may be established online, over the telephone, or at a physical office located outside of the City and County of San Francisco, as long as the bank is authorized to do business in the City and County of San Francisco.

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**Regulation 1.112-2: Electronic Campaign Disclosure –  
Electronic Signatures ~~Verification.~~**

~~(a) Signature Verification Cards~~

- ~~(1) In order to submit an electronically signed campaign finance disclosure statement, the person signing the disclosure statement must have filed a Form SFEC-112a with the Ethics Commission to verify his or her signature.~~
- ~~(2) The Form SFEC-112a must be signed in the presence of staff of the Ethics Commission during the Commission’s regular business hours, or delivered to the Commission with an original signature notarized by a notary public.~~
- ~~(3) Any individual who signs Form SFEC-112a in the presence of Ethics Commission staff must present valid photo identification issued by a governmental agency, such as a San Francisco City ID, a California ID or driver’s license, or a passport.~~
- ~~(4) The Ethics Commission shall issue a Signer ID and PIN Code to any person who presents a validly completed Form SFEC-112a.~~
- ~~(5) The person who receives the PIN Code is responsible for all documents~~





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~~signed using the PIN Code.~~

~~Example: A candidate receives a Signer ID and PIN Code from the Ethics Commission. The candidate discloses the PIN Code to the treasurer who uses it to sign and file the candidate committee's campaign disclosure forms. The candidate is still responsible for the contents of the campaign disclosure form that is filed with the Ethics Commission.~~

## (a) Electronic Signatures

Documents bearing an electronic signature will be treated the same as signed paper documents for the purposes of applicable State and local law. Electronic documents are signed under penalty of perjury under the laws of the State of California. The candidate, treasurer, or other identified signatory is responsible for signing their documents electronically and assumes any liability that results from delegating their electronic signature to another person.

## (b) Requirements for Electronic Filing

### (1) Required Electronic Filing

Any committee required to file electronic statements under Section 1.112(b) must first file Form SFEC-112b with the Ethics Commission. The Form SFEC-112b may be used to identify those with the authority to sign electronically on behalf of another person.

### (b)-(2) Voluntary Electronic Filing

Any person or committee who voluntarily opts to file electronic statements under Section 1.112(c) must first file Form SFEC-112b with the Ethics Commission. Thereafter, the person shall be subject to all requirements set forth in Section 1.112 and the regulations thereunder. The Form SFEC-112b may be used to identify those with the authority to sign electronically on behalf of another person.

(c) Any campaign finance disclosure statement that must be filed electronically and that lacks all electronic signatures of the required signers is not deemed filed and may subject the responsible parties to late filing fees, in addition to any other penalty under the Code.



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## Regulation 1.126-7: Contributor Information.

A candidate will meet the due diligence requirements of the contribution ban in section 1.126 if the contributor ~~to the candidate~~ certifies under penalty of perjury, in writing, including in electronic format, to the candidate that the following is true:

I am not a City contractor, or a director, officer, greater than 10% owner, or subcontractor of a City contractor, whose contract required the approval of the [list any City elective office the candidate currently holds, the City elective office the candidate is currently seeking, and any state agency on whose board an appointee of the candidate serves] within the last twelve months or whose current bid or proposal will require such approval.

...

## Regulation 1.126-9: Hosting Home or Office Fundraisers.

Notwithstanding the definition of "contribution" set forth in the Political Reform Act, for the purpose of Section 1.126, a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office is a contribution, regardless of the value, as is the value of the use of the home or office as a fundraising event venue.

...

## Regulation 1.127-3: Contributions by Persons with a Financial Interest in a Land Use Matter – Contributor Attestation.

A candidate will meet the due diligence requirements of section 1.127(c) if the contributor certifies under penalty of perjury, in writing, including in electronic format, to the candidate at the time the contribution is made that the following is true:

I do not have a financial interest in a land use matter, as defined in Campaign and Governmental Conduct Code section 1.127(a) (which excludes my primary residence), that is currently pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or Treasure Island Development Authority Board of Directors, nor have I had a financial interest in any such land use matter for which any of these boards or commissions has rendered a final decision or ruling within the last twelve months.



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## **Regulation 1.127-4: Hosting Home or Office Fundraisers.**

Notwithstanding the definition of “contribution” set forth in the Political Reform Act, for the purpose of Section 1.127, a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant’s home or office is a contribution, regardless of the value, as is the value of the use of the home or office as a fundraising event venue.

...

## **Regulation 1.142-6: Certification.**

(a) Executive Director’s Determination.

(1) The Executive Director shall determine whether to certify a candidate no later than 30 days after the candidate submits the documents required under sections 1.142(a) and 1.142(b).

(2) Any candidate who files Form SFEC-142(a) indicating an intent to participate in the public financing program but who fails to file Form SFEC-142(b) by the 70th day before the election is ineligible to participate in the public financing program and the Executive Director shall notify the candidate that he or she is ineligible.

(3) The Executive Director may take whatever steps he or she deems necessary to determine whether to certify a candidate including, but not limited to, reviewing the materials submitted by a candidate, auditing a candidate’s records, and interviewing a candidate’s contributors. In addition, the Executive Director may require any candidate to file Form SFEC-152 in order to determine whether a candidate who seeks public financing is opposed by another candidate pursuant to section 1.140(b)(3) or 1.140(c)(3).

(4) The Executive Director may not review a Form SFEC-142(b) filed by a candidate unless and until the candidate has filed a Form SFEC-142(a) indicating an intent to participate in the public financing program. (5) The Executive Director may not review a Form SFEC-142(b) filed by a candidate if the candidate has failed to file the Form SFEC 142(b) by the deadline established by Section 1.142(b) or, for resubmissions, the deadline established by Section 1.142(f).

(b) Conditional Certification.

(1) The Executive Director may conditionally certify a candidate for the Board of Supervisors in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for the Board of Supervisors has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or



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exceed \$105,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$105,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

(2) The Executive Director may conditionally certify a candidate for the Mayor in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for Mayor has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

## **Regulation 1.170-1: Provision of Documents.**

The Ethics Commission may specify and require the method by which evidence, records, documents, and information is provided for audits and investigations, including in electronic format. Failure to provide evidence, records, documents, or information in the format specified by the Ethics Commission constitutes withholding such materials.

## **Regulation 1.170-2: Provision of Documents.**

Failure to provide evidence, records, documents, or information requested pursuant to a subpoena from the Ethics Commission constitutes withholding of such materials.