

# San Francisco Ethics Commission

## Guide to Departmental Review of Employee Form 700 Filer Lists 2024

### Introduction

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This guide provides helpful information to City departments that are reviewing their lists of Form 700 filers as part of the mandatory 2024 review. The guide:

- provides background about the Form 700;
- explains the purpose of the current review process;
- gives guidance about how to designate filers and assign disclosure categories; and
- includes a recommended process for conducting your department’s review.

### Background on the Form 700 and Lists of Departmental Filers (Designated Filers)

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The Statement of Economic Interest, known as the Form 700, is created by the California Fair Political Practices Commission (FPPC) and is used by state and local government officials and employees to disclose certain personal financial interests. This public disclosure helps to avoid conflicts of interest and to ensure that government decisions are made without any regard to the decisionmaker’s personal financial interests.

For individuals required to file the Form 700, the form must be filed at the following times<sup>1</sup>:

Assuming Office	Due within 30 days of the filer assuming office (or position). Must disclose reportable interests during the 12 months immediately preceding the date the filer assumes office.
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<sup>1</sup> Reporting periods and filings may vary in individual circumstances and should be verified with the City Attorney’s Office or the Ethics Commission.

Annual	Due by April 1 <sup>st</sup> each year. <sup>2</sup> Must disclose reportable interests during January 1 <sup>st</sup> through December 31 <sup>st</sup> of the previous calendar year.
Leaving Office	Due within 30 days of the filer leaving office (or position). Must disclose reportable interests from the last date covered by the filer’s most recent filing through the date the filer left the designated position.

State law requires all public agencies to identify all agency officials and employees who make or participate in making certain governmental decisions and to require those individuals to file the Form 700. These individuals are referred to as *designated filers*. Additionally, agencies must specify the kinds of financial interests that each designated filer needs to disclose, which is referred to as a filer’s *disclosure category*. Agencies must codify this information in a conflict of interest code, and the City and County of San Francisco fulfills this requirement in the Campaign and Governmental Conduct Code.<sup>3</sup> Each City department’s list of designated filers occupies a separate code section in the Campaign and Governmental Conduct Code.

As of January 1, 2022, **all designated filers submit the Form 700 electronically** using an online filing system. This online system was previously used only by City officials and department heads but is now used by all designated filers.

**State law requires each agency to review its list of Form 700 filers every two years and to make any changes that are necessary to bring it into compliance with state law.** This means that each City department must review its list of designated filers in the Campaign and Governmental Conduct Code and ensure that (a) the appropriate set of positions are listed as designated filers, and (b) each filer’s disclosure category appropriately matches the position’s job duties.

The following sections will help your department assess whether its list of designated filers and corresponding disclosure categories need to be revised.

## Criteria for Designating Filers

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Each department’s list of designated filers must contain all departmental positions that “involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.”<sup>4</sup> **For each position in your department, you must consider whether the position should file the Form 700 by asking two questions: (1) does the position make, or participate in making, governmental decisions, and (2) if so, is it foreseeable that those decisions will impact anyone’s personal financial**

<sup>2</sup> This deadline can shift if it falls on a weekend or State holiday.

<sup>3</sup> Campaign and Gov. Conduct Code § 3.1-100 et seq.

<sup>4</sup> Cal. Gov. Code § 87302(a).

**interests?** An agency’s list of designated filers, however, should *not* include positions that do not have decision-making authority or are solely ministerial, manual, or clerical. Because each agency is unique, the FPPC advises that, it is important to review job duty statements and organizational charts to ensure agency codes are accurate.

#### Making or Participating in Making Governmental Decisions

According to FPPC regulations, a person **makes a governmental decision** if the person “authorizes or directs any action, votes, appoints a person, obligates or commits the official's agency to any course of action, or enters into any contractual agreement on behalf of the official's agency.”<sup>5</sup>

Separately, **participating in a governmental decision** occurs when a person “provides information, an opinion, or a recommendation for the purpose of affecting [a governmental] decision without significant intervening substantive review.”<sup>6</sup>

Your department needs to review all positions within the department and determine whether each position makes or participates in making governmental decisions.

#### Reasonably Foreseeable Financial Effect

If a person makes or participates in making governmental decisions, that person must be designated as a Form 700 filer if it is reasonably foreseeable that those decisions will have an effect on any of their financial interests. In practice, many governmental decisions have effects on financial interests. If you believe that a position in your department makes or participates in decisions but that those decisions do not impact any financial interests, you should consult with the City Attorney’s Office or the Ethics Commission for further guidance.<sup>7</sup>

## Criteria for Designating Disclosure Categories

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For each position that is included in a department’s list of designated filers, a disclosure category must be identified for the position. The disclosure category tells the filer what kind of personal financial interests to disclose on the Form 700. For officials and higher level employees, it is common to place the filer at Disclosure Category 1, which requires the filer to disclose all personal financial interests. But, for employees whose duties are more limited, departments should limit the disclosure that those filers must make. This is done by identifying a lower disclosure category (e.g. 2, 3, 4, etc.) that defines a limited set of financial interests that must be disclosed. By tailoring the disclosures to match the position’s duties, departments

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<sup>5</sup> Regulations of the Fair Political Practices Commission § 18704(a).

<sup>6</sup> Regulations of the Fair Political Practices Commission § 18704(b).

<sup>7</sup> See also Regulations of the Fair Political Practices Commission §§ 18702.1–18702.5.

protect the privacy of their filers while still ensuring that full disclosure is made for any financial interests that could be affected by the employee’s government duties.

For example, some filers in the Arts Commission are placed in a disclosure category in which they must disclose “all investments and business positions in any business entity, and income from any source, which does business with the Arts Commission, or has done business with the Arts Commission within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Arts Commission in the future.”<sup>8</sup> Similarly, some filers in the Fire Department are required to disclose “all investments and business positions in business entities, and income from any source, which provides personnel training services of the type used by the [Fire] Department.”<sup>9</sup>

Your department should already have established disclosure categories, which will appear in the Campaign and Governmental Conduct Code immediately preceding your department’s list of designated filers. Each department’s disclosure categories are unique and reflect the duties of employees working in that department. Whenever you identify a position that needs to be a designated filer, consider which of your department’s disclosure categories is appropriate for that position. If you believe that none of the existing disclosure categories is appropriate, it is possible to create a new disclosure category that better matches that position’s job duties. Consult your assigned Deputy City Attorney or the Ethics Commission for further guidance. Although it is appropriate to place some designated filers at Disclosure Category 1 (disclosing all personal financial interests), please note that your department should utilize tailored disclosure categories and should not simply place all designated filers in Disclosure Category 1.

## Areas for Extra Attention

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Although your department should review all positions and determine whether or not each one should be designated as a Form 700 filer, here are some areas to which you should give extra attention:

- ✓ **Do positions in your department have purchasing power pursuant to Prop Q?** – *Any person that makes purchases pursuant to the Delegated Departmental Purchasing Authority (Prop Q) must file the Form 700. However, it is unnecessary to include such positions among your list of designated positions, as those making purchases pursuant to Prop Q are already considered designated filers and required to disclose their interests as specified in Section 3.1-109 of the Campaign and Governmental Conduct Code. Section 3.1-109 was recently added to the Code, and it applies to all*

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<sup>8</sup> Campaign & Gov. Conduct Code § 3.1-140.

<sup>9</sup> *Id.* at § 3.1-250(c).

departments.<sup>10</sup> Your department should remove from its list of designated positions any positions that the department included solely because the position has Prop Q responsibilities.

- ✓ **Have any new positions been added since the current list of filers was last updated?** – If your department has added new positions, these positions may not have been evaluated yet for purposes of Form 700 filing and may need to be added to your department’s list of designated filers.
- ✓ **Have any positions been eliminated or renamed since the current list of filers was last updated?** – Any position that has been eliminated should be removed from the list of designated filers. Any position that has been renamed should be updated in the list of designated filers.
- ✓ **Have there been any substantial changes in duties or responsibilities for any positions since the current list of filers was last updated?** – If a position’s duties have changed, that may mean that a position that is currently a designated filer should be removed, or a position that is not currently a designated filer should be added.
- ✓ **Have there been any substantial changes to the agency’s organizational structure since the current list of filers was last updated?** – If you know that a major organizational change has occurred recently, review the positions that were part of that change to see if any have been added, eliminated, or renamed or have had a change of duties. This may require an update to the list of designated filers.
- ✓ **Have “consultants” been included in your department’s list of designated positions?** – It is unnecessary to include consultants – who meet the criteria for being a designated filer – among your list of designated positions, as consultants who meet this criteria are already considered designated filers and required to disclose their economic interests in Disclosure Category 1, regardless of which department they work with.<sup>11</sup> For the purposes of the Form 700, consultants are defined as individuals who contract with (or whose employer contracts with) the City and makes, participates in making, or acts in a staff capacity for making governmental decisions.<sup>12</sup> If consultants are currently included in your department’s list of designated positions, they should be removed from the list.
- ✓ **Do any positions included in your department’s list of designated filers have multiple disclosure categories?** – Each position listed as a designated filer should only have one disclosure category identified in the Code. If you believe that a position should be reporting two kinds of financial

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<sup>10</sup> San Francisco Board of Supervisors Ordinance, [File # 240016](#), introduced 3/5/24.

<sup>11</sup> Campaign and Gov. Conduct Code § 3.1-108.

<sup>12</sup> [FPPC Form 700 Reference Pamphlet \(2019/2020\)](#), pg. 9.

interests that are identified in two separate disclosure categories, you should create a new disclosure category that combines the types of financial interests the position needs to report.

## Recommended Process for Review

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The following list describes the recommended process for reviewing your department's list of designated filers.

1. Access your department's **current list of filers**, which is contained in Campaign and Governmental Conduct Code [sections 3.1-100 et seq.](#)
2. Access a comprehensive **list of positions** or an organizational chart for your department.
3. Review list of positions and, for each position, consider:
  - a. Does this position **make or participate in making governmental decisions**?
  - b. If so, is it reasonably foreseeable that those decisions will have material **effects on any financial interests**?
4. For any position for which the answers to both questions in #3 are YES, confirm that the position is **included in your department's list of designated filers**.
5. For any position that is included in your department's list of designated filers, consider which of your department's **disclosure categories** matches that position's job duties.
6. Be sure to address the items described in the **"Areas for Extra Attention"** section above.
7. Follow the instructions provided by the Clerk of the Board to **submit any changes** to your department's list of designated filers by the applicable deadline.
8. Support the City's efforts to **meet and confer** with employee bargaining units regarding the changes, as needed.

## Get Help

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The City Attorney's Office and the Ethics Commission are available to help your department with its review. If you have questions about whether a particular position should be a designated filer, what a filer's disclosure category should be, or any other aspect of the review process, please contact your assigned Deputy City Attorney or contact the Ethics Commission at (415) 252-3100 or [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org).