

San Francisco Sunshine Ordinance Task Force

PUBLIC COMPLAINT PROCEDURE

Consistent with the language and spirit of the San Francisco Sunshine Ordinance (Ordinance) to provide the most open government possible (see City Administrative Code Section (§) 67.1), all inferences and evidence shall be viewed in the light most favorable to the petitioner.

Revised 4/26/2005, Revised as to form 5/22/2007 & 3/25/2008

The Sunshine Ordinance Task Force (SOTF) has an obligation under San Francisco Administrative Code §§67.21 (e), 67.30(c) and 12L.1-10 to respond to public complaints.

A. Inquiries In Person or by Phone

It is the goal of the SOTF to help the public gain access to public records and meetings. The staff of the SOTF will therefore work with members of the public to help achieve such access in order to avoid the need for filing complaints with the SOTF.

1. The Administrator shall discuss the request with the member of the public and attempt, with the assistance of the City Attorney, to mediate the request.
2. If unable to facilitate access to a desired record or to a public meeting, the SOTF staff shall advise the members of the public of his/her right to file a petition with the Supervisor of Records (the City Attorney's Office) and to pursue the SOTF complaint process, and shall send the complainant a packet of information regarding the complaint process.

B. Filing a Complaint with the SOTF

1. A letter or complaint form may be submitted to the SOTF via mail, fax or electronic mail (email), or in person. If a complaint letter is received, the Administrator shall complete a complaint form and send a copy to the complainant for their review and approval. The complaint form shall include a box to indicate if the complainant wants a public hearing before the Task Force or a pre-hearing conference before the Complaint Committee to focus the complaint or to otherwise assist the parties to the complaint. Once filed a copy of the complaint shall be sent to the Chairs of the full Task Force and Complaint Committee, and the SOTF Deputy City Attorney.
2. Upon filing a complaint, the complainant shall be given a condensed checklist of procedural requirements (i.e. complaint process, documentation deadlines, etc.). The responding City department/agency (respondent) shall be sent written notice of the complaint with a checklist of procedures, with a request to respond to the charges in the complaint within 5 business days. The Deputy City Attorney who advises City departments/agencies may assist the respondent in preparing a response to the complaint. (See Addendum)

3. Hearing Schedule:
 - (a) If the responding City department (respondent), or the SOTF Deputy City Attorney, (a) do not contest jurisdiction, or (b) there is no request for a pre-hearing conference to focus the complaint or otherwise assist the parties to the complaint, a hearing will be scheduled with the Full Task Force.
 - (b) If the responding City department (respondent), or the SOTF Deputy City Attorney, (a) contest jurisdiction, or (b) there is a request for a pre-hearing conference to focus the complaint or otherwise assist the parties to the complaint a hearing will be scheduled with the Complaint Committee prior to the hearing before the Full Task Force.
4. The Administrator shall advise the complainant and the affected department/agency of the date, time and location of the Complaint Committee and/or Full Task Force meetings at which the complaint will be discussed. The respondent shall have a knowledgeable representative and/or its custodian of records at the meeting. The Administrator shall inform both parties of the deadline to submit any supporting documentation. Both parties shall be held to the stated deadlines: five working days before the hearing.
5. The Administrator shall gather all relevant documents prior to the forthcoming hearing/s and shall send the documents to the members for their review. When the documents exceed 75 pages, the complaint will be forwarded without its full exhibits, with an indication that the full exhibits are on file with the Administrator.
6. Complaint Committee Hearings:
 - (a.) The SOTF Deputy City Attorney, shall provide a written opinion to the Complaint Committee as to whether the SOTF has jurisdiction over the complaint.
 - (b.) The Complaint Committee shall review a complaint where jurisdiction is contested or a pre-hearing conference is requested at its next meeting and recommend whether the SOTF has jurisdiction. The Committee shall also focus the issues for the complainant, respondent and SOTF, or otherwise assist the parties.
7. When the Complaint Committee recommends accepting jurisdiction, it shall do so at the next regular SOTF meeting unless this would result in a violation of the 45-day time limit for resolving complaints (mandated by §67.21); in such a case, a special meeting shall be called to hear the matter. The complainant may waive the 45-day rule or request a special hearing within the 45-day period.
8. Continuances:
 - (a) A complainant may waive the 45-day rule and if a request for continuance is submitted at least three business days in advance of the scheduled hearing it shall be granted. For requests submitted less than three business days in advance or for requests for subsequent continuances, the request shall be granted by a simple majority vote of the members present.
 - (b) If a respondent submits a request for continuance at least three business days in advance, upon agreement of the complainant the continuance shall be granted. If the complainant does not agree to the continuance, the

request for continuance is not made within three business days, or the respondent is requesting a subsequent continuance, such continuance shall be granted by a simple majority vote of the members present.
(Adopted 5/22/07)

C. Public Hearing Procedure

If jurisdiction is not contested or the Complaint Committee recommends jurisdiction, the complainant and respondent shall receive a written notice of the specific issues that shall be before the SOTF for a hearing, and they shall be advised to submit any evidence no later than 5 working days prior to the hearing.

Documentation

For a document to be considered, it must be received at least 5 working days before the hearing (Tuesday before the actual meeting). At the hearing before the Task Force, should the complainant submit additional documentation that has not been submitted to all parties, he or she shall be given the following options:

- (1) Proceed with the hearing without SOTF consideration of the additional documentation;
- (2) Waive his/her right to a hearing within 45 days and ask for the hearing to be continued; but
- (3) If the additional documentation raises a new issue, the complainant may
 - proceed with the hearing and file a new complaint on the additional issue(s), or
 - withdraw and amend the complaint to include the new issue(s).

D. Hearing and Findings of the Task Force

1. Prior to the meeting, the SOTF Deputy City Attorney shall prepare an instructional letter to assist the SOTF in understanding the issues. All members of the SOTF are responsible for being familiar with the complaint issues prior to the meeting.
2. The SOTF shall conduct the public hearing with the complainant and respondent present.
3. After hearing all testimony, the SOTF shall vote on an Order of Determination stating whether the record is public and/or whether the open meeting laws were obeyed.
4. After the SOTF determines whether a violation of the Ordinance has occurred, the complainant and respondent shall be notified in writing.

E. Reconsideration of Task Force Findings

1. Within 10 days of issuance of the Order of Determination, either the complainant or respondent may petition the SOTF for a reconsideration only if information exists that was not available at the time of the hearing.
2. The Task Force shall consider the petition at its next scheduled meeting. If a petition for reconsideration is granted, a new hearing on the complaint shall be scheduled at the next SOTF meeting. (Approved by Task Force 10/26/04)

F. Department to Comply with Determination of the SOTF

1. The Administrator shall send the Order of Determination to the complainant and respondent and request a written response within 5 days, which shall be monitored by the SOTF Compliance and Amendments Committee. If a public records violation is found, the custodian of records shall be ordered to provide the record to the complainant within 5 days after the issuance of the Order of Determination. The Compliance and Amendments Committee shall review whether there has been compliance with the Order of Determination.
2. If there is a failure to comply, the Compliance and Amendments Committee may recommend that the SOTF notify the District Attorney, the California Attorney General, the Board of Supervisors and/or the Ethics Commission, who may take measures they deem necessary to ensure compliance with the Ordinance. A copy of the Order of Determination shall be included with such notification.
3. If appropriate, the respondent and complainant shall be sent a notice that the District Attorney, California Attorney General, Board of Supervisors and Ethics Commission have been contacted, and of the complainant's independent right to pursue the issue in court.

G. Documentation and Information Regarding Individual Complaints:

1. The Administrator shall keep a file of all documents and a log of all petitions filed with the SOTF, including the date of each petition, the department/agency against which it was made, the nature of the complaint and its status. This shall be in compliance with its records and retention schedule.
2. Copies of all correspondence relating to a complaint shall be sent to all parties.

Addendum

Complaint Process

1. You may fill out a complaint form online or access a form at sfgov.org/site/sunshine, or you may send your own letter filing a formal complaint. File the complaint with the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Pl., Room 244, San Francisco, CA 94102-4689; or you may send it by fax #to (415) 554-7854 or email to sotf@sfgov.org.
2. After you file a complaint, the Complaint Committee of the Sunshine Ordinance Task Force (SOTF) shall, if jurisdiction is contested and/or a request for a pre-hearing conference is received, review it to determine if the SOTF has jurisdiction and to focus on the relevant issues in the case.
 - Jurisdiction is defined as the authority to address a given issue(s), as specified in the Sunshine Ordinance.
3. If the Complaint Committee finds no jurisdiction over the violations alleged in the complaint, the complainant is notified of the decision and the complainant may request reconsideration before the SOTF at its next scheduled meeting. Should the SOTF find jurisdiction, a full hearing on the merits will be scheduled.
4. If the Complaint Committee finds the SOTF has jurisdiction, the complainant, respondent and SOTF members are notified of the decision.
5. The complaint is then scheduled for a hearing at the next meeting of the SOTF, which has the final say on the jurisdiction issue.
6. If additional information is to be submitted by the complainant or respondent, it must be submitted to the Administrator at least five working days before the scheduled hearing before the Task Force.

If either party submits additional material after the deadline, they will be informed that

 - a. The Task Force may proceed without considering the new material
 - b. The complainant may waive the 45-day time limit and continue the hearing to the next Task Force meeting
 - c. The complainant may withdraw the complaint and file a new complaint
 - d. The complainant may proceed to hearing with their current complaint and file a new complaint and use the new information to support the freestanding separate complaint.
7. After the public hearing, the Task Force shall make an Order of Determination regarding the complaint.
8. For further information, contact the Sunshine Ordinance Task Force Administrator, at (415) 554-7724.



Filing a Complaint with the San Francisco Ethics Commission

The San Francisco Ethics Commission encourages the reporting of suspected violations of laws, regulations and rules governing the conduct of City officers and employees. The following information is provided to assist persons interested in reporting a violation to the Commission.

The Ethics Commission is authorized to investigate and enforce violations of the following local governmental ethics laws:

- ◆ Campaign Finance Reform Ordinance
S.F. Campaign & Governmental Conduct Code
(S.F. C&GC Code) § 1.100, *et seq.*
- ◆ Campaign Consultant Ordinance
S.F. C&GC Code § 1.500, *et seq.*
- ◆ Lobbyist Ordinance
S.F. C&GC Code § 2.100, *et seq.*
- ◆ Sunshine Ordinance*
S.F. Admin. Code § 67.1, *et seq.*
- ◆ Multiple Campaign Accounts
S.F. C&GC Code § 1.200, *et seq.*
- ◆ False Endorsements on Campaign Literature
S.F. C&GC Code § 1.400, *et seq.*
- ◆ Political Activity by City Officers/Employees
S.F. C&GC Code § 3.230
- ◆ Gifts
S.F. C&GC Code § 3.216
- ◆ Contracts Between Members of Boards and
Commissions and the City
S.F. C&GC Code § 3.222
- ◆ Dual Officeholding for Compensation
S.F. C&GC Code § 3.220
- ◆ Decisions Involving Family Members
S.F. C&GC Code § 3.212
- ◆ Referrals
S.F. C&GC Code § 3.226
- ◆ Disclosure of Personal, Business or
Professional Relationships
S.F. C&GC Code § 3.214
- ◆ City Officers Representing Private Parties
Before City Boards and Commissions
S.F. C&GC Code § 3.224
- ◆ Intimidation or Retaliation by a City Officer/
Employee Against Persons Who File
Complaints with the Ethics Commission
S.F. C&GC Code § 4.100, *et seq.*
- ◆ Financial Conflicts of Interest by
City Officers/Employees
S.F. C&GC Code § 3.206
- ◆ Payment for Appointments or Nominations to
City Service or Employment
S.F. C&GC Code § 3.208
- ◆ Disclosure or Use of Confidential Information
by City Officers/Employees S.F. C&GC
Code § 3.228
- ◆ Post-Employment Restrictions
S.F. C&GC Code § 3.234
- ◆ Incompatible Activities
S.F. C&GC Code § 3.218
- ◆ City Officers/Employees Voting on Own
Character or Conduct
S.F. C&GC Code § 3.210

* The Ethics Commission can only investigate alleged violations of the Sunshine Ordinance if: 1) you notified the Respondent of the alleged violation at least 40 days before filing a complaint with the Ethics Commission; and 2) the Respondent did not cure the alleged violation.

The text of these laws can be found on the Ethics Commission's website at www.sfgov.org/ethics. Many of these laws are also discussed in the Commission's publication "The San Francisco Ethics Commission Manual on Governmental Ethics Laws: A Guide to State and Local Laws Governing the Conduct of Public Officials and Employees," which is available on the website or at the Commission's office.

How to file a complaint

It is strongly recommended that prior to filing a complaint, you speak with an investigator to determine whether the matter about which you are complaining is something the Ethics Commission has authority to address. If it is not, the investigator will refer you to the most appropriate agency to whom to direct your complaint. To schedule an appointment with an investigator, please call the Ethics Commission at (415) 252-3100.

Once you determine that the Ethics Commission is the most appropriate agency to address your complaint, you may file your complaint on the attached complaint form. Please be aware that the more information you provide, e.g., names, addresses and phone numbers of respondent(s) and witnesses, all relevant facts pertaining to the complaint, and any documents that support your allegation, the easier it will be for the Ethics Commission to investigate the complaint.

Confidentiality

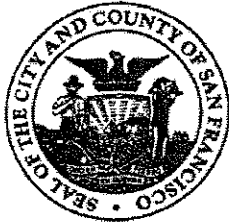
All complaints are confidential to the extent permitted by State law. Local law protects persons who file complaints with the Ethics Commission from harassment or retaliation for filing the complaint. Complainants should be aware that the Ethics Commission's Regulations for Investigations and Enforcement Proceedings, which govern the Commission's handling of complaints, provide that a person accused of a violation (the respondent) must be provided with a copy of the complaint. Complainants may wish, therefore, to submit their complaints anonymously. Please be advised that the Ethics Commission may, but is not required to, process or respond to anonymous complaints and complaints that have not been signed and verified.

Laws the Ethics Commission cannot enforce

The Ethics Commission does not have the authority to investigate and enforce *all* laws relating to ethics and the conduct of City officials. The Commission can investigate violations of, but **cannot enforce**, most provisions of state law, such as the California Elections Code and the Penal Code. The Ethics Commission **does not investigate** complaints pertaining to: personnel matters (such as sexual or racial discrimination or failure to comply with Civil Service requirements); violations of the State or Federal Constitution; and ethics violations by members of the judiciary.

If the Ethics Commission receives a complaint alleging violations that are not within the Commission's jurisdiction, the Commission will forward the complaint to the appropriate agency for investigation and enforcement.

**San Francisco
Ethics Commission**



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

**San Francisco Ethics Commission
Complaint Form**

Please type or print legibly, and attach additional pages if necessary.

Complainant Information*

Name of Complainant	
Address	
Zip	
Home Phone	
Work Phone	

** If you wish to remain anonymous, do not complete this section or the verification below.*

Respondent Information

Name of Respondent	
Business Title	
City Department	
Business Address	
Work Phone	

If more space is needed to list additional complainants or respondents, please check this box and attach additional sheets as necessary.

Type of Allegation(s)

Check the appropriate box(es) below indicating the type of allegation(s) stated in this complaint.

- Campaign Finance Reform Ordinance
- Campaign Consultant Ordinance
- Lobbyist Ordinance
- Sunshine Ordinance (The Ethics Commission can only investigate alleged violations of the Sunshine Ordinance if: 1) you notified the Respondent of the alleged violation at least 40 days before filing a complaint with the Ethics Commission; and 2) the Respondent did not cure the alleged violation).
- Multiple Campaign Accounts
- False Endorsements on Campaign Literature
- Political Activity by City Officers and Employees
- Acceptance of Gifts, Contributions and Future Employment by Public Officials Who Approve Contracts and Other Public Benefits
- Contracts Between Members of Boards and Commissions and the City
- Dual Officeholding for Compensation
- City Officers Representing Private Parties Before City Boards and Commissions
- Intimidation or Retaliation by a City Officer or Employee Against Persons Who File Complaints with the Ethics Commission
- Financial Conflicts of Interest by City Officers and Employees
- Payment for Appointment to City Service or Employment
- Disclosure of Confidential Information by City Officers and Employees
- City Officer or Employee Appearing Before Former Board or Agency
- Private Compensation of City Officers and Employees for City Service
- City Officers or Employees Voting on Own Character or Conduct
- Decisions Involving Family Members
- Disclosure of Personal, Business or Professional Relationships
- Referrals
- Other** _____

*** Complaints that allege that a City officer or employee engaged in some form of misconduct that is not within the Commission's authority to resolve will be forwarded to the appropriate agency for review and possible enforcement.*

Description of Facts

Provide a specific description of the facts constituting the violation(s), including any relevant dates. Attach additional sheets as necessary.

Witnesses

Provide the following information about person(s) you believe may have information that would assist the Commission in its evaluation of this complaint.

Name of Witness	
Address	
Phone	
Information you believe this person can provide to support the allegations stated in this complaint	

Name of Witness	
Address	
Phone	
Information you believe this person can provide to support the allegations stated in this complaint	

- If more space is needed to list additional witnesses, please check this box and attach additional sheets as necessary.*

Documentation

Attach copies of any documents in your possession that relate to the allegations stated in this complaint. In addition, indicate below whether there are other records, not in your possession, that you believe may assist the Commission in its evaluation of this complaint.

Additional Information

Provide any additional information that you believe may assist the Ethics Commission in its evaluation of this complaint.

Related Complaints

Have you made the same or similar allegations to another agency or court? Yes No

If yes, identify the agency or court and attach a copy of any complaint or other written description of the allegations submitted to that agency or court.

Verification***

I certify under penalty of perjury under the laws of the State of California that the above statements are true and correct.

Executed: (Date)	At: (City and State)
By: (Typed or printed name)	 (Signature)

**** Complaints need not be verified. Complainants who wish to remain anonymous should not complete the verification section above. However, please be advised that the Commission is not required to process or respond to unverified complaints.*