



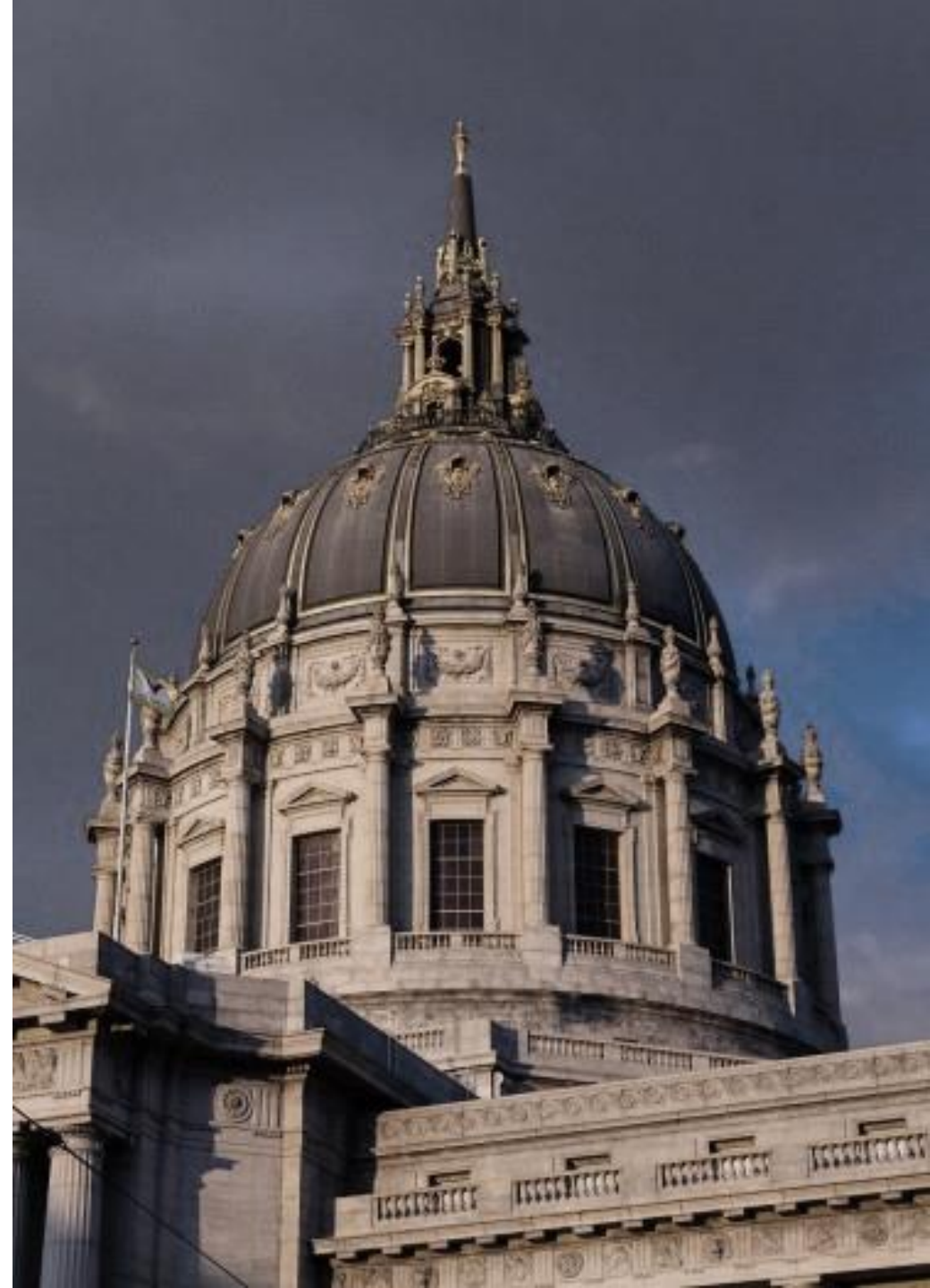
City & County of San Francisco
Ethics Commission



Proposition D Training for City Officials

Agenda

- Purpose and Intent
- Prop. D Changes to Ethics Law
- Scenarios & Discussion
- Resources
- Q&A Session
- Closing & Evaluation



DISCLAIMER

**This training is not a substitute for
Ethics Commission advice.**

Seek advice from the Ethics Commission anytime you need to know
how the law applies to your own conduct.


Discussion

- As public sector employees, what are the ethical principles that guide your work?
- Think about the mission of your agency. What is the role of those values in fulfilling the mission of your agency?

Proposition D Overview

- Amended the City's Campaign and Governmental Conduct Code to strengthen local ethics laws
- Passed by SF voters: March 5, 2024
- **Operative date: October 12, 2024**

Before We Begin

- Enter questions through the chat
- You may use the “raise hand” button  during the Q&A portion. If joining by telephone, dial *3 to “raise hand”
- We will save questions for the Q&A segment
- Particular, fact-specific questions? Email ethics.commission@sfgov.org or use our [support portals](#)

Summary of Prop. D

- Clarifies and expands the City's rule against gifts from restricted sources
- Creates a standardized disclosure requirement for payments made to City departments
- Extends the annual ethics training requirement to all Form 700 filers
- Standardizes and codifies rules regarding Incompatible Activities

Summary of Proposition D

(Continued)

- Expands the City's anti-bribery prohibition
- Allows penalties to be imposed on a City officer or employee who fails to disclose required personal, professional, or business relationships
- Standardizes penalty provisions
- Allows the Ethics Commission to require electronic filing of public disclosures.
- Protects ethics laws from legislative amendments

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Prohibition of Gifts from Restricted Sources



What Is a Gift?

Anything of value that you do not pay full price for.



Why Gift Rules in Government?



Restricted Source Rule Before Prop. D

- Currently prohibits all City officials from soliciting or accepting a gift from a restricted source
- Narrow definition
- Multiple exceptions

Restricted Source Rule: What Changed

With Prop. D:

- Expands definition of Restricted Source
- Expands the prohibition on gifts from Restricted Sources
- Defines what a gift is and exceptions.

Who Is a Restricted Source of Gifts?

Anyone doing business or seeking to do business with your Department

A. Contractors

- “Doing business” includes (1) anyone seeking to contract or who contracts with your department
- Includes affiliates
- For the duration of the contract and for 12 months after the contract ends or for 12 months after the negotiations are terminated

Affiliates Include:

- Board of directors, *or*
- Principal officers, *or*
- Persons with a 10% or more ownership interest

B. License, Permit Seekers or Holders

1. If item is issued by your department and would be approved by your department head, your department's board or commission, or the Board of Supervisors:

- Restricted source for the entire department

2. If you were personally and substantially involved

- Restricted source to you

Duration of the prohibition: for 12 months after the action was taken on the item

Note: Ministerial licenses, permits are excluded

C. Additional Restricted Sources

- A person who during the prior 12 months attempted to influence the officer or employee in any legislative or administrative action.
- Permit consultants registered with the Ethics Commission, if the permit consultant has reported any contacts with the employee's or officer's department in the previous 12 months.
- For City officers, a registered lobbyist.

Visit our [Lobbyist Directory](#) for a list of registered lobbyists.

Who is NOT a Restricted Source?

- ❑ Acme Inc., the company contracted to provide office supplies to your department.
- ❑ A Board Member at Acme Org., a nonprofit that has a contract with your department.
- ❑ The owner of a restaurant whose permit your department head approved 8 months ago.
- ❑ The owner of a restaurant whose permit you reviewed and rejected 2 months ago.
- ❑ Your sibling, who has no business with the City.

Expansion of the Prohibition

City officers and employees may not:

- Solicit
- Coordinate
- Facilitate
- Accept

any gift for themselves or any other City official if the officer or employee knows, or has reason to know, that the source of the gift is a restricted source.

2. Expansion of the Prohibition

City officers and employees may not:

- Solicit or accept a gift from any person, including a City department, if the officer or employee knows, or has reason to know, that the gift was funded, provided, or directed by a restricted source
- Solicit or accept any gift from a restricted source for any of their family members



Scenarios

Scenario: A New Restaurant in Town

Theo is a City official who approved a non-ministerial license to open a restaurant. Six months later, Tim, the restaurant owner, mailed Theo two discount vouchers for their new location.

Question: What is the right course of action?

Analysis: A New Restaurant in Town

- City officers and employees may not solicit, coordinate, facilitate, or accept any gift for themselves or any other City official if the officer or employee knows, or has reason to know, that the source of the gift is a restricted source.
- City officers and employees may not solicit or accept gifts from a restricted source for any family member.



Scenario: A Retirement Gift

- Sylvia is a permit consultant registered with the Ethics Commission who has contacted Rob, a City manager, and his department over the years.
- Sylvia called Rob last month about a permit issue. Rob mentioned in passing that he was leaving early to go to his spouse's retirement party.
- Today, Sylvia stops by Rob's office to bring a retirement present for his spouse.

Question: May Rob accept this gift?

Analysis: A Retirement Gift

- Any permit consultant who has registered with the Ethics Commission is a Restricted Source, if the permit consultant has reported any contacts with your department to carry out permit consulting services during the prior 12 months.
- Soliciting or accepting any gift from a restricted source for any family member is prohibited.

Scenario: A Sporting Event

Alexis, a City officer, receives a free ticket from a trade association to attend a sporting event with industry leaders. Tickets are valued at \$500. The trade association is not a restricted source to Alexis or their department.

Acme Inc., a technology company, is the sponsor and organizer of the sporting event. Acme Inc. gifted the ticket to the trade association.

Acme Inc. has just responded to a Request for Proposals for technology services issued by Alexis' department.

Should Alexis accept the ticket?

Analysis: A Sporting Event

- City officers and employees may not solicit, coordinate, facilitate, or accept any gift for themselves or any other City official if the officer or employee knows, or has reason to know, that the source of the gift is a restricted source.
- When in doubt, seek guidance before accepting a gift to avoid a violation.

Exceptions to the Restricted Source Rule: Before Prop. D

Many State and local exceptions that undermined the intent of the rule. With Prop. D, these will no longer apply.

Examples:

- Gifts received in the home of the restricted source,
- Gifts exchanged on birthdays, holidays
- Gifts received from long-time friends
- Gifts of food or drink to be shared in office.



**Will no longer
apply to the RSR**

Local Definition of Gift & Exceptions

With Prop. D:

- Routine office courtesies of \$25 or less up to 4 times a year at the Restricted Source's place of business*
- Free attendance at a widely attended conference, convention or ceremony*
 - *Only where attendance is appropriate to the official duties of the officer or employee.
- See [regulations](#) for complete list of exceptions and details.

Scenario: Business Lunch

A long-time contractor who works with your department, and is also a personal friend, invites you out to lunch to discuss future projects.

They offer to pick up the bill. You don't think it's necessary, but don't want to be rude.

Poll: Per Prop. D, what is the best course of action?

Analysis: Business Lunch

- Restricted Source: Gifts of **any amount** are prohibited
- No longer a \$25 gift limit up to 4 times a year
- There is an exception for routine office courtesies (water, coffee, notepad) of \$25 or less up to 4 times a year at the restricted source place of business when on official duty
- State exceptions no longer apply

Sample Language for a Polite Refusal

“Thank you so much for the lunch offer / tickets to the game / etc. I apologize but I cannot accept it / and had them mailed back to you. City policy does not allow us to accept gifts from contractors/clients/etc. Still, I really appreciate the gesture and thank you for your understanding.”



Can I un-gift a gift?

Yes. To avoid breaking the law, you can:

- Return the gift (unused) to the donor within 30 days of receipt or reimburse the donor within 30 days of receipt.
- Within 30 days of receipt, you can donate the gift, unused, to a 501(c)(3) nonprofit you are not affiliated with and **not** take a tax deduction for the donation.



Scenario: A Site Visit

Sheila, Desirée, and Salvador are City employees who are conducting an annual site visit of the facilities of a nonprofit organization that contracts with their department.

Tea, coffee, and light snacks are available by the front desk (aggregate value is less than \$25 per person).

True or False? Sheila, Desirée, and Salvador may accept some tea, coffee, and snacks during the site visit.

Analysis: A Site Visit

- Routine office courtesies of \$25 or less up to 4 times a year at the Restricted Source's place of business
- Only at times that the officer or employee must visit the place of business to carry out City duties.
- Examples: coffee, tea, water, bagels, pastries, pad of paper, writing instrument



Scenario: A Holiday Gift

Kim works at the front desk of a City department and receives a delivery of a holiday food basket coming from Acme Inc.

Kim's department issued a permit to Acme Inc. two months ago. The gift of food is not addressed to any employee but is for everyone in the office to share.

What should Kim do to comply with the changes in the law brought by Prop D?

Analysis: A Holiday Gift

- Under Prop D, gifts of food and drink from Restricted Sources to be shared in the office among officers and employees are no longer permitted.
- City officers and employees are prohibited from **coordinating or facilitating** a gift for themselves or any other City official if the officer or employee knows, or has reason to know, that the source of the gift is a restricted source.
- Return the gift to donor or donate it to a 501(c)(3) charitable organization within 30 days.

Event Tickets Exceptions

- Ceremonial Role on behalf of the City agency*
- A single ticket provided by a 501(c)(3) nonprofit to a fundraiser hosted by the nonprofit if attendance is necessary for official City duties.*
- A single ticket to arts exhibit, performance, sporting, cultural event provided by the organizer if attendance is necessary for official City duties.*

* See [regulations](#) for more details and reach out to us if you have any questions.

*Tickets must be received by the departments.

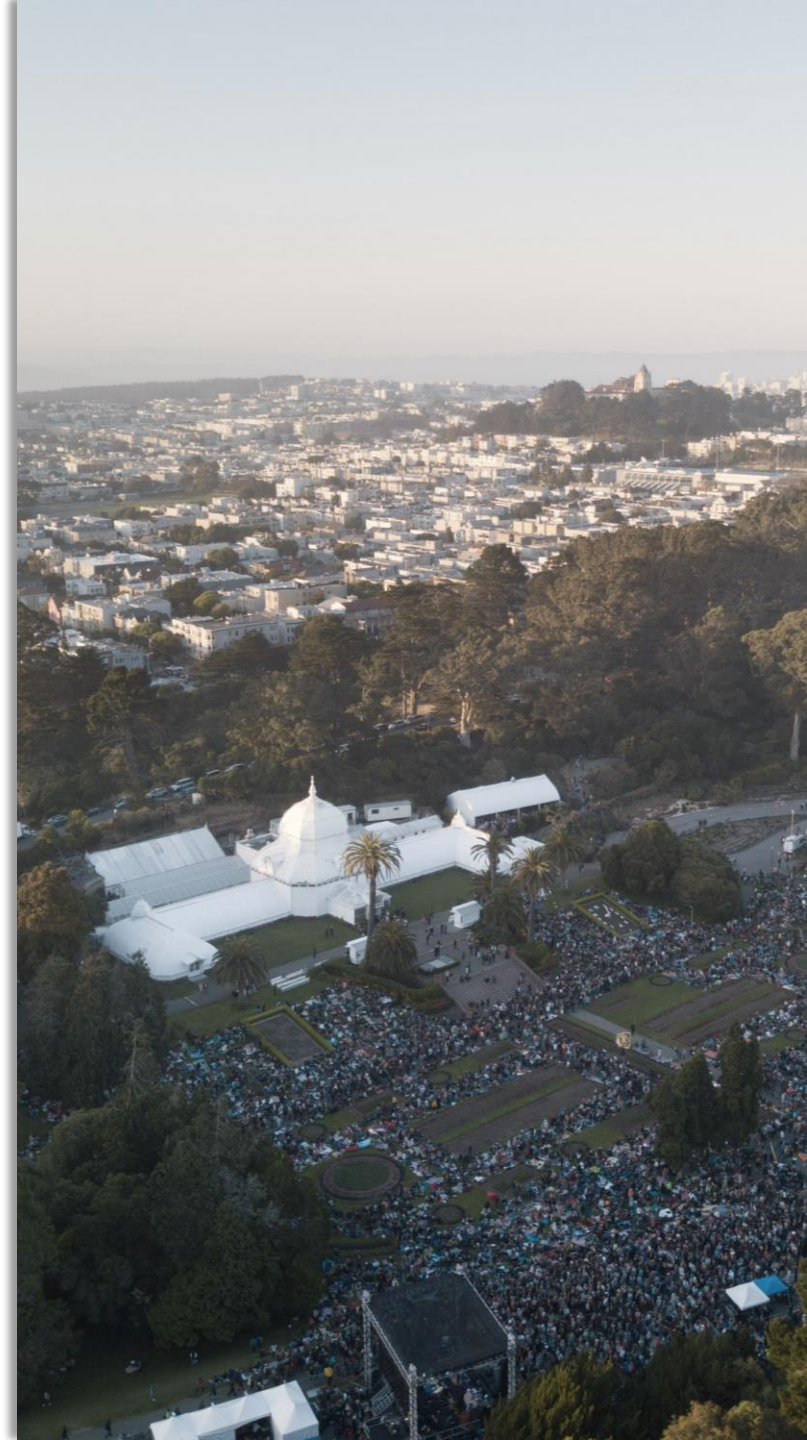
*Departments are subject to disclosure requirements.

Scenario: Concert Tickets

An organization that puts on concerts in the City offers you two free tickets to a concert in SF. You were in charge of approving a permit for the concert organizer earlier this year.

Question: **What is the best course of action?**

- Accept the tickets
- Do not accept the tickets



Analysis: Concert Tickets

- The official in the hypothetical was personally and substantially involved in issuing the permit
- Concert organizer is a Restricted Source for 12 months after the action was taken
- No event ticket exceptions apply here



Scenario: Industry Conference

- The Executive Director of a non-profit organization that contracts with your department invites you to speak at a widely attended conference organized by the non-profit, that features client testimonials.
- If you accept the invite, the non-profit will also pay for your travel, including airfare and hotel.
- You would also get free admission to the rest of the conference.

Question: What is the best course of action?

Analysis: Industry Conference

- Exception: Free attendance at a widely attended conference, where attendance is appropriate to the official duties of the officer or employee and the organizer provides the free attendance voluntarily.
- Gift of travel from a restricted source is prohibited.
- Form 700 disclosure: \$50 threshold | Informational material exception.

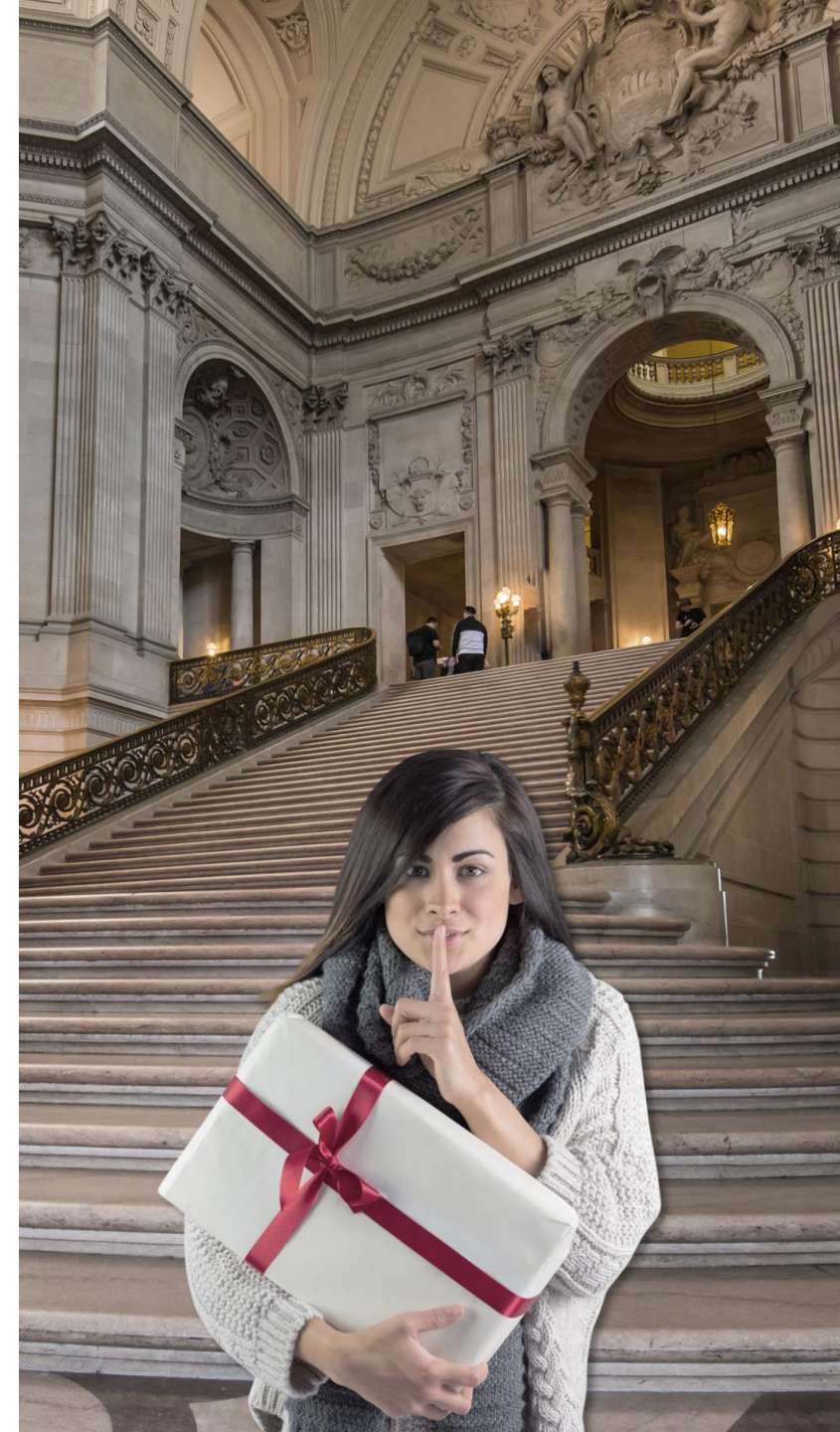
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Gifts to City Departments



Gifts to City Departments: Before Prop. D

- Multiple separate public disclosures in different locations.
- No consequences for failing to properly report gifts to City departments.



Overview of Gifts to City Departments

With Prop. D:

- New centralized point of gift disclosure by all City departments.
- Publicly accessible data in a single location.
- Department head may be subject to discipline by their appointing authority if Department head or designee fail to timely report gifts to their department.

Scenario: A Gift to Your Department

- A private company is moving out of an office building that has your City department as another tenant.
- The company is not going to take all of its furniture to its new location and offers to donate it to your department.

Question: What is the best course of action?

Analysis: A Gift to Your Department

- Department Head or delegee must disclose the gift, including the following information:
 - Source, date, value of gift and description
 - Purpose and use
 - Name(s) of City official(s) who benefitted from the gift
 - Description of any financial interest the donor has involving the City
- Due within 15 calendar days after the end of the month the department received the gift
- Filed electronically

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Extension of Ethics Training Requirement



Ethics Training Before Prop D

Only City officers took the annual ethics & sunshine training.



Ethics Training Requirement

With Prop. D:

- Form 700 filers will receive Ethics training every year
- Ethics Commission will produce a summary of ethics laws. City departments will distribute it to its officers and employees every year
- More employees familiar with Ethics rules = more employees empowered to identify ethical risk and speak up

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Standard Rules on Incompatible Activities



Statements of Incompatible Activities: Before Prop D

- Each department has its own separate Statement of Incompatible Activities (SIA) largely containing the same rules.
- City officials could request Advanced Written Determinations on many of the rules in their department's SIA.

Standardized Incompatible Activities

With Prop. D:

- Standard rules in SIAs are codified in City law and apply to all City officials across the City.
- Existing departmental SIAs will no longer be used.
- Ability to seek an AWD: only retained for the rules against excessive time demands and regular disqualifications.
- For the other rules, City officials will need to request advice from the Ethics Commission

Incompatible Activities

Officers and employees are prohibited from:

1. Engaging in activities that are subject to the control, inspection, review, audit, permitting, enforcement, contracting, or are otherwise within the responsibility of their department
2. Providing selective assistance
3. Using City resources for private gain or advantage
4. Using the prestige of office for private gain or advantage
5. Using City work product in exchange for anything of value and without appropriate authorization

Incompatible Activities (Cont.)

Officers and employees are prohibited from:

6. Acting as an unauthorized City representative
7. Accepting payment from anyone other than the City for City duties or advice
8. Conducting lobbying activity
9. Engaging in activities with excessive time demands or that regularly disqualify them from City assignments or responsibilities.

Scenario: Incompatible Activities

Department A has just put out an RFP for consulting services. Raj, an employee in Department A, receives a voicemail from a former colleague who works at a consulting company that does business with the City.

“Hey Raj, this is Charlie. I saw the new RFP for consulting services. Can you tell me more about what kind of bidder profile you are looking for? And who else has applied so far?”

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Bribery Prohibition



Bribery Rule: Before Prop. D

“No person shall offer or make, and no officer or employee shall accept, any gift with the intent that the City officer or employee will be influenced in the performance of any official act.”

Bribery Rule

With Prop. D:

- The City's bribery rule now applies to "anything of value" (including campaign contributions) that is solicited or offered with the intent to influence.
- City officials are prohibited from soliciting bribes (not only accepting bribes.)
- Agreeing to provide a bribe is prohibited.
- A payment can be bribe even if the person receiving the payment is someone other than the City official.

Case Study

In this hypothetical, a government official is accused of soliciting and accepting bribes from businesspeople in exchange for taking government action.

The indictment alleges that this public officer agreed to take official action in exchange for payments to family members and donations to non-profits they were affiliated with.

How would the changes to the bribery rule brought by Prop D help prevent and address violations like the ones described above?

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Penalties



Penalties for Failing to Make Required Disclosures of Relationships

Before Prop. D

No penalties to a City official for failure to disclose (a court may, in some situations, void the government decision that was made.)

Penalties for Failing to Make Required Relationship Disclosures

With Prop. D:

- City officers and employees must disclose their relationships with any person who is the subject of, has ownership or a financial interest in a governmental decision being made by the officer or employee.
- **There are penalties for failure to make required disclosures of these relationships.**
- The Ethics Commission may adopt regulations regarding how this required disclosure must be made and archived.

Other Prop. D Changes

- General Penalties
- Electronic Filings
- Future Legislative Amendments

General Penalty Provisions

With Prop. D:

Administrative penalties will be applied on a strict liability basis.

Electronic Filing of Required Disclosures

With Prop. D:

The chapters on lobbyists, conflicts of interest, permit consultants, and major developers will have e-filing provisions.

Legislative Amendments to City Ethics Laws

With Prop. D:

- Future legislative amendments to most chapters must be approved by supermajorities of both the Ethics Commission and the Board of Supervisors.
- All chapters can be amended by the voters through a ballot measure.

Prop. D Resources



[Online Workshops](#)



[Self-Study Materials](#)



[Support Portal](#)



[File a Complaint](#)

Something Amiss?



Anyone may file a complaint with the City, including employees!



[File a Complaint with the San Francisco Ethics Commission](#)



Complaints can be anonymous



Learn more about the [Whistleblower Program](#)

Q&A Session

To join the queue, please press the “Raise Hand” button (phone: press *3)



**Your Feedback
Is Important!**

Please complete our
3-minute feedback survey.

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Thank you for your participation!