



San Francisco Ethics Commission

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ETHICS COMMISSION REGULATION AMENDMENTS EXTENDING WAIVER CONSIDERATION TIMELINES

Approved by Ethics Commission: **TBD**

Draft Regulation Amendments Regarding San Francisco Campaign & Governmental Conduct Code Sections 3.224 and 3.234

Regulation 3.224-2. Compensated Advocacy – Waivers for Members of Boards and Commissions Who by Law must be Appointed to Represent Certain Professions, Trades, Businesses, Unions or Associations

- (a) Waivers. The Ethics Commission may waive the prohibition in section 3.224(a) for any member of a board or commission who by law must be appointed to represent a profession, trade, business, union or association. Such waivers may be granted upon the request of the member; the request of the member's appointing authority; or on the Commission's own initiative.
- (b) Process for Granting Waivers. All waivers granted pursuant to subsection 3.224(c) must be made at a public meeting. Requests for waivers made by a City officer or by the officer's appointing authority must be in writing and state the reasons why the waiver should be granted. The Ethics Commission shall consider, at either of its next two regularly scheduled meetings, any waiver request that meets the criteria of this regulation ~~provided that such request is received at least two calendar weeks in advance of the meeting~~. In making a determination to grant a waiver under this subsection the Commission may consider: the ability of the City to recruit qualified individuals to fill the position in question if the waiver is not granted; the ability of the member to engage in their ~~his or her~~ particular vocation if the waiver is not granted; and any other factors the Commission deems relevant.
- (c) Notice. The Commission shall maintain a list of waivers granted under subsection 3.224(c) and post the list on the Commission's web page.

Regulation 3.234-4. Waivers

- (a) Requests for Waivers from Post-Employment Restrictions.
 - (1) Requests for waivers from permanent and one-year bans. Any current or former City officer or employee may submit a request to the Commission for a waiver from the permanent bans on working or advising on particular matters imposed by subsection 3.234(a)(1) or the one-year ban on communicating with former colleagues imposed



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- by subsections 3.234(a)(2). Such requests must be in writing and include information describing the former position held by the officer or employee; the particular matter for which the waiver is sought; the individual's prior involvement in the matter, if any; and reasons why granting a waiver would not create the potential for undue influence or unfair advantage. The individual must also certify that ~~they have~~he or she has provided a copy of the waiver request to the City officer or employee responsible for the day-to-day management of ~~their~~his or her former department, board, commission, office, or unit of government.
- (2) Requests for waivers of ban on compensation from City contractors. Any current or former City officer or employee may submit a request to the Commission for a waiver from the ban on receiving compensation from certain City contractors imposed by subsection 3.234(a)(3). Such a request must be in writing and include information describing the name and business activity of the potential new employer of the officer or employee; the contracts that the officer or employee personally and substantially participated in awarding to ~~their~~his or her potential new employer during the 12 months prior to the officer's or employee's acceptance of employment or receipt of or entitlement to compensation; the exact nature of the officer or employee's participation in awarding those contracts; and reasons why imposing the restriction in subsection 3.234(a)(3) would cause extreme hardship for the City officer or employee. The City officer or employee must also certify that ~~they have~~he or she has provided a copy of the waiver request to the City officer or employee responsible for the day-to-day management of the department, board, commission, office, or unit of government for which the officer or employee served at the time ~~they~~he or she participated in awarding the contract.
- (3) Consideration of waiver requests. The Ethics Commission shall consider, at either of its next two regularly scheduled meetings, any request that meets the criteria set forth in subsections (a)(1) or (a)(2) of this Regulation, ~~provided that such request is received at least two calendar weeks in advance of the meeting. The Commission shall not consider at its next meeting any waiver request that does not comply with this deadline.~~ The individual who has requested the waiver, or ~~their~~his or her representative, and a designated representative from the department, board, commission, office or unit of government of the individual, may make a presentation to the Commission supporting or opposing the waiver request. The Commission may



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set reasonable time limits on such presentations in accordance with the Sunshine Ordinance and the Brown Act.

(4) Approval of waiver requests from permanent and one-year bans. The Commission shall not approve any request for a waiver from the permanent or one-year bans made under subsection 3.234(c)(1) unless the Commission makes a finding that granting such a waiver would not create the potential for undue influence or unfair advantage. In making this determination, the Commission may consider: the nature and scope of the communications the individual will have with ~~their~~^{his or her} former department, board, commission, office, or unit of government; the subject matter of such communications; the former position held by the officer or employee; the type of inside knowledge that the individual may possess; and any other factors the Commission deems relevant.

(5) Approval of waiver requests from ban on compensation from City contractors. The Commission shall not approve any request for a waiver from the ban on receiving compensation from certain City contractors made under subsection 3.234(c)(3) unless the Commission makes a finding that imposing the restriction in subsection 3.234(a)(3) would cause extreme hardship for the individual. In making this determination, the Commission may consider: the vocation of the individual; the range of employers for whom the individual could work; the steps the individual has taken to find new employment; and any other factors the Commission deems relevant.

(b) Waivers for Former Members of Boards and Commissions Who by Law must be Appointed to Represent Certain Professions, Trades, Businesses, Unions or Associations.

(1) Waivers from the permanent and one-year bans. The Ethics Commission may waive the permanent bans on working or advising on particular matters and the one-year ban on communicating with former colleagues imposed by subsections 3.234(a)(1) and 3.234(a)(2) for any member of a board or commission who by law must be appointed to represent a profession, trade, business, union or association. Such waivers may be granted upon the Commission's own initiative; at the request of the appointing authority of a member of a board or commission who by law must be appointed to represent a profession, trade, business, union or association; or at the request of an individual who was appointed or is being considered for appointment to a board or commission to represent a profession, trade, business, union or association.



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(2) Process for Granting Waivers. All waivers granted pursuant to subsection 3.234(c)(2) must be made at a public meeting. Requests for waivers made by an appointing authority or a member of a board or commission must be in writing and state the reasons why the waiver should be granted. The Ethics Commission shall consider, at either of its next two regularly scheduled meetings, any waiver request that meets the criteria of this regulation ~~provided that such request is received at least two calendar weeks in advance of the meeting~~. In making a determination to grant a waiver under this subsection the Commission may consider: the ability of the City to recruit qualified individuals to fill the position in question if the restrictions are not waived; the ability of the commissioner or board member to engage in their~~his or her~~ particular vocation if the restrictions are not waived; and any other factors the Commission deems relevant.

(c) Notice. The Commission shall maintain a list of waivers granted under subsection 3.234(c) and post the list on the Commission's web page.