



City & County of San Francisco
Ethics Commission



PROPOSED AMENDMENTS TO THE ENFORCEMENT REGULATIONS

JULY 10, 2026

Today's Agenda

01 Background

Origins of the project and prior Commission presentations

03 Substantive Changes

Three outstanding substantive issues addressed since August 2025

02 Engagement & Process

Interested persons meetings and meet-and-confer with MEA

04 Action Requested

Staff recommendation and Commission vote



Background

01 Background — Origins of the Project

Last Updated: 2018

The Enforcement Regulations were originally adopted in 1997 and last updated in March 2018. The Division has grown significantly since then.

First Hearing on the Merits: 2024

A case proceeded through the full administrative hearing process, resulting in the Commission's first hearing on the merits in February 2024.

Hearing Guidebook: 2023

In anticipation, Staff developed the Enforcement Hearing Guidebook (May 1, 2023) to address gaps — but it did not fully resolve underlying issues in the Regulations.

Comprehensive Review: 2024

Based on lessons learned, Staff began a comprehensive review in late 2024 to clarify rules, streamline functions, and ensure a fairer process for all parties.

1997

Regulations
adopted

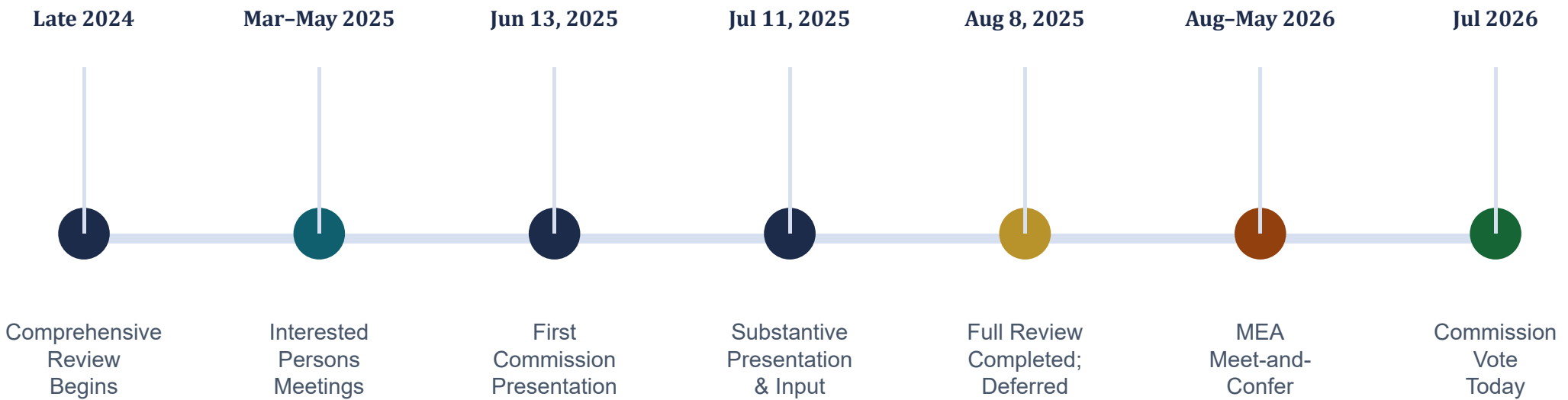
2018

Last
updated

2024

First merits
hearing

01 Background — Prior Commission Presentations



August 8, 2025: The Commission voted unanimously to defer adoption to allow Staff to incorporate substantive changes raised during the meeting. Those changes are presented today.



Engagement & Process

02 Engagement & Process

IP

Interested Persons Meetings

March 4 & 6, 2025

4 participants (incl. attorneys) — general support for amendments; requested streamlined process and due process certainty.

May 27 & 29, 2025

5 participants (incl. attorneys & Sunshine Ordinance Task Force) — raised concerns on willful violation definition and supported streamlined PC/hearing process.

M&C

Meet-and-Confer with MEA

- ✓ MEA requested meet-and-confer on August 13, 2025.
- ✓ ~10-month process: multiple in-person meetings, written exchanges, and responses to two public records requests.
- ✓ MEA submitted mitigating proposals; Staff and ERD carefully reviewed each.
- ✓ ERD close-out memo (May 29, 2026): MEA proposals did not identify any negotiable impacts. ERD concluded that the meet-and-confer process with MEA is complete.
- ✓ Commission remains willing to engage if future negotiable impacts are identified.



Substantive Changes

Withholding & Objections — Sections 5(C)(4)(iii) and 5(C)(5)

Issue raised in August 2025: Could a respondent avoid a withholding violation by filing facially non-compliant objections to a subpoena, including objections made in bad faith or for purposes of delay? Commissioners raised concerns about this potential loophole.

1

Intent Standard Added

iii. Withholding: ~~Should the Director of Enforcement deem appropriate based on the circumstances of the case concerned, the~~The Director of Enforcement may bring a charge for withholding information, pursuant to ~~S~~sections 1.170(f), 2.136(a), and 3.240(a) of the ~~San Francisco~~ Campaign ~~and~~& Governmental Conduct Code, in any case brought before the Commission if any person or entity knowingly and intentionally conceals or withholds information ~~as required to be provided by law~~. In addition to all other evidence demonstrating that a ~~Respondent~~respondent has knowingly and intentionally withheld information required to be provided by law, the failure to fully comply with a subpoena or subpoena *duces tecum* may provide support for the ~~Executive~~Director of Enforcement to bring additional charges for concealing or withholding information or for failure to cooperate with an investigation ~~as required under Section 3.240(a)~~. This provision shall also apply for any subpoena issued after a Probable Cause Determination, pursuant to Sections 7 and 10 herein.

Withholding & Objections — Sections 5(C)(4)(iii) and 5(C)(5)

Issue raised in August 2025: Could a respondent avoid a withholding violation by filing facially non-compliant objections to a subpoena, including objections made in bad faith or for purposes of delay? Commissioners raised concerns about this potential loophole.

2

Objections Addressed Through Adjudication

- v. The filing of an objection to a subpoena or subpoena *duces tecum* does not, by itself, preclude a charge of withholding under this Section. Nothing in this Section limits the Commission's authority, in any subsequent adjudicative proceeding on a withholding charge, to consider the validity or reasonableness of any objections made to the subpoena in its determination of the charge.

Finding of No Probable Cause — Section 7(C)(5)(i), (ii) and (iii)

Context: The amendments also confer authority on the Executive Director to make findings of probable cause, streamlining enforcement process and reducing unnecessary delay, while preserving the Commission’s ultimate authority to determine whether a violation has occurred following a full hearing on the merits.

Issue raised in August 2025: The Regulations should preserve Commission oversight of findings of *no* probable cause to ensure continued alignment with Staff.

1

Transmission

The Executive Director's draft finding of no probable cause is transmitted to the Commission.

5. Finding of No Probable Cause. If the Executive Director determines that probable cause does not exist to believe a violation of law has occurred, the Executive Director will ~~draft~~issue a confidential finding of no probable cause in writing. The finding of no probable cause will provide clear and concise reasons supporting that determination.
 - i. The Executive Director’s finding of no probable cause shall be transmitted to the Commission.

Finding of No Probable Cause — Section 7(C)(5)(i), (ii) and (iii)

Context: The amendments also confer authority on the Executive Director to make findings of probable cause, streamlining enforcement process and reducing unnecessary delay, while preserving the Commission’s ultimate authority to determine whether a violation has occurred following a full hearing on the merits.

Issue raised in August 2025: The Regulations should preserve Commission oversight of findings of *no* probable cause to ensure continued alignment with Staff.

2

Review Window

Any Commissioner may request closed-session review by the full Commission within 5 calendar days of transmission.

- ii. Any Commissioner may request that the finding be reviewed by the full Commission in closed session at the next regularly scheduled Commission meeting. A request for review must be submitted to the Executive Director within 5 calendar days after transmission of the finding to the Commission.

Finding of No Probable Cause — Section 7(C)(5)(i), (ii) and (iii)

Context: The amendments also confer authority on the Executive Director to make findings of probable cause, streamlining enforcement process and reducing unnecessary delay, while preserving the Commission’s ultimate authority to determine whether a violation has occurred following a full hearing on the merits.

Issue raised in August 2025: The Regulations should preserve Commission oversight of findings of *no* probable cause to ensure continued alignment with Staff.

3

Closed-Session Review

If requested, the finding is not final unless at least 3 Commissioners vote to ratify it at the next regularly scheduled meeting.

- iii. If a Commissioner timely requests review, the finding of no probable cause shall not become final unless and until at least three members of the Commission vote to ratify the finding. The Commission shall consider the matter in closed session and may hear arguments from, and ask questions of, the Executive Director. Following its review, the Commission may ratify the finding of no probable cause or decline to ratify the finding and direct such further action as it deems appropriate.
- iv. If no Commissioner timely requests review, the Executive Director’s finding of no probable cause shall become final upon expiration of the review period. Within 5 calendar days after the finding of no probable cause becomes final, the Executive Director shall issue the written finding to all parties.

Finding of No Probable Cause — Section 7(C)(5)(i), (ii) and (iii)

Context: The amendments also confer authority on the Executive Director to make findings of probable cause, streamlining enforcement process and reducing unnecessary delay, while preserving the Commission’s ultimate authority to determine whether a violation has occurred following a full hearing on the merits.

Issue raised in August 2025: The Regulations should preserve Commission oversight of findings of *no* probable cause to ensure continued alignment with Staff.

4

Final & Issued

If no review is requested, the finding becomes final upon expiration of the period, and is issued to all parties within 5 calendar days.

- v. The Executive Director’s final finding of no probable cause constitutes the final administrative determination of the Commission. Upon the finding becoming final, the case shall be closed, and no further action will be taken by the Commission or the Enforcement Division with respect to the allegations contained in the case except as provided in Sections 4(G) and 4(H) of these Regulations. If a complainant desires further review of the final finding of no probable cause, the complainant must follow the procedures set forth in Section 1094.5(a) of the California Code of Civil Procedure governing judicial review of a final administrative order or decision.

Hearing Officer Qualifications — Sections 9(B) and 10(A)

Issue raised in August 2025: "Any licensed attorney in the State of California" was ambiguous (could include out-of-state attorneys) and raised the question of whether the role should be limited to attorneys at all.

1

Revised language to Section 9(B)

- B. Delegation to a Pre-~~Hearing~~hearing Officer. The Commission has ~~the~~ authority to determine preliminary matters. Upon majority approval, the Commission may delegate authority to preside over preliminary matters to a pre-hearing officer. Any licensed attorney ~~in~~of the ~~state~~State Bar of California, an inactive licensee of the State Bar of California as allowed under State Bar Rule 2.30(c), or any individual member of the Commission may serve as a pre-hearing officer.

Hearing Officer Qualifications — Sections 9(B) and 10(A)

Issue raised in August 2025: "Any licensed attorney in the State of California" was ambiguous (could include out-of-state attorneys) and raised the question of whether the role should be limited to attorneys at all.

1

Revised language to Section 10(A)

- A. Delegation to a Hearing Officer: The Commission has the authority to preside over a hearing. Upon majority approval, the Commission may delegate authority to preside over ~~a hearing~~the Hearing on the ~~merits~~Merits to a hearing officer. Any licensed attorney ~~in~~of the ~~state~~State Bar of California ~~or, an inactive licensee of the State Bar of California as allowed under State Bar Rule 2.30(c), or any~~ individual member of the Commission may serve as a hearing officer. Unless otherwise decided by the Commission, the Commission will sit as the hearing panel to hear the merits of the case.

Additional changes: **Attachment 3** includes a full summary of the changes since August 2025, including stylistic revisions.



Action Requested

04 Action Requested

Staff Recommendation

The Commission is requested to adopt the proposed amendments. The amendments reflect Commissioner feedback, completion of the MEA meet-and-confer process, and consultation with the City Attorney's Office.

1

Discussion

Commissioners review and discuss the amendments. Staff available to answer questions.

2

Vote to Adopt

Commission votes to adopt the amendments as presented in **Attachment 1**.

3

Implementation

Staff finalizes, publishes, and implements the revised Enforcement Regulations.