

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
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May 4, 2023

Ethics Commission
Attn: Gayathri Thaikkendiyil, Acting Executive Director
25 Van Ness Ave, Suite 220
San Francisco, CA 94102

Dear Commissioners:

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 230484

Ordinance amending the Campaign and Governmental Conduct Code to provide that it is an incompatible activity for City elected officials and City employees to be employed by or receive compensation from a department contractor, and authorizing the Ethics Commission to waive the restriction for City elected officials and authorizing the employee's appointing authority to waive the restriction for employees.

The proposed ordinance is being transmitted to the Ethics Commission pursuant to Campaign and Governmental Conduct Code, Sections 1.103 and 3.204, for public hearing and recommendation. A four-fifths votes of the Ethics Commission is required in advance prior to consideration by the Board of Supervisors.

The ordinance is pending before the Rules Committee and will be scheduled for hearing upon receipt of your response.

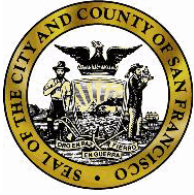
Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Victor Young".

By: Victor Young, Clerk
Rules Committee

Attachment

c. Michael Canning, Ethics Commission



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 230484 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Campaign and Governmental Conduct Code - Incompatible Activities **Date Introduced:** 04/25/2023

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Campaign and Governmental Conduct Code to provide that it is an incompatible activity for City elected officials and City employees to be employed by or receive compensation from a department contractor, and authorizing the Ethics Commission to waive the restriction for City elected officials and authorizing the employee's appointing authority to waive the restriction for employees.

Sponsor: Safai

History of Legislative File 230484

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	04/25/2023	ASSIGNED UNDER 30 DAY RULE	Rules Committee	05/25/2023	

1 [Campaign and Governmental Conduct Code - Incompatible Activities]

2

3 **Ordinance amending the Campaign and Governmental Conduct Code to provide that it**
4 **is an incompatible activity for City elected officials and City employees to be employed**
5 **by or receive compensation from a department contractor, and authorizing the Ethics**
6 **Commission to waive the restriction for City elected officials and authorizing the**
7 **employee's appointing authority to waive the restriction for employees.**

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12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

12

13 Be it ordained by the People of the City and County of San Francisco:

14

15 Section 1. Findings.

16 (a) City employment comes with the responsibility to avoid real and perceived conflicts
17 of interest. Engaging in secondary employment in addition to an employee's City service may
18 raise real or perceived conflicts of interest when the outside job intersects with the employee's
19 City duties. Requirements contained in the City's Civil Service Rules and local ethics laws are
20 intended to prevent City employees and officials from engaging in outside employment that is
21 inconsistent with City service.

22 (b) The City's Civil Service Rules require an employee to seek approval from their
23 appointing authority and the Human Resources Director prior to engaging in secondary
24 employment. The Human Resources Director may deny a request for secondary employment
25 that interferes with, is in conflict with, or is contrary to the interests of the employee's City

1 service, among other bases for denial. Despite the requirement to seek advance approval,
2 the City recently discovered that a significant number of employees engaged in unauthorized
3 secondary employment.

4 (c) City law requires each City department to adopt a statement of incompatible
5 activities identifying the outside activities that are inconsistent with or conflict with the duties of
6 employees of the department. An employee may not engage in an outside activity prohibited
7 by the department's statement of incompatible activities unless the employee's appointing
8 authority determines in advance that the outside activity is not incompatible with the
9 employee's job.

10 (d) The statements of incompatible activities for some departments include a provision
11 prohibiting employees from engaging in paid work for contractors of the department. The
12 practice of employees separately working for contractors of their departments poses ethical
13 concerns, even when the paid work does not create an actual financial conflict of interest for
14 the employee. The practice raises questions of loyalty, impartiality, and whether the
15 employee is using their City position to gain private advantage.

16 (e) Establishing a Citywide policy prohibiting City employees and elected officials from
17 working for contractors of their department will increase trust in City government and reduce
18 the potential for corruption and conflicts of interest.

19
20 Section 2. The Campaign and Governmental Conduct Code is hereby amended by
21 revising Article III, Chapter 2, Section 3.218, to read as follows:

22 **SEC. 3.218. INCOMPATIBLE ACTIVITIES.**

23 (a) Prohibition. No officer or employee of the City and County may engage in any
24 employment, activity, or enterprise that the department, board, commission, or agency of
25 which he or she is a member or employee has identified as incompatible in a statement of

1 incompatible activities adopted under this Section. No officer or employee may be subject to
2 discipline or penalties under this Section unless he or she has been provided an opportunity
3 to demonstrate that his or her activity is not in fact inconsistent, incompatible or in conflict with
4 the duties of the officer or employee.

5 (b) Statement of Incompatible Activities. Every department, board, commission, and
6 agency of the City and County shall, by August 1 of the year after which this Section becomes
7 effective, submit to the Ethics Commission a statement of incompatible activities. No
8 statement of incompatible activities shall become effective until approved by the Ethics
9 Commission after a finding that the activities are incompatible under the criteria set forth in
10 Subsection (c). After initial approval by the Ethics Commission, a department, board,
11 commission or agency of the City and County may, subject to the approval of the Ethics
12 Commission, amend its statement of incompatible activities. The Ethics Commission may, at
13 any time, amend the statement of incompatible activities of any department, board,
14 commission or agency of the City and County.

15 (c) Required Language. Each statement of incompatible activities shall list those
16 outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers
17 and employees of the department, board, commission, or agency of the City and County. This
18 list shall include, but need not be limited to, activities that involve: (1) the use of the time,
19 facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or
20 influence of the City and County officer or employee's position for private gain or advantage;
21 (2) the receipt or acceptance by an officer or employee of the City and County of any money
22 or other thing of value from anyone other than the City and County for the performance of an
23 act that the officer or employee would be required or expected to render in the regular course
24 of his or her service or employment with the City and County; (3) the performance of an act in
25 a capacity other than as an officer or employee of the City and County that may later be

1 subject directly or indirectly to the control, inspection, review, audit or enforcement of the City
2 and County officer or employee's department, board, commission or agency; and (4) time
3 demands that would render performance of the City and County officer or employee's duties
4 less efficient. The Ethics Commission may permit City boards and commissions to exclude
5 any required language from their statement of incompatible activities if their members, by law,
6 must be appointed in whole or in part to represent any profession, trade, business, union or
7 association.

8 (d) Meet and Confer. No statement of incompatible activities or any amendment
9 thereto shall become operative until the City and County has satisfied the meet and confer
10 requirements of State law.

11 (e) Notice. Every department, board, commission and agency of the City and County
12 shall annually provide to its officers and employees a copy of its statement of incompatible
13 activities.

14 ~~(f) Existing Civil Service Rules. Rules and Regulations relating to outside activities previously~~
15 ~~adopted or approved by the Civil Service Commission shall remain in effect until statements of~~
16 ~~incompatible activities are adopted pursuant to this Section.~~

17 (f) Compensation from Department Contractors. Notwithstanding any provision of a
18 department's statement of incompatible activities, it shall be an incompatible activity prohibited by
19 subsection (a) of this Section 3.218 for a City elective officer or City employee to be employed by or
20 otherwise receive compensation for work from an individual or entity that has a contract, as that term
21 is defined in Section 1.126, with the department of the City elective officer or employee. This
22 subsection (f) shall not apply where the contract is with a federal, state, or local government entity.
23 This subsection (f) shall not apply to compensation received by the spouse or registered domestic
24 partner of a City elective officer or employee.

1 (I) Waiver.

2 (A) At the request of an employee, the employee's appointing authority may
3 waive the restriction in this subsection (f) upon a written determination that the proposed outside
4 activity is not inconsistent, incompatible, or in conflict with the requester's City duties, or that
5 imposing the restriction would cause extreme hardship for the requester.

6 (B) At the request of a City elective officer, the Ethics Commission may waive
7 the restriction in subsection (f) if it finds that the proposed outside activity is not inconsistent,
8 incompatible, or in conflict with the requester's City duties, or that imposing the restriction would
9 cause extreme hardship for the requester.

10 (C) The Ethics Commission may adopt regulations implementing these waiver
11 provisions.

12
13 Section 3. Requirements for Amendment by the Board of Supervisors.

14 (a) As set forth in Section 3.204 of the Campaign and Governmental Conduct Code,
15 approved by the voters as Proposition E at the November 4, 2003 election, an amendment to
16 Article III, Chapter 2 of the Campaign and Governmental Conduct Code, which includes
17 Section 3.218, may be made if:

18 (1) the amendment furthers the purposes of Article III, Chapter 2 of the
19 Campaign and Governmental Conduct Code;

20 (2) the Ethics Commission approves the amendment in advance of Board of
21 Supervisors approval by at least a four-fifths vote of all its members;

22 (3) the amendment is available for public review at least 30 days before the
23 amendment is considered by the Board of Supervisors or any committee of the Board of
24 Supervisors; and

1 (4) the Board of Supervisors approves the amendment by at least a two-thirds
2 vote of all its members.

3 (b) At its meeting of _____, the Ethics Commission approved this
4 ordinance by a vote of _____.

5 (c) This ordinance has been available for public review for at least 30 days before
6 consideration by a committee of the Board of Supervisors.

7
8 Section 4. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DAVID CHIU, City Attorney

22 By: /s/ Bradley A. Russi
23 BRADLEY A. RUSSI
24 Deputy City Attorney

25
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LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Incompatible Activities]

Ordinance amending the Campaign and Governmental Conduct Code to provide that it is an incompatible activity for City elected officials and City employees to be employed by or receive compensation from a department contractor, and authorizing the Ethics Commission to waive the restriction for City elected officials and authorizing the employee's appointing authority to waive the restriction for employees.

Existing Law

Existing law requires each City department to develop a statement of incompatible activities and submit it to the Ethics Commission for approval. The statement of incompatible activities identifies the outside activities that are incompatible with service in the department. Employees and officers of the department are prohibited from engaging in outside activities identified as incompatible in the statement of incompatible activities. The law requires the statements to include specified provisions, and departments may also include additional provisions.

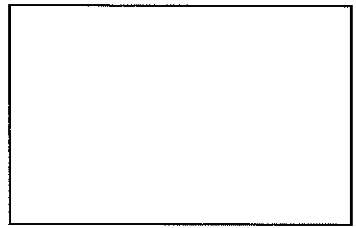
Amendments to Current Law

The proposed ordinance would amend the Campaign and Governmental Conduct Code to provide that being employed by or otherwise receiving compensation for work from a contractor of a department is a prohibited incompatible activity for an elected official or employee of the department. The proposed ordinance provides that an employee's appointing authority may waive the restriction for the employee and the Ethics Commission may waive the restriction for an elected official.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor [] inquires..."
- 5. City Attorney Request
- 6. Call File No. [] from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the Board on []

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Safai

Subject:

[Campaign and Governmental Conduct Code - Incompatible Activities]

Long Title or text listed:

Ordinance amending the Campaign and Governmental Conduct Code to provide that it is an incompatible activity for City elected officials and City employees to be employed by or receive compensation from a department contractor, and authorizing the Ethics Commission to waive the restriction for City elected officials and authorizing the employee's appointing authority to waive the restriction for employees.

Signature of Sponsoring Supervisor:

From: [Buckley, Jeff \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Safai, Ahsha \(BOS\)](#); [Barnes, Bill \(BOS\)](#); [RUSSI, BRAD \(CAT\)](#); [PEARSON, ANNE \(CAT\)](#)
Subject: FW: Campaign and Governmental Conduct Code - Incompatible Activities
Date: Tuesday, April 25, 2023 4:05:48 PM
Attachments: [01672105.DOCX](#)
[01672030.DOCX](#)
[Intro Form - Incompatible Activities.pdf](#)

Hello – please see the attached intro form and ordinance. Bill Barnes is the staff person for this item. He is cc'd on this email.

Let me know if you have any questions. Thank you!

-Jeff

Get [Outlook for iOS](#)

From: Russi, Brad (CAT) <Brad.Russi@sfcityatty.org>
Sent: Tuesday, April 25, 2023 2:47:59 PM
To: Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; Barnes, Bill (BOS) <bill.barnes@sfgov.org>
Subject: Campaign and Governmental Conduct Code - Incompatible Activities

Supervisor Safai –

Attached for introduction today is the ordinance and digest referenced below. I approve the ordinance as to form. Thank you.

Ordinance amending the Campaign and Governmental Conduct Code to provide that it is an incompatible activity for City elected officials and City employees to be employed by or receive compensation from a department contractor, and authorizing the Ethics Commission to waive the restriction for City elected officials and authorizing the employee's appointing authority to waive the restriction for employees.

Bradley Russi

Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4645 Direct
City Hall, Room 234
1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102
www.sfcityattorney.org

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Confidential Attorney Work Product - Do Not Disclose

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1 [Campaign and Governmental Conduct Code - Incompatible Activities]

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23 act that the officer or employee would be required or expected to render in the regular course
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25 a capacity other than as an officer or employee of the City and County that may later be

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4 activity is not inconsistent, incompatible, or in conflict with the requester's City duties, or that
5 imposing the restriction would cause extreme hardship for the requester.

6 (B) At the request of a City elective officer, the Ethics Commission may waive
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24 Supervisors; and

1 (4) the Board of Supervisors approves the amendment by at least a two-thirds
2 vote of all its members.

3 (b) At its meeting of _____, the Ethics Commission approved this
4 ordinance by a vote of _____.

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6 consideration by a committee of the Board of Supervisors.

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8 Section 4. Effective Date. This ordinance shall become effective 30 days after
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16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
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18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DAVID CHIU, City Attorney

22 By: /s/ Bradley A. Russi
23 BRADLEY A. RUSSI
24 Deputy City Attorney

25
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