

File No. 160272

Committee Item No. 6

Board Item No. 7

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date May 12, 2016

Board of Supervisors Meeting

Date JUNE 7, 2016

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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Completed by: Derek Evans Date May 9, 2016

Completed by: Derek Evans Date May 16, 2016

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Administrative Code - Exempting California State University Fresno Foundation
2 from Nonprofit Public Access Ordinance]

3 **Ordinance exempting California State University Fresno Foundation from the Nonprofit**
4 **Public Access Ordinance, Administrative Code, Chapter 12L, to facilitate the Human**
5 **Services Agency's entering into a contract with the Foundation for training services**
6 **required by State law for child welfare staff, supervisors, and foster parents.**

7 **NOTE: Unchanged Code text and uncodified text are in plain Arial font.**
8 **Additions to Codes are in single-underline italics Times New Roman font.**
9 **Deletions to Codes are in strikethrough italics Times New Roman font.**
10 **Board amendment additions are in double-underlined Arial font.**
11 **Board amendment deletions are in strikethrough Arial font.**
12 **Asterisks (***) indicate the omission of unchanged Code**
13 **subsections or parts of tables.**

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

15 Section 1. General Background and Findings.

16 (a) The City and County of San Francisco ("City"), acting through the Human Services
17 Agency ("HSA"), receives Title IV-E Child Welfare Program funds from the United States
18 Department of Health and Human Services, allocated by the California Department of Social
19 Services ("DSS") to help administer its county child welfare program. The California Common
20 Core Curricula for Child Welfare Workers is funded by DSS, using Title IV-E funds. Its central
21 purpose is to provide statewide, standardized training for new child welfare workers and
22 supervisors and ongoing training for foster parents, as mandated by state regulation.

23 (b) DSS requires counties to use one of four approved Training Academies in
24 California for these types of trainings. The Bay Area Academy is the only one of the four
25 Training Academies that serves the Bay Area region, including San Francisco. Further,
counties cannot access Title IV-E funds for training purposes, unless a Training Academy is

1 affiliated with a university. The Bay Area Academy is affiliated with California State University,
2 Fresno (the "University").

3 (c) The California State University Fresno Foundation ("Foundation"), is a 501(c)(3)
4 nonprofit public benefit auxiliary corporation, operating under California Education Code
5 Sections 89900 et seq., to, among other things, promote or assist the University and receive
6 gifts, property, and funds to be used for the benefit of the University. This authority includes
7 entering into contracts for the benefit of the University. The Foundation is responsible for
8 administering the contracts for the trainings of child welfare workers and supervisors and
9 foster parents required by State law.

10 (d) Thus, to fulfill the requirement to provide foster care training to its child welfare
11 staff, service providers, foster parents, and relative caregivers, HSA must do so through the
12 Bay Area Academy, which in turn means that HSA must enter into a professional services
13 agreement with the Foundation. The City has no other option.

14 (e) Nonprofit organizations that contract with the City to provide goods or services in
15 the amount of at least \$250,000 per year in City-administered funds must comply with
16 Administrative Code Chapter 12L ("Chapter 12L"), relating to public access to meetings and
17 records of the nonprofit organization. The five-year contract between HSA and the
18 Foundation for the training services discussed herein will be in the amount of \$6,544,693.
19 Accordingly, absent this ordinance, the Foundation would be required to adhere to the
20 requirements of Chapter 12L.

21 (f) But the Foundation's Board of Directors already functions under the public meeting
22 requirements in California Education Code Sections 89920-89928, and the Foundation is
23 subject to the public records requirements in California Education Code Sections 89913-
24 89919. These open meeting requirements are longstanding, and the requirements governing
25 access to records were adopted by the Legislature in 2011 following thorough consideration..

1 Both sets of requirements are specifically designed for California State University auxiliary
2 organizations, taking into consideration the nature and function of such entities. In this
3 respect, the Foundation is in a different posture than many nonprofit entities, which typically
4 are not governed by extensive State-imposed public access requirements.

5 (1) Under these Education Code provisions, the Foundation's Board of
6 Directors must conduct its meetings in public, allowing all persons to attend. The Board must
7 annually establish the times and locations of regular meetings. Persons are entitled to seven
8 days' notice of meetings. No action may be taken at a meeting unless notice of the meeting
9 has been posted for seven days.

10 (2) Under these Education Code provisions, records of the Foundation are
11 available for the public to inspect and copy on terms that largely parallel the requirements of
12 the California Public Records Act.

13 (g) Chapter 12L, however, establishes several obligations on nonprofit organizations
14 that are not required of the Foundation under the Education Code, including but not limited to
15 the following:

16 (1) Permitting public comment at the two public meetings a year at which the
17 public is permitted to attend, including an opportunity at one of those meetings to address the
18 Board of Directors on issues related to membership on the Board and to propose candidates
19 for membership on the Board ;

20 (2) Requiring 30-day advance notice to the public of the two public meetings a
21 year at which the public is permitted to attend;

22 (3) Requiring the nonprofit organization to seek community members who are
23 recipients of goods or services provided by the organization to be part of its Board of
24 Directors;

25

1 (4) Requiring the nonprofit organization to maintain and make available for
2 public inspection and copying a packet of financial information concerning the nonprofit
3 organization; and

4 (5) Requiring the nonprofit organization to participate in a dispute resolution
5 procedure if a member of the public asserts that the nonprofit organization has violated
6 Chapter 12L.

7 (h) The Foundation conducts its business in an open forum with generous avenues for
8 public involvement and access to information. The Foundation would have to make significant
9 changes in its structure and operations with respect to public access to meetings and records
10 to comply with Chapter 12L. It would be unduly burdensome to require the Foundation to
11 modify its policies, practices, and procedures to comply with Chapter 12L to accommodate
12 one contract with the City, given that the Foundation already must abide by Education Code
13 requirements governing public access to meetings and records. It is HSA's understanding
14 that the City has no other contractual relationship, within the meaning of Chapter 12L, with the
15 Foundation.

16 Section 2. Exemption of the Foundation From Requirements of Administrative Code
17 Chapter 12L.

18 For the reasons stated in Section 1, the Board of Supervisors hereby exempts the
19 California State University Fresno Foundation from the requirements of Chapter 12L of the
20 Administrative Code.

21 Section 3. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
Arnulfo Medina
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Exempting California State University Fresno Foundation from Nonprofit Public Access Ordinance]

Ordinance exempting California State University Fresno Foundation from the Nonprofit Public Access Ordinance, Administrative Code Chapter 12L, to facilitate the Human Services Agency's entering into a contract with the Foundation for training services required by state law for child welfare staff and supervisors and foster parents.

Existing Law

Chapter 12L of the City's Administrative Code requires nonprofit organizations that contract with the City to provide goods or services in the amount of \$250,000 or more per year in City-administered funds to comply with several obligations relating to public access to the organization's records and Board of Directors meetings.

California Education Code Sections 89913-89928 requires the California State University Fresno Foundation, an auxiliary nonprofit organization, to comply with several provisions that establish several similar public access to meetings and records requirements.

Effect of Ordinance

This ordinance would exempt the California State University Fresno Foundation ("Foundation") from the Nonprofit Public Access Ordinance, Administrative Code Chapter 12L, for this contract between the City's Human Services Agency and the Foundation, to have its affiliate, the Bay Area Training Academy, conduct trainings which are required by the State to child welfare staff and supervisors, service providers, foster parents, and relative caregivers.

Background Information

The City's Human Services Agency ("HSA"), receives Title IV-E Child Welfare Program funds from the United States Department of Health and Human Services ("DHHS"), allocated by the California Department of Social Services ("DSS") to help administer its county child welfare program. California law requires that new child welfare employees and foster parents receive statewide, standardized training. The DSS requires counties to use one of four approved Training Academies in California for these types of trainings. The Bay Area Academy is the only one of the four approved Training Academies that serves the Bay Area region, including San Francisco.

The Bay Area Academy is affiliated with California State University, Fresno ("University") under the umbrella of the Central California Training Academy. The Foundation is a 501(c)(3) nonprofit public benefit auxiliary corporation, operating under California Education Code Sections 89900 et seq., to among other things, promote or assist the University and receive

gifts, property, and funds to be used for the benefit of the University. This authority includes entering into contracts for the benefit of the University. Thus, to fulfill the requirement to provide foster care training to its child welfare staff, service providers, foster parents, and relative caregivers, HSA must do so through the Bay Area Academy, which in turn means that HSA must enter into a professional services agreement with the Foundation. The City has no other option.

The Foundation is obligated to abide by Education Code requirements governing public access to meetings and records similar to those in the California Public Records Act. The Foundation conducts its business in an open forum with several avenues for public involvement and access to information.

HSA has obtained a sole source waiver, Civil Service Commission approval, and Human Services Commission approval for this contract.

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City and County of San Francisco



Edwin M. Lee, Mayor

Human Services Agency

Department of Human Services
Department of Aging and Adult Services

Trent Rhorer, Executive Director

March 16, 2016

Ms. Angela Calvillo
Clerk of the Board of Supervisors
City and County of San Francisco
#1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 MAR 21 AM 10:57
BY AK

RE: Ordinance exempting California State University Fresno Foundation from the Nonprofit Public Access Ordinance, Administrative Code Chapter 12L

Dear Ms. Calvillo:

Attached please find an original and four copies of the proposed ordinance for the Board of Supervisors approval to exempt California State University Fresno Foundation from the Nonprofit Public Access Ordinance, Administrative Code Chapter 12L, to facilitate the Human Services Agency's entering into a contract with the Foundation for training services required by state law for child welfare staff and supervisors and foster parents.

The following is a list of accompanying documents (five sets):

- Ordinance
- Legislative Digest

If you need additional information, please contact John Tsutakawa, Director of Contracts at 415-557-6299 or Drake Herrador, Contracts Manager at 415-557-5597.

Thank you for your assistance.

Sincerely,

John Tsutakawa
Director of Contracts

Enclosure

