



# San Francisco Ethics Commission

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May 17, 2024

Honorable Members of the San Francisco Board of Supervisors  
Attention: Angela Calvillo, Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: Motion to Veto Ethics Commission Regulations Regarding Campaign Finance Rules (File #240487)**

Dear Members of the Board:

On April 12, the Ethics Commission approved amendments to its regulations regarding the City's campaign finance rules. Two of these regulations were approved to close a loophole in the City's rules that currently allows individuals who are otherwise prohibited from giving political contributions to certain candidates, to host fundraisers for these candidates in their home or office. These proposed regulations (Regulations 1.126-9 and 1.127-4) would specify that persons already prohibited from giving contributions (per Sections 1.126 and 1.127 of the C&GGC) are also prohibited from hosting fundraisers in their homes and offices. These regulations would not impact the ability of the general public to host fundraisers in their homes and offices.

At the Rules Committee meeting on May 13, the Committee introduced a motion ([File #240487](#)) to veto Regulations 1.126-9 and 1.127-4. This memorandum is to recommend the full Board not veto the regulations and to address concerns raised during the Rules Committee hearing by clarifying the State rules regarding home and office fundraisers, how using the State's definition currently impacts City's rules, and the impact of the recently approved Ethics Commission regulations.

**California's Definition of "Contribution"**

At the State level, [FPPC Regulation 18215\(c\)\(3\)](#) creates a carveout in the definition of "Contribution" that specifies the definition does not include:

*"A payment made by an occupant of a home or office, other than a lobbyist or lobbying firm, for costs related to any meeting or fundraising event held in the occupant's home or office, if the total cost of the meeting or fundraising event is \$500 or less, exclusive of the fair rental value of the premises."*

This State exception allows for individuals to host small fundraising events in their homes or offices, without the host's costs needing to be reported as an in-kind contribution to the campaign, as long as the total cost of the event is \$500 or less. This regulation explicitly states that the fair rental value of the premises is not included in this situation.

However, once the total costs associated with the home or office fundraiser (excluding the fair rental cost of the space) exceeds \$500, all of the costs associated with the event become reportable contributions, including the fair rental value of the space used.

The State's exception for home and office fundraisers explicitly states that it does not apply to lobbyists, who are prohibited from making contributions if they are registered to lobby the government agency for which the candidate is seeking or holding office. Lobbyists and lobbying firms are not permitted to use this exception, as such any payments made by lobbyists or lobbying firms for costs related to any meeting or fundraising event, regardless of the total value of that event, would be considered a contribution, as would the fair market rental value of the premises.

### **City's Campaign Contribution Restrictions**

Similar to the State's prohibition on contributions from lobbyists, the City prohibits contributions from City contractors ([SEC. 1.126](#)) and those with Pending Land Use Matters ([SEC. 1.127](#)). Currently, the City rules in Sections 1.126 and 1.127 use the State's definition of "contribution" as specified in Section 1.104 of Campaign and Governmental Conduct Code.

While the State's definition of "contribution" explicitly states that the home and office fundraiser exception does not apply to lobbyists and lobbying firms, who are prohibited from making contributions, there is no comparable language regarding people who are prohibited from making contributions under the City's rules. This creates a loophole, whereby individuals who are prohibited from making contributions are still able to host fundraisers in their homes or offices. This creates an opportunity for these individuals to help direct funds to, and potentially curry favor with, candidates who may be in a position to vote on or influence their contract or pending land use matter, which is exactly what the City's rules are intended to prevent.

### **New Ethics Commission Regulations**

To close this loophole, and prevent persons who are prohibited from making contributions pursuant to Section 1.126 or 1.127 from hosting home or office fundraisers, the regulations approved by the Commission state that:

*"Notwithstanding the definition of "contribution" set forth in the Political Reform Act, for the purpose of [Section 1.126 / Section 1.127], a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office is a contribution, regardless of the value, as is the value of the use of the home or office as a fundraising event venue."*

These new regulations regarding home or office fundraisers only apply for the purposes of Section 1.126 and 1.127, and thus only impact individuals who are already prohibited from giving contributions due to being a contractor or having a pending land use matter. This is similar to how the State treats lobbyists, who are prohibited from making contributions under State rules, which is that the home and office exception explicitly cannot be used by lobbyists.

While those prohibited from making contributions under Sections 1.126 or 1.127 will not be permitted to host home or office fundraisers, this change does not prevent non-prohibited donors

who may live with a prohibited donor from still utilizing the home or office fundraising exception. For example, if the housemate or spouse of a City contractor wanted to host a fundraiser in their home, they would still be allowed to do so, pursuant to the State rules described above. However, the City contractor would be prohibited from being involved in hosting the fundraiser, and thus not be allowed to encourage their housemate or spouse to host the fundraiser, help coordinate the fundraiser, promote the fundraiser, or permit the dissemination of information indicating they are associated with the fundraiser.<sup>1</sup>

To comply with these regulations, campaign committees will just need to treat the hosts of any home or office fundraiser the same way they treat contributors, which is to have the host attest that they are not prohibited from contributing per Sections 1.126 or 1.127. If there are other people who live with the host, but who are not actually involved in the hosting of the fundraiser, the committee would not need to get such an attestation from those other people.

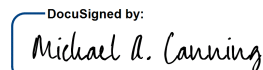
As discussed during the Rules Committee hearing, these regulations were developed after the Commission received requests for advice from City contractors who were approached by candidates for City office about hosting fundraisers. The contractors knew they were prohibited from giving contributions to these candidates and sought guidance from the Ethics Commission regarding if they could host such fundraisers. Due to this loophole, the Commission had to say hosting such fundraisers was allowed, despite it clearly undermining the City's rules.

We expect that most people who are already prohibited from giving contributions would assume they are also not allowed to host fundraises for candidates for whom they may not donate to directly. We also believe this to be in line with the intent of the City's prohibition on contributions from contractors and those with pending land use matters. Furthermore, we anticipate most San Franciscans would find hosting a fundraiser for someone in your home, when you are prohibited from donating directly, to be a way to undermine the City's rules and potentially curry favor with a candidate when the City has rules in place to prevent such efforts.

We would like to request the Board of Supervisors not veto Ethics Commission Regulations 1.126-9 and 1.127-4.

If you have any questions about the attached regulations, please feel free to contact me or Executive Director Patrick Ford at (415) 252-3100.

Sincerely,

DocuSigned by:  


05-17-2024 | 10:35:39 PDT

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Michael Canning, Policy and Legislative Affairs Manager

cc: Patrick Ford, Executive Director; Brad Russi, Office of the City Attorney

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<sup>1</sup> This is similar to advice the FPPC has given regarding how the State exception is applied to the spouse of a lobbyist. FPPC Advice Letter, File No. A-09-149, June 26, 2009,  
<https://www.fppc.ca.gov/content/dam/fppc/documents/advice-letters/1995-2015/2009/09-149.pdf>.