

As of 4/3/18 – 12:40pm

File No 180280 - Campaign and Governmental Conduct Code - Campaign Finance and Conflict of Interest Amendments from Supervisor Tang

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**Amendments proposed for April 3, 2018 Board of Supervisors/Ethics Commission joint meeting:**

**Section 1.124(a)(1)**

Amend to slightly lessen the disclosure requirement for business entities who make large contributions, so that only “one of” the entity’s officers needs to be disclosed.

*Rationale:* Hold one person accountable versus a group of individuals.

**Section 3.207(a)(3)**

Amend Section 3.207(a)(3) to add the following qualifier: “to influence the officer’s vote, official actions, or judgment with respect to a particular pending legislative or administrative action...”

*Rationale:* Need more clearly defined terms to understand where a violation would occur. Suggestion per Ethics Commission staff.

**In Sections 3.600, 3.610, 3.620, and 3.630,**

Removed all references to “actively support or oppose.”

*Rationale:* In language remained, could chill free speech and create disincentive for people to testify at public comment.

**Section 3.630**

Remove reference to someone who “actively supported or opposed” and replace with “interested party.”

*Rationale:* Clarifies that reporting requirement applies to “interested party” instead of someone who “actively supported or opposed” a governmental decision.

**Amendments already adopted by Board of Supervisors’ Budget Committee and Ethics Commission:**

**Section 1.125(b)(4) [deleted]**

Delete section on Additional Disclosure Requirements for Bundled Contributions.

*Rationale:* Attempted to influence is not defined so this section should be deleted. This mirrors Ethics Staff recommendation.

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**Section 1.127 [deleted]**

Delete section on Contribution Limits - Persons with Land Use Matters Before a Decision-Making Body or keep the section in so that Ethics Staff can continue to refine.

*Rationale:* As written, this requirement captures broad set of land use decisions, big and small. Ethics Commission staff also recommended removing this section.

**Section 3.203**

Amend to swap “favor” for “private financial advantage,” and “authorized representative” for “employee.”

*Rationale:* Need more clearly defined terms to determine whether a violation has occurred.

1 Proposed Amendments - Supervisor Tang

2  
3 **AMENDMENT #1 - CONTRIBUTION DISCLOSURE REQUIREMENTS**

4  
5 **SEC. 1.124. ADDITIONAL DISCLOSURE REQUIREMENTS FOR CONTRIBUTIONS**  
6 **MADE BY BUSINESS ENTITIES.** [File No. 180280 - page 7, lines 7-8]

7 (a) Additional Disclosures. In addition to the campaign disclosure requirements imposed by  
8 the California Political Reform Act and other provisions of this Chapter 1, any committee required to  
9 file campaign statements with the Ethics Commission must disclose the following information for  
10 contribution(s) that, in aggregate, total \$10,000 or more that it receives in a single election cycle from  
11 a single business entity:

12 (1) one of the business entity's principal officers, including, but not limited to, the  
13 Chairperson of the Board of Directors, President, Vice-President, Chief Executive Officer, Chief  
14 Financial Officer, Chief Operating Officer, Executive Director, Deputy Director, or equivalent  
15 positions; and

16 (2) whether the business entity has received funds through a contract or grant from any  
17 City agency within the last 24 months for a project within the jurisdiction of the City and County of San  
18 Francisco, and if so, the name of the agency that provided the funding, and the value of the contract or  
19 grant.

20 \* \* \* \*

1 **AMENDMENT #2 - CONFLICT OF INTEREST**

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3 **SEC. 3.203. DEFINITIONS.**

4 Whenever in this Chapter 2 the following words or phrases are used, they shall mean:

5 \* \* \* \*

6 “Associated,” when used in reference to an organization, shall mean any organization in which  
7 an individual or a member of his or her immediate family is a director, officer, or trustee, or owns or  
8 controls, directly or indirectly, and severally or in the aggregate, at least 10% of the equity, or of which  
9 an individual or a member of his or her immediate family is an authorized representative or agent or  
10 employee. [File No. 180280 - page 24, lines 10-13]

11 \* \* \* \*

12  
13 **SEC. 3.207. ADDITIONAL CONFLICTS OF INTEREST FOR CITY ELECTIVE**  
14 **OFFICERS AND MEMBERS OF BOARDS AND COMMISSIONS.** [File No. 180280 - page 25,  
15 lines 20-21]

16 (a) Prohibitions. In addition to the restrictions set forth in Section 3.206 and other provisions  
17 of this Chapter 2, the following shall also constitute conflicts of interest for City elective officers and  
18 members of boards and commissions:

19 (1) No City elective officer or member of a board or commission may use his or her  
20 public position or office to seek or obtain anything of value for the private or professional benefit of  
21 himself or herself, his or her immediate family, or for an organization with which he or she is  
22 associated.

23 (2) No City elective officer or member of a board or commission may, directly or by  
24 means of an agent, give, offer, promise to give, withhold, or offer or promise to withhold his or her vote  
25 or influence, or promise to take or refrain from taking official action with respect to any proposed or

1 pending matter in consideration of, or upon condition that, any other person make or refrain from  
2 making a contribution.

3 (3) No person may offer or give to an officer, directly or indirectly, and no City elective  
4 officer or member of a board or commission may solicit or accept from any person, directly or  
5 indirectly, anything of value if it could reasonably be expected to influence the officer's vote, official  
6 actions, or judgment with respect to a particular pending legislative or administrative action, or  
7 could reasonably be considered as a reward for any official action or inaction on the part of the officer.  
8 This subsection (a)(3) does not prohibit a City elective officer or member of a board or commission  
9 from engaging in outside employment.

10 \* \* \* \*

1 **AMENDMENT #3 – BEHESTED PAYMENTS**

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3 **CHAPTER 6: BEHESTED PAYMENT REPORTING ~~FOR COMMISSIONERS~~**

4 **SEC. 3.600. DEFINITIONS.** [File No. 180280 - page 30, line 5]

5 Whenever in this Chapter 6 the following words or phrases are used, they shall have  
6 the following meanings:

7 ~~“Actively support or oppose” shall mean contact, testify in person before, or otherwise~~  
8 ~~communicate in an attempt to influence an official or employees of a board or commission~~  
9 ~~(including the Board of Supervisors), including use of an agent to do any such act.~~

10 “Agent” shall be defined as set forth in Title 2, Section 18438.3 of California Code of  
11 Regulations, as amended from time to time.

12 ~~“At the behest of” shall mean under the control or at the direction of, in cooperation,~~  
13 ~~consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior~~  
14 ~~consent of.~~

15 ~~“Auctioneer” shall mean any person who is engaged in the calling for, the recognition of, and~~  
16 ~~the acceptance of, offers for the purchase of goods at an auction.~~

17 ~~“Behested payment” shall mean a payment that is made at the behest of an officer, or an agent~~  
18 ~~thereof, and that is made principally for a legislative, governmental, or charitable purpose.~~

19 ~~“Behested Payment Report” shall mean the Fair Political Practices Commission Form 803, or~~  
20 ~~any other successor form, required by the Fair Political Practices Commission to fulfill the disclosure~~  
21 ~~requirements imposed by California Government Code Section 82015(b)(2)(B)(iii), as amended from~~  
22 ~~time to time.~~

23 ~~“Charitable Contribution” shall mean any monetary or non-monetary contribution to a~~  
24 ~~government agency, a bona fide public or private educational institution as defined in Section 203 of~~

1 *the California Revenue and Taxation Code, or an organization that is exempt from taxation under*  
2 *either Section 501(e) or Section 527 of the United States Internal Revenue Code.*

3 *“Commissioner” shall mean any member of a board or commission listed in Campaign and*  
4 *Governmental Conduct Code Section 3.1-103(a)(1); provided, however, that “Commissioner” shall not*  
5 *include any member of the Board of Supervisors.*

6 *“Contact” shall be defined as set forth in Section 2.106 of this Code.*

7 *“Financial interest” shall be defined as set forth in the California Political Reform Act*  
8 *(California Government Code Section 87100 et seq.), any subsequent amendments to these Sections,*  
9 *and its implementing regulations.*

10 *“Interested party” shall mean (i) any party, participant or agent of a party or participant*  
11 *involved in a proceeding regarding administrative enforcement, a license, a permit, or other*  
12 *entitlement for use before an officer or any board or commission (including the Board of Supervisors)*  
13 *on which the officer sits, or (ii) any person who actively supports or opposes a governmental*  
14 *decision by an officer or any board or commission (including the Board of Supervisors) on*  
15 *which the officer sits, if such person has a financial interest in the decision.*

16 \* \* \* \*

17  
18 **SEC. 3.620. FILING BY DONORS.** [File No. 180280 - page 35, line 14]

19 *(a) **REPORT.** Any interested party who makes a behested payment, or series of behested*  
20 *payments in a calendar year, of \$1,000 or more must disclose, within 30 days following the date on*  
21 *which the payment(s) totals \$1,000 or more:*

22 *(1) the proceeding the interested party is or was involved in;*

23 *(2) the decisions the interested party actively supports or opposes;*

24 *(3) ~~(2)~~ the outcome(s) the interested party is or was seeking in such proceedings or*  
25 *decisions; and*

1 (4)-(3) any contact(s) the interested party made in relation to such proceedings or  
2 decisions.

3 (b) NOTICE. Any person who makes a behested payment must notify the recipient that the  
4 payment is a behested payment, at the time the payment is made.

5  
6 **SEC. 3.630. FILING BY RECIPIENTS OF MAJOR BEHESTED PAYMENTS.** [File No.  
7 180280 - page 36, line 2]

8 (a) MAJOR BEHESTED PAYMENT REPORT. Any person who receives a behested  
9 payment, or a series of behested payments, received during a calendar year, totaling \$100,000 or more  
10 that was made at the behest of any officer must do the following:

11 (1) within 30 days following the date on which the payment(s) total \$100,000 or more,  
12 notify the Ethics Commission that the person has received such payment(s) and specify the date on  
13 which the payment(s) equaled or exceeded \$100,000;

14 (2) within 13 months following the date on which the payment(s) or payments total  
15 \$100,000 or more, but at least 12 months following the date on which the payment(s) total \$100,000 or  
16 more, disclose:

17 (i) all payments made by the person that were funded in whole or in part by the  
18 behested payment(s) made at the behest of the officer; and

19 (ii) if the person has actively supported or opposed was an interested  
20 party in any City decision(s) involving the officer in the 12 months following the date on which the  
21 payment(s) were made:

22 (A) the proceeding the person is or was involved in;

23 (B) the decision(s) the person actively supported or opposed;

24 (C) the outcome(s) the person is or was seeking in such proceedings or  
25 decisions; and



1 (D) any contact(s) the person made in relation to such proceedings or  
2 decisions.

3 (b) EXCEPTION. Subsection (a) does not apply if the entity receiving the behested payment is  
4 a City department.

5 (c) NOTICE REQUIRED. If a recipient of a behested payment does not receive the notice, as  
6 required under Section 3.620, that a particular payment is a behested payment, the recipient will not be  
7 subject to penalties under Section 3.650, as regards that particular payment, for failure to file pursuant  
8 to subsection (a) unless it is clear from the circumstances that the recipient knew or should have known  
9 that the payment was made at the behest of an officer.

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By: \_\_\_\_\_  
14 ATTORNEY'S NAME  
15 Deputy City Attorney

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