

## San Francisco Charter

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### **SEC. 15.100. ETHICS COMMISSION.**

The Ethics Commission shall consist of five members who shall serve six-year terms; provided that the first five commissioners to be appointed to take office on the first day of February, 2002 shall by lot classify their terms so that the term of one commissioner shall expire at 12:00 o'clock noon on each of the second, third, fourth, fifth and sixth anniversaries of such date, respectively; and, on the expiration of these and successive terms of office, the appointments shall be made for six-year terms.

The Mayor, the Board of Supervisors, the City Attorney, the District Attorney and the Assessor each shall appoint one member of the Commission. The member appointed by the Mayor shall have a background in public information and public meetings. The member appointed by the City Attorney shall have a background in law as it relates to government ethics. The member appointed by the Assessor shall have a background in campaign finance. The members appointed by the District Attorney and Board of Supervisors shall be broadly representative of the general public.

In the event a vacancy occurs, the officer who appointed the member vacating the office shall appoint a qualified person to complete the remainder of the term. Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the appointing authority only pursuant to Section 15.105.

No person may serve more than one six-year term as a member of the Commission, provided that persons appointed to fill a vacancy for an unexpired term with less than three years remaining or appointed to an initial term of three or fewer years shall be eligible to be appointed to one additional six-year term. Any term served before the effective date of this Section shall not count toward a member's term limit. Any person who completes a term as a Commissioner shall be eligible for reappointment six years after the expiration of his or her term. Notwithstanding any provisions of this Section or any other section of the Charter to the contrary, the respective terms of office of the members of the Commission who shall hold office on the first day of February, 2002, shall expire at 12 o'clock noon on said date, and the five persons appointed as members of the Commission as provided in this Section shall succeed to said offices on said first day of February, 2002, at 12 o'clock noon; provided that if any appointing authority has not made a new appointment by such date, the sitting member shall continue to serve until replaced the new appointee.

During his or her tenure, members and employees of the Ethics Commission are subject to the following restrictions:

(a) Restrictions on Holding Office. No member or employee of the Ethics Commission may hold any other City or County office or be an officer of a political party.

(b) Restrictions on Employment. No member or employee of the Ethics Commission may be a registered lobbyist or campaign consultant, or be employed by or receive gifts or other compensation from a registered lobbyist or campaign consultant. No member of the Ethics Commission may hold employment with the City and County and no employee of the Commission may hold any other employment with the City and County.

(c) Restrictions on Political Activities. No member or employee of the Ethics Commission may participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure, or a City officer running for any elective office. For the purposes of this section, participation in a campaign includes but is not limited to making contributions or soliciting contributions to any committee within the Ethics Commission's jurisdiction, publicly endorsing or urging endorsement of a candidate or ballot measure, or participating in decisions by organizations to participate in a campaign.

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers. (Amended November 2001; November 2002; November 2003)

#### **SEC. 15.101. EXECUTIVE DIRECTOR AND COMMISSION STAFF.**

The Commission shall appoint and may remove an Executive Director. The Executive Director shall have a background in campaign finance, public information and public meetings and the law as it relates to governmental ethics. The Executive Director shall be the chief executive of the department and shall have all the powers provided for department heads. Subject to the civil service provisions of this Charter, the Executive Director shall have the power to appoint and remove other employees of the Commission. In addition to any other conflict of interest provisions applicable to City employees, the Executive Director and all other employees of the Commission shall be subject to the conflict of interest provisions in Section 15.100, except that the post-employment restrictions contained therein shall apply only to the Executive Director and management-level employees. (Amended November 2001)

#### **SEC. 15.102. RULES AND REGULATIONS.**

The Commission may adopt, amend and rescind rules and regulations consistent with and related to carrying out the purposes and provisions of this Charter and ordinances related to campaign finances, conflicts of interest, lobbying, campaign consultants and governmental ethics and to govern procedures of the Commission. In addition, the Commission may adopt rules and regulations relating to carrying out the purposes and provisions of ordinances regarding open meetings and public records. The Commission shall transmit to the Board of Supervisors rules and regulations adopted by the Commission within 24 hours of their adoption. A rule or regulation adopted by the Commission shall become effective 60 days after the date of its adoption unless before

the expiration of this 60- day period two-thirds of all members of the Board of Supervisors vote to veto the rule or regulation.

The City Attorney shall be the legal advisor of the Commission.

Any ordinance which the Supervisors are empowered to pass relating to conflicts of interest, campaign finance, lobbying, campaign consultants or governmental ethics may be submitted to the electors at the next succeeding general election by the Ethics Commission by a four-fifths vote of all its members. (Amended November 2001)

**SEC. 15.103. CONFLICT OF INTEREST.**

Public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. The City may adopt conflict of interest and governmental ethics laws to implement this provision and to prescribe penalties in addition to discipline and removal authorized in this Charter. All officers and employees of the City and County shall be subject to such conflict of interest and governmental ethics laws and the penalties prescribed by such laws. (Amended November 2003)

Sec. 15.104.

(Repealed November 2003)

**SEC. 15.105. SUSPENSION AND REMOVAL.**

(a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors, Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal Transportation Agency Board of Directors, Port Commission, Public Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees, Taxi Commission, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board is subject to suspension and removal for official misconduct as provided in this section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

(b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, AND ENTERTAINMENT COMMISSION. Members of the Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections Commission, the Ethics Commission, and the Entertainment Commission may be suspended and removed pursuant to the provisions of subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's appointees and the appointing authority shall act in place of the Mayor for all other appointees.

(c) REMOVAL FOR CONVICTION OF A FELONY CRIME INVOLVING MORAL TURPITUDE.

(1) Officers Enumerated in Subsections (a) and (b).

(A) An appointing authority must immediately remove from office any official enumerated in subsections (a) or (b) upon:

(i) a court's final conviction of that official of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the official was convicted warrants removal.

(B) For the purposes of this subsection, the Mayor shall act as the appointing authority for any elective official.

(C) Removal under this subsection is not subject to the procedures in subsections (a) and (b) of this section.

(2) Other Officers and Employees.

(A) At will appointees. Officers and employees who hold their positions at the pleasure of their appointing authority must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(B) For cause appointees. Officers and employees who by law may be removed only for cause must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(3) Penalty for Failure to Remove. Failure to remove an appointee as required under this subsection shall be official misconduct.

(d) DISQUALIFICATION.

(1) (A) Any person who has been removed from any federal, state, county or city office or employment upon a final conviction of a felony crime involving moral turpitude shall be ineligible for election or appointment to City office or employment for a period of ten years after removal.

(B) Any person removed from any federal, state, county or city office or employment for official misconduct shall be ineligible for election or appointment to City office or employment for a period of five years after removal.

(2) (A) Any City department head, board, commission or other appointing authority that removes a City officer or employee from office or employment on the grounds of official misconduct must invoke the disqualification provision in subsection

(d)(1)(B) and provide notice of such disqualification in writing to the City officer or employee.

(B) Upon the request of any former City officer or employee, the Ethics Commission may, after a public hearing, overturn the application of the disqualification provision of subsection (d)(1)(B) if: (i) the decision that the former officer or employee engaged in official misconduct was not made after a hearing by a court, the Board of Supervisors, the Ethics Commission, an administrative body, an administrative hearing officer, or a labor arbitrator; and (ii) if the officer or employee does not have the right to appeal his or her restriction on holding future office or employment to the San Francisco Civil Service Commission.

(e) **OFFICIAL MISCONDUCT.** Official misconduct means any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers and including any violation of a specific conflict of interest or governmental ethics law. When any City law provides that a violation of the law constitutes or is deemed official misconduct, the conduct is covered by this definition and may subject the person to discipline and/or removal from office. (Amended November 2001; March 2002; November 2003)

Sec. 15.106.

(Repealed November 2003)

**SEC. 15.107. REPORTING OF CAMPAIGN FINANCING.**

The Board of Supervisors shall, by ordinance, prescribe requirements for campaign contributions and expenditures and any limitations thereon with respect to candidates for elective office and ballot measures in the City and County.

Sec. 15.108.

(Repealed November 2003)

**APPENDIX C:  
ETHICS PROVISIONS\***

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

- [C3.699-10](#) Administration and Implementation
- [C3.699-11](#) Duties
- [C3.699-12](#) Requests for and Issuance of Options; Advice
- [C3.699-13](#) Investigations and Enforcement Proceedings
- [C3.699-14](#) Commission Funding
- [C3.699-15](#) [Repealed]
- [C3.699-16](#) Transfer of Position
- C8.105 [Repealed]

### **C3.699-10 ADMINISTRATION AND IMPLEMENTATION**

The Commission shall have responsibility for the impartial and effective administration and implementation of the provisions of this charter, statutes and ordinances concerning campaign finance, lobbying, conflicts of interest and governmental ethics.

### **C3.699-11 DUTIES**

The ethics commission shall have the following duties and responsibilities:

1. To administer the provisions of the San Francisco Municipal Elections Campaign Contribution Control Ordinance, and Proposition F, adopted by voters at the June 1986 election, which appears as Appendix K to this charter or any successors to these ordinances.

2. To receive documents required to be filed pursuant to, and to otherwise administer, the provisions of the city's lobbyist registration ordinance.

3. To act as the filing officer and to otherwise receive documents in any instance where the clerk of the board of supervisors, the registrar of voters and, with respect to members of the boards and commissions, department heads would otherwise be authorized to do so pursuant to Chapters 4 and 7 of the California Political Reform Act of 1974 (Government Code sections 81000, et seq.), as amended.

4. To audit campaign statements and other relevant documents and investigate alleged violations of state law, this charter and city ordinances relating to campaign finance, governmental ethics and conflicts of interest and to report the findings to the district attorney, city attorney and other appropriate enforcement authorities. Commission investigation of alleged violations of state law shall be conducted only after the commission has provided to the district attorney and city attorney the information set forth in Section 3.699-12 and the district attorney and city attorney notify the commission that no investigation will be pursued.

5. To provide assistance to agencies, public officials and candidates in administering the provisions of this charter and other laws relating to campaign finance, conflicts of interest and governmental ethics.

6. To make recommendations to the mayor and the board of supervisors concerning (a) campaign finance reform, (b) adoption of and revisions to city ordinances laws related to conflict of interest and lobbying laws and governmental ethics and (c) the submission to the voters of charter amendments relating to campaign finance, conflicts of interest and governmental ethics. The commission shall report to the board of supervisors and mayor annually concerning the effectiveness of such laws. The commission shall transmit its first set of recommendations to the board of supervisors and mayor no later than July 1, 1995.

7. To maintain a whistleblower hot line and administer the provisions of the city's improper government activities ordinance.

8. To annually adjust any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.

9. To assist departments in developing and maintaining their conflict of interest codes as required by state law.

10. To advocate understanding of the charter and city ordinances related to campaign finance, conflicts of interest, lobbying, governmental ethics and open meetings and public records, and the roles of elected and other public officials, city institutions and the city electoral process.

11. To have full charge and control of its office, to be responsible for its proper administration, subject to the budgetary and fiscal provisions of the charter.

12. To prescribe forms for reports, statements, notices and other documents required by this charter or by ordinances now in effect or hereafter adopted relating to campaign finance, conflicts of interest, lobbying and governmental ethics.

13. To prepare and publish manuals and instructions setting forth methods of bookkeeping, preservation of records to facilitate compliance with and enforcement of the laws relating to campaign finance, conflicts of interest, lobbying and governmental ethics, and explaining applicable duties of persons and committees.

14. To develop an educational program, including but not limited to the following components:

(a) Seminars, when deemed appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with city, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government.

(b) Annual seminars for top-level officials, including elected officers and commissioners, to reinforce the importance of compliance with, and to inform them of any changes in, the law relating to conflicts of interest, lobbying, governmental ethics and open meetings and public records.

(c) A manual which will include summaries, in simple, non-technical language, of ethics laws and reporting requirements applicable to city officers and employees, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city, state and federal laws governing the ethical conduct of city employees.

(d) A manual which will include summaries, in simple, non-technical language, of city ordinances related to open meetings and public records, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city ordinances related to open meetings and public records.

### **C3.699-12 REQUESTS FOR AND ISSUANCES OF OPINIONS; ADVICE**

(a) Any person may request the commission to issue a written opinion with respect to that person's duties under provisions of this charter or any ordinance relating to campaign finance, conflicts of interest, lobbying or governmental ethics. The commission shall, within 21 days, transmit its proposed opinion to the city attorney and district attorney, provided that the commission, or its executive director, can extend this time for good cause. Within ten working days of receipt of the proposed opinion, the city attorney and district attorney shall advise the commission whether they concur in the proposed opinion. If either the city attorney or district attorney do not concur with the proposed opinion, he or she shall inform the commission in writing concerning the basis for disagreement. No person who acts in good faith on an opinion issued by the commission

and concurred in by the city attorney and district attorney shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published.

(b) The commission may authorize its staff to issue informal oral advice to any person with respect to that person's duties under provisions of this charter or any ordinance relating to campaign finance, conflicts of interest, lobbying or governmental ethics. Reliance on such oral advice shall not be a defense in any enforcement proceeding.

(c) Subject to the civil service provisions of this charter, the commission may employ individuals who have graduated from a state accredited law school for the purpose of assisting the commission prepare opinions and providing advice under this section. These employees shall have no authority to provide advice to or represent the city and county or any of its officers or employees.

(d) Nothing in this section shall be construed to prevent city and county officers and employees from seeking advice from the city attorney concerning conflict of interest and governmental ethics laws.

### **C3.699-13 INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS**

The commission shall conduct investigations in accordance with this subdivision of alleged violations of this charter and city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics.

(a) Investigations.

If the commission, upon the receipt of a sworn complaint of any person or its own initiative, has reason to believe that a violation of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has occurred, the commission immediately shall forward the complaint or information in its possession regarding the alleged violation to the district attorney and city attorney. Within ten working days, after receipt of the complaint or information, the district attorney and city attorney shall inform the commission in writing regarding whether the district attorney or city attorney has initiated or intends to pursue an investigation of the matter

If the commission, upon the sworn complaint or on its own initiative, determines that there is sufficient cause to conduct an investigation, it shall investigate alleged violations of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics. A complaint filed with the commission shall be investigated only if it identifies the specific alleged violations which form the basis for the complaint and the commission determines that the complaint contains sufficient facts to warrant an investigation.

Within 14 days after receiving notification that neither the district attorney nor city attorney intends to pursue an investigation, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or non-action. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

The investigation shall be conducted in a confidential manner. Records of any investigation shall be considered confidential information to the extent permitted by state law. Any member or employee of the commission or other person who, prior to a determination concerning probable cause, discloses information about any preliminary investigation, except as necessary to conduct the investigation, shall be deemed guilty of official misconduct. The unauthorized release of confidential information shall be sufficient grounds for the termination of the employee or removal of the commissioner responsible for such release.

(b) Findings of Probable Cause.

No finding of probable cause to believe that a provision of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have committed the violation is notified of the alleged violation by service of process or registered mail with return receipt requested, is provided with a summary of the evidence, and is informed of his or her right to be present in person and to be represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person committed the violation. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or, if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private to the extent permitted by state law unless the alleged violator files with the commission a written request that the proceeding be public.

(c) Administrative Orders and Penalties.

(i) When the commission determines there is probable cause for believing a provision of this charter or city ordinance has been violated, it may hold a public hearing to determine if such a violation has occurred. When the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, it shall issue an order which may require the violator to:

- (1) Cease and desist the violation;
- (2) File any reports, statements or other documents or information required by law; and/or
- (3) Pay a monetary penalty to the general fund of the city of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. Penalties that are assessed but uncollected after 60 days shall be referred to the bureau of delinquent revenues for collection.

In addition, with respect to city officers other than those identified in Section 8.107 of this charter, when the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, the commission may recommend to the appointing officer that the officer be removed from office.

When the commission determines that no violation has occurred, it shall publish a declaration so stating.

(d) In addition to any other penalty that may be imposed by law, any person who violates any provision of this charter or of a city ordinance relating to campaign finance, lobbying, conflicts of interest or governmental ethics, or who causes any other person to

violate any such provision, or who aids and abets any other person in such violation, shall be liable under the provisions of this section. (Amended November 2001)

**C3.699-14 COMMISSION FUNDING**

The ethics commission may impose fees related to the administration and enforcement of ordinances and provisions of this charter related to campaign finance, lobbying, campaign consultants and governmental ethics. The fees shall become effective 30 days after their approval by the commission unless the board of supervisors, by a vote of two-thirds of all of its members, disapproves the fees within this 30 day period. (Amended November 2001)

**C3.699-15**

(Repealed November 2001)

**C3.699-16 TRANSFER OF POSITION**

Upon the effective date of this section, the civil service commission immediately shall conduct a study to classify a position and determine the proper salary for the ethics commission employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance. Effective July 1, 1994, the mayor and board of supervisors shall transfer from the mayor's office to the ethics commission one position. This transfer will be effected as follows. The mayor and board of supervisors will adopt an ordinance eliminating one position in the mayor's office. The position eliminated shall be the position with the salary that most closely approximates the salary determined by the civil service commission for the employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance. At the same time, the mayor and board of supervisors shall adopt an ordinance creating and funding the position of the ethics commission employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance.

**C8.105**

(Repealed November 2003)