

To: Elections Commission

From: Vice President Chappell

RE: San Francisco Charter – Reference Materials

SAN FRANCISCO CHARTER

Section 2.114 Non-Interference in Administration

“Except for the purpose of inquiry, the Board of Supervisors shall deal with the administrative service for which the City Administrator is responsible solely through such officer, and for administrative or other functions for which elective officials or boards or commissions are responsible solely through the elective official, the board or commission or the chief executive officer of such board or commission concerned, or their designees.

Neither the Board of Supervisors, its committees, nor any of its members, shall have any power or authority, nor shall they dictate, suggest or interfere with respect to any appointment, promotion, compensation, disciplinary action, contract or requisition for purchase or other administrative actions or recommendations of the City Administrator or of department heads under the City Administrator or under the respective boards and commissions. The Board of Supervisors shall deal with administrative matters only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited on the part of any Supervisor shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter.

Notwithstanding any other provisions of this section, it shall not constitute prohibited interference for a member of the Board of Supervisors to testify regarding administrative matters other than specific contract and personnel decisions at a public meeting of a City board, commission, task force or other appointive body, or for the Board of Supervisors to adopt legislation regarding administrative matters other than specific contract and personnel decisions.

Violation of this section shall constitute official misconduct.”

**CITY ATTORNEY OF SAN FRANCISCO
GOOD GOVERNMENT GUIDE**

VIII. Role of the Board of Supervisors: Charter section 2.114, the prohibition against interference in administration

B. Non-interference with administrative matters

1. General rule

“This restriction prohibits interference with a range of departmental activities: employment matters, contracting and purchasing decisions, and other administrative decisions including how to allocate resources between departmental functions, to whom to assign given functions, prioritization of functions, internal accounting, monitoring, training, and resolution of questions or disputes with individual citizens. By prohibiting interference in administrative matters, section 2.114 attempts to limit Board involvement in areas that historically have presented the greatest risks of favoritism and corruption.

The ban on interference applies not only to the Board as a body, but also to its committees and individual members. And the restriction can apply to words as well as actions. A threat that the Board, its committees, or members make to a department head to engage in any of the prohibited activities may violate section 2.114 even if they do not actually take any further steps to carry out the threat.”

2. Exceptions

a. Resolutions

“Section 2.114 does not prohibit the Board, as opposed to individual members, from offering suggestions about departmental matters. See *Eller Outdoor Advertising v. Board of Supervisors*, 89 Cal.App.3d 76, 81-82 (1979). Rather, section 2.114 prohibits the Board from “dictating” or “commanding” departments on administrative matters, in the sense of actual intervention or interference. *Id.* The full Board, but not individual members, may adopt resolutions expressing the Board’s views on City departmental operations. In those resolutions, the Board may urge, but not require, departments to take certain actions. This exception regarding nonbinding resolutions does not limit the express authority of the Board under Charter section 2.114 to adopt policy ordinances that bind departments in how they operate, as discussed below in section (d).

Section 2.114 prohibits the Board and its individual members from directing departments with regard to either specific contracts or specific personnel decisions. Charter section 9.118, which requires Board approval of contracts above dollar or term thresholds specified in that section, does give the Board limited authority over particular contracts. The Board may not amend a contract that it receives for approval under section 9.118. Nevertheless, it may inform the department of the reasons it will not approve the contract in its current form and make suggestions as to the changes required to make the contract acceptable.

Therefore, at the conclusion of a legislative inquiry in which the Board uncovers mismanagement within a department or a bad contracting decision, neither the Board nor an individual Board member may suggest or direct any action with regard to either the contract or the responsible employees.”