IV. Ethical obligations of commissioners upon appointment

A. Commissioners are officers of the city

Once a commissioner accepts an appointment, the commissioner becomes an officer of the City. An office is a public trust and all officers must exercise their duties in a manner consistent with this trust. Charter § 15.103. Commissioners owe a duty of loyalty to the City and must carry out their duties in a manner that serves the City’s interests. (Please see Part Two for more information on the exercise of this public trust.)

In some cases, commissioners, by law, must be selected from a designated interest group. Even commissioners who are selected from a particular interest group owe their duty of loyalty to the City. They do not represent the designated interest group, although they may bring to their service a greater knowledge of or appreciation for the needs of that interest group. Thus, these commissioners, like all commissioners, must act in the City’s interests.

B. Attendance

The Charter does not generally set specific attendance requirements for commissioners. (An exception is Charter section 4.123, which sets attendance requirements for Youth Commissioners.) Nonetheless, attending meetings is a fundamental part of a commissioner’s duties. Repeated failure of for-cause commissioners to attend meetings could constitute official misconduct, which could lead to removal from the commission. Further, failing to attend meetings over a period of time could result in a finding that a commissioner has abandoned the position, causing the removal of the commissioner. San Francisco Administrative Code § 16.89-17 (hereafter “Admin. Code”).

A board or commission may not of its own authority adopt a rule providing for the removal of a member for failure to attend meetings. Ordinances or resolutions creating policy bodies sometimes contain attendance requirements and may specify that a member’s failure to adhere to the attendance requirement shall terminate the member’s service on the body. In any event, a board or commission, whether created by Charter, ordinance, or resolution, may adopt a rule requiring that the body notify the appointing authority when a member misses a certain number of meetings over a specified period of time.

It is important that members of boards and commissions regularly attend meetings not only so that they may contribute to the work of the body but also to assure that a quorum is present so that meetings may be held. To address these concerns, the Office of the Mayor has issued standards for commissioner attendance and the Board of Supervisors has passed a resolution urging boards and commissions to adopt internal policies regarding members’ attendance at meetings. Both of these documents are included in the Appendix to this Guide.
C. Conduct of commissioners

The Charter and the Municipal Code do not specifically set forth a "code of conduct" for commissioners. But as explained throughout this Guide, many state and City ethics and sunshine laws govern the actions of commissions and their members. As noted above, commissioners must comport themselves in a manner consistent with the public trust. Under the Charter, conduct that "falls below the standard of decency, good faith and right action impliedly required of all public officers" is official misconduct, which may result in removal from office. Charter § 15.105(e).

Some commissions choose to adopt codes of conduct for their members. So long as the code of conduct is consistent with state and local laws, a commission is free to do so. Even without a code of conduct, commissioners are bound to act in a manner to uphold the public trust.

D. Roles of commissioners

When carrying out the functions the Charter and Municipal Codes assign to them, different boards and commissions may serve in different roles. Most act, either exclusively or primarily, as administrative or executive bodies. These bodies set policies for, approve actions of, and oversee departments. In setting policies to implement legislation, these bodies act in a "quasi-legislative" role, for example, by adopting regulations that flesh out the details of ordinances.

Some boards and commissions act, primarily or frequently, in a "quasi-judicial" role. When acting in a quasi-judicial capacity, the body adjudicates matters between private parties, or, more typically, between the City and private parties or employees. For example, granting or revoking a permit is a quasi-judicial decision, as is imposing discipline on an employee. Boards and commissions that most frequently act in a quasi-judicial capacity include the Board of Supervisors when hearing appeals from certain land use decisions; Assessment Appeals Board (a non-Charter body); Board of Appeals; Civil Service Commission; Entertainment Commission; Ethics Commission; Fire Commission; Planning Commission; Police Commission; and Rent Board (a non-Charter body).

When acting in a quasi-judicial capacity, members of boards and commissions function like judges. Thus, they must take care to ensure that the parties appearing before them receive due process. Due process requires fair adjudicators. Commissioners must listen to the evidence presented before making decisions and base their decisions upon the evidence and the governing law. Frequently, bodies that act in a quasi-judicial capacity adopt rules addressing the procedures for adjudicative hearings and the conduct of commissioners regarding evidence and witnesses.

E. Financial disclosure form

Within 30 days of appointment, a commissioner must file a financial disclosure form with the Ethics Commission. The commissioner must then file an annual financial disclosure form on or before April 1st of each year and within 30 days of leaving office. These forms
are called “statements of economic interests,” and are also known as “SEIs” or “Form 700s.” The list of local appointed officials and employees who are required to file SEIs is set forth in San Francisco’s Conflict of Interest Code in Chapter 1 of Article III of the San Francisco Campaign and Governmental Conduct Code. These forms are public records available for anyone to review. (For more information on SEIs, see Part Two.)

F. Annual Sunshine and ethics training

Each commissioner must complete an annual sunshine training required by the Sunshine Ordinance. Admin. Code § 67.33. State law also requires commissioners to attend a biennial ethics training. The state law requirement was enacted in 2005. California Government Code (hereafter “Govt. Code”) § 53235 (AB 1234, 2005). Every commissioner must file declarations with the Ethics Commission stating that the commissioner has complied with these requirements. The Ethics Commission provides forms for this purpose at its office and on its web page. The City Attorney’s Office, in cooperation with the Ethics Commission and the Sunshine Ordinance Task Force, provides training options to satisfy these requirements. In addition, self study materials are available on the City Attorney’s Web site.

The City provides sexual harassment training for its employees who are supervisors as required by state law. Govt. Code § 12950.1. Even though many commissioners and board members are not city employees, most commissions and boards do have authority over at least one employee. Therefore, the City recommends (and in some cases requires) this training for commissioners and board members. Information regarding training is available from the City Attorney’s Office.

G. Competitive bidding laws

City law requires competitive bidding to protect against fraud, corruption, and favoritism as well as to ensure that honest bidders participate in the contracting process. See, e.g., Admin. Code § 21.1. City officers and employees must follow these processes when awarding any City contracts. Members of boards and commissions may not interfere with the competitive bidding process. While public City Attorney opinions and other City resources explain these laws in greater detail, we mention them here to stress the importance of ensuring fair processes in government contracting decisions.

v. Leaving office

A. Removal

Many members of boards and commissions serve “at will,” and can be removed at the pleasure of the Mayor or other appointing authority at any time and without cause. Other commissioners may be removed only “for cause.” The Charter provision establishing each