



San Francisco Youth Commission Agenda

Monday, November 19, 2018

5:00 pm~8:00 pm

City Hall, Room 416

1. Dr. Carlton B. Goodlett Pl.

San Francisco, CA 94102

There will be public comment on each item.

Charley Obermeyer, Lily Marshall-Fricker, Maggie Dong, Josephine Cureton, Calvin Quick, Felix Andam, Alysha Sadarangani, JoJo Ty, Natalie Ibarra, Bahlam Vigil, Arianna Nassiri, Nora Hylton, Drew Min, Grace Hoogerhyde, Alexander Hirji, Kaye Chin

1. Call to Order and Roll Call for Attendance (Discussion and Possible Action)

2. Approval of Agenda (Action Item)

3. Approval of Minutes (Action Item)

A. November 5, 2018

[\(Document A\)](#)

4. Public Comment on Items not on Agenda (Discussion Only)

5. Legislation Referred (All Items to Follow Discussion and Possible Action)

A. BOS File No. 181002 [Police Code – Prohibiting Criminal History Inquiries in Private College Admissions]

Sponsor: President Cohen

Presenter: Aliya Chisti, District 10, Legislative Aide

Document B

B. BOS File No. 181001 [Charter Amendment - Free City College Fund] to the Youth Commission]

Sponsor: Supervisor Kim

Presenter: Kitty Fong, District 6, Legislative Aide

Document C

6. Presentations (All Items to Follow Discussion and Possible Action)

7. Youth Commission Business (All Items to Follow Discussion and Possible Action)

A. Motion No. 1819-AL-07 Letter of Support to Governor Brown for Signing AB748 and SB1421

Presenter: Natalie Ibarra, D9 Commissioner, Transformative Justice Committee



8. Committee Reports (Discussion Only)

- A. Executive Committee
- B. Housing Committee
- C. Transformative Justice Committee
- D. Civic Engagement Committee

9. Staff Report (Discussion Only)

10. Announcements (This Includes Community Events)

11. Adjournment

Any materials distributed to the members of the Youth Commission within 72 hours of the meeting or after the agenda packet has been delivered to the members are available for inspection—along with minutes of previous Youth Commission meetings and all supplementary information—at the Youth Commission office during regular office hours (9am to 6pm, Monday—Friday). The Youth Commission office is at:

City Hall, Room 345
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Phone: (415) 554-6446, Fax: (415) 554-6140
Email: youthcom@sfgov.org
www.sfgov.org/yc

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE (Chapter 67 of the San Francisco Administrative Code) Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, please contact:

Sunshine Ordinance Task Force
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689
Phone: (415) 554-7724, Fax: (415) 554-5784
Email: sotf@sfgov.org

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Ordinance Task Force, at the San Francisco Public Library, and on the City's website at <http://www.sfgov.org>.

The nearest accessible BART station is Civic Center (Market/Hyde Streets). Accessible MUNI Metro lines are the F, J, K, L, M, N, T (exit at Civic Center for Van Ness Stations). MUNI bus lines also serving the area are the 5, 5R, 6, 7, 7R, 7X, 9, 9R, 19, 21, 47, and 49. For more information about MUNI accessible services, call (415) 701-4485.

The ringing and use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. The Chair may order the removal from the meeting room of any person responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic device.



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To obtain a disability-related modification or accommodation, including auxiliary aids or services to participate in the meeting, please contact Kiely Hosmon, Youth Commission Director [phone: 415-554 6464; email: Kiely.hosmon@sfgov.org] at least 48 hours before the meeting, except for Monday meetings, for which the deadline is 4:00 p.m. the previous Friday. Full Commission Meetings are held in Room 416 at City Hall, 1 Dr. Carlton B. Goodlett Place in San Francisco. City Hall is accessible to persons using wheelchairs and other assistive mobility devices. Ramps are available at the Grove, Van Ness and McAllister entrances.

LANGUAGE INTERPRETERS: Requests must be received at least 48 hours in advance of the meeting to help ensure availability. Contact Peggy Nevin at (415) 554-5184.

AVISO EN ESPAÑOL: La solicitud para un traductor debe recibirse antes de mediodía de el viernes anterior a la reunion. Llame a Derek Evans (415) 554-7702.

Paunawa: Ang mga kahilingan ay kailangang matanggap sa loob ng 48 oras bago mag miting upang matiyak na matutugunan ang mga hiling. Mangyaring tumawag kay Joy Lamug sa (415) 554-7712.

翻譯 必須在會議前最少四十八小時提出要求
請電 (415) 554-7719



San Francisco Youth Commission

DRAFT - Minutes

Monday, November 5, 2018

5:00 pm-8:00 pm

City Hall, Room 416

1. Dr. Carlton B. Goodlett Pl.

San Francisco, CA 94102

There will be public comment on each item.

Charley Obermeyer, Lily Marshall-Fricker, Maggie Dong, Josephine Cureton, Calvin Quick, Felix Andam, Alysha Sadarangani, JoJo Ty, Natalie Ibarra, Bahlam Vigil, Arianna Nassiri, Nora Hylton, Drew Min, Grace Hoogerhyde, Alexander Hirji, Kaye Chin

1. Call to Order and Roll Call for Attendance (Discussion and Possible Action)

Chair Vigil calls meeting to order at 5:07pm. Commissioners Andam and Obermeyer are absent. Quorum is met. No public comment. Commissioner Marshall-Fricker motions to approve absences of Andam and Obermeyer, second by Commissioner Min. By a vote of acclamation, the motion passes.

2. Approval of Agenda (Action Item)

There was no public comment. Motion to approve agenda by Commissioner Quick, second by Commissioner Hoogerhyde. Motion passes with a vote of acclamation.

3. Approval of Minutes (Action Item)

- A. October 15, 2018
([Document A](#))

There was no public comment. Motion to approve the minutes by Commissioner Marshall-Fricker, seconded by Commissioner Ibarra. Motion passes by a vote of acclamation.

4. Public Comment on Items not on Agenda (Discussion Only)

No public comment.

5. Presentations (All Items to Follow Discussion and Possible Action)

- A. Presentation on the Bill of Rights for Children of Detained Parents



Presenter: Tanea Lunsford, Program Coordinator for the San Francisco Children of Incarcerated Parents Partnership
(Document B)

As a former Youth Commissioner, Tanea Lunsford is excited to present the Bill of Rights to Youth Commissioners. SFCIPP was established in 2000 and focuses on children of incarcerated parents. They, SFCIPP and relevant stakeholders, meet 4 times a year. This year has focused on the human rights of children of detained parents in the process of incarceration and detention. This Bill of Rights is grounded in the belief that detailed parents and their children have inalienable human rights that have been disregarded completely.

Questions:

Commissioner Min: what is the next step to make this a more legitimate document after it is supported by the Youth Commission ?

Response: San Francisco is a leading city in policies, and want to build outward so Alameda + Contra Costa Counties will see the value in the bill of rights and upholding rights of children and their families. Hope to get adopted by the San Francisco Board of Supervisors.

Commissioner Marshall-Fricker: I am sad to see this document is even necessary.

Chair Vigil: Thank you for speaking about this subject. I really appreciate it.

Commissioner Hylton: Thank you for coming.

Commissioner Min: Once this is adopted do you hope for this to go into city charter? What part of legislation do you see this being apart of?

Response: Right now, open to how it gets presented and hoping that it changes the way city moves funding, and how the city enforces and how the city can show up to support migrant families. for example, sanctuary city - and won't put police dollars into supporting it. With a child-centered approach, can impact funds to migrant families and hopeful it can show up in multiple ways.

Commissioner Min: Who else have you presented to? Are we the first?

Response: Project What! is our advisory committee and guides us on what policies and approach we should go to. Important that we bring to young folks.

Commissioner Min: Do you have help from civil attorney?

Response: There are folks in the general body groups that are civil attorneys.

Commissioner Marshall-Fricker: what can your bill of rights do?

Response: It allowed for contact (to see and touch) for children to parents. physical barrier can be traumatizing. when we think about it that way, it changed bpp in jails because of child-centered approach. It can mean training, giving money to families to visit.

Commissioner Hirji: What are the city policies and practices pertaining CIPP?



Response: In SF, if you have an incarcerated loved ones you can visit alone if you are 16 and older. this was not the case till project what! pushed for it. you can also get an excused absence and counseling services if you go to SFUSD.

Commissioner Ibarra: What can the community do to support this bill of rights?

Response: You can pledge your support online, it creates a community of folks that are aligned to push this forward. we meet regularly in the policy group, to move this forward at sfusd and in new york.

Reminder by Chair Vigil: to ask questions because you represent districts and the questions you ask - are crucial to make sure youth in this district are represented.

There is no public comment.

Motion to support this bill of rights by Commissioner Marshall-Fricker, seconded by Commissioner Chin. By a vote of acclamation, the motion passes.

6. Youth Commission Business (All Items to Follow Discussion and Possible Action)

- A. Youth Commission Committee Budget Priority Report Backs
Sponsor: Commissioner Quick

Housing and Land Use (Jose Ty): unable to make recommendations without presentations and understanding of issue areas on ground. Currently scheduling presentations with organizations.

Transformative Justice Committee (Hylton): expanding trainings centered on youth and their families and how sfpd should deal with use, looking into programs for rehabilitation for youths and juvenile system, funding into young adult court

Civic Engagement: doing more research into community orgs to partner, how do we better support pre-registration?

Question: Commissioner Marshall-Fricker how many readings are we doing?

Response: Officially 3 readings of this, but today's second reading doesn't count if we continue second reading into next meeting. by dec 3rd if there aren't any substantive amendments, we can just pass it. we cannot pass this until we have a firm document about budget policy. we cannot pass if we have substantive amendments. procedural delays.

Commissioner Sadarangani: formerly done in the spring but because of the delay, we are doing it earlier.

Response: traditionally this process was done in spring, but because of bos budget process it was already solidified so we don't want to waste our time. government bureaucracy and youth leadership development theory does not work with this fast process but this is a trial.

Commissioner Chin: if we wanted to involve a program that we were involved with, would there be a conflict of interest?



Response: if you have no financial stake, you - would get back to you.

There was no public comment.

Motion for continuance 6b to Nov 19th by Commissioner Quick, seconded by Commissioner Min. Motion passes by a vote of acclamation.

- B. [Second Reading] Resolution 1819 – AL – 03 [Omnibus Youth Commission Preliminary Budget Priorities - Priority Programs]
Sponsor: Commissioner Quick
(Document C)

Called with item 6A.

- C. [First Reading] Motion No. 1819-AL-04 [Condemning President Trump's Anti-Trans Rhetoric]
Sponsors: Commissioners Andam and Vigil
(Document D)

Commissioner Ty: curious with the motion - will this go to supporting trans organizations? what outcomes you see from this motion? to center the voices of folks that aren't in the conversation in city hall.

Staff: supplemental information - that is the title, lines 5-7 on the top and supplemental information is after the according, need to update links, want to update the "over the weekend", consistency with trans + nonbinary.

Commissioner Hirji: date for document d - for supplemental information

Staff: In addition - to nonbinary, line 16 pick one and consistent throughout. no comma on first page line 10 after discrimination

Commissioner Min: How would changing the definition of "sex" impact the community? Also would like to note that the word "monstrous" is extraneous.

Staff: Suggest changing nonbinary to gender nonconforming and suggest naming city leaders to add credibility to statement.

Temporary Chair Quick: touches issue that is high on our minds - and be mindful of transgender and gender nonconforming community.

Add for cosponsor: vigil + quick

No public comment. Motion to continue item to the next meeting by Chair Vigil, and seconded by Commissioner Marshall-Fricker. By a vote of acclamation, the motion passes.



D. Motion No. 1819-AL-05 [Motion adopting the Youth Commission's recommendations for Seat 1 on the Department of Children Youth and their Families (DCYF), Oversight and Advisory Committee (OAC)]

Sponsor: Executive Committee

Presenter: Executive Committee members
(Document E)

Commissioner Quick, last EC we reviewed 3 applications for OAC. The takeaway, all three demonstrated strong interest and were comparatively strong candidates which meant choosing them pretty difficult. we pushed forward for audrey xu based that she demonstrated a true interest in serving her community on oac given her community involvement and has experience with DCYF. She demonstrates best ability to work with mostly adult members of OAC to fulfill responsibilities of representing youth citywide.

commissioner chin - was it just application review? yes, no interview.

commissioner hylton: what were her involvements? youth advisory board, horizon scholars, myeep, yli, youth works, api leadership council

no public comment. motion to approve of recommendation of audrey xu commissioner quick, seconded by commissioner nassiri. by a vote of acclamation, motion passes.

E. Motion No. 1819-AL-06 [Motion adopting the Youth Commission's recommendations for

Seat 6 on the Sugary Drinks Distributors Tax Advisory Committee]

Sponsor: Executive Committee

Presenter: Executive Committee members
(Document F)

Commissioner Hoogerhyde recommending sofia woo, she had involvement with sdtac. been to townhall and been involved with public health and health care, has a lot of experience with looking into how sugary drinks impacts low-income communities. commissioner quick there were 2 applicants - not as impressive in resume, but this is a growth and development point. this is a train up opportunity for folks, to go farther in representing youth in the city.

no public comment. motion to improve by commissioner min, seconded by commissioner quick. by a vote of acclamation motions passes.

7. Committee Reports (Discussion Only)

A. Executive Committee

a. Communications and Outreach Officer Report

- i. Tabled last outreach meeting to go to no monster in mission rally / march, 2 socials and potluck, teen vote sf (disaster with prop c), update on youth profiles.

b. Legislative Affairs Officer Report



- i. Free City College, Ban the Box for Private Colleges, and housing authority hearing.

B. Housing and Land Use Committee

Commissioner Dong: still determining issues and asking for presentations for BPP.

C. Transformative Justice Committee

Commissioner Cureton: did omnibus bpp brainstorm, report back from participation on close 850 rally, worked on timeline for research on, started draft for gov brown on leg.

D. Civic Engagement Committee

Commissioner Chin and Commissioner Sadarangani - went through bpp and talked about next steps for this year and outline (spreadsheets that no one has added to) and planning on doing research on community organization partner with.

8. Staff Report (Discussion Only)

- Commissioner Nassiri won't be in attendance on November 19th.

9. Announcements (This Includes Community Events)

- **Commissioner Quick:** next meeting will ask for scheduling of motion relating to ordinance going to Board of Supervisors - regarding minimum parking
- Chair Vigil: cosponsors - to trans memo, civic engagement delay to jan for community input employment
- Nov 19 - self care should be prioritized, just communicate without delay

10. Adjournment

Meeting was adjourned at 6:38 pm.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Kiely Hosmon, Director, Youth Commission

FROM: John Carroll, Assistant Clerk,
Public Safety and Neighborhood Services Committee

DATE: October 22, 2018

SUBJECT: LEGISLATIVE MATTER INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following hearing, introduced by Supervisor Cohen on October 16, 2018. At the request of the Youth Commission, this item is being referred for comment and recommendation.

File No. 181002

Ordinance amending the Police Code to prohibit private post-secondary educational institutions from using an application form that contains questions about an applicant's criminal history, or asking an applicant about criminal history for the purpose of deciding whether to offer admission; requiring educational institutions to retain relevant records for three years; authorizing the Office of Labor Standards Enforcement to investigate possible violations and impose penalties; and providing for a private right of action.

Please return this cover sheet with the Commission's response to John Carroll, Assistant Clerk, Public Safety and Neighborhood Services Committee.

RESPONSE FROM YOUTH COMMISSION Date: _____

_____ No Comment
_____ Recommendation Attached

Chairperson, Youth Commission

[Police Code - Prohibiting Criminal History Inquiries in Private College Admissions]

Ordinance amending the Police Code to prohibit private post-secondary educational institutions from using an application form that contains questions about an applicant's criminal history, or asking an applicant about criminal history for the purpose of deciding whether to offer admission; requiring educational institutions to retain relevant records for three years; authorizing the Office of Labor Standards Enforcement to investigate possible violations and impose penalties; and providing for a private right of action.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Police Code is hereby amended by adding Article 50, consisting of Sections 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, and 5009, to read as follows:

ARTICLE 50: CRIMINAL HISTORY IN ADMISSION
TO POST-SECONDARY EDUCATIONAL INSTITUTIONS

SEC. 5001. TITLE.

This Article 50 may be referred to as the "Beyond the Box in College Admissions Ordinance."

1 **SEC. 5002. FINDINGS AND PURPOSE.**

2 (a) Around the country, individuals are often plagued by old or minor arrest or conviction
3 records that discourage them from applying for educational opportunities because a “box” on the
4 application requires disclosure of criminal history information that may exclude them from
5 consideration. Research indicates that the collection and use of criminal history information in the
6 application process for post-secondary institutions constitutes a formidable barrier for many
7 individuals with criminal records. Specifically, data suggests that pre-admission inquiries for prior
8 felony convictions is associated with application attrition on college applications.

9 (b) The federal government and the higher education industry have acknowledged this
10 problem. In 2016, the Obama Administration encouraged higher education institutions throughout the
11 country to take the Fair Chance Higher Education Pledge to develop practices to provide formerly
12 incarcerated individuals with a fair shot at educational opportunities. Similarly, the United States
13 Department of Education released a resource guide titled “Beyond the Box,” which provided
14 information for colleges to examine and remove barriers to pursuing a higher education for citizens
15 with criminal records. Several postsecondary educational institutions have voluntarily removed
16 questions about criminal history from their admissions procedures, and The Common Application, Inc.,
17 has announced that it will soon allow its member institutions to omit criminal history questions from
18 their applications.

19 (c) In California, it is estimated that approximately eight million Californians have been
20 arrested or convicted. Thousands of people in our local community are directly impacted by barriers
21 to full reintegration into society based on these records. Pre-admission inquiries into prior felony
22 convictions also magnify racial disparities in the criminal justice system, resulting in a particularly
23 negative impact on applicants of color seeking admission to post-secondary educational institutions.

24 (d) Because a post-secondary education is a key to labor market success, policies that increase
25 educational opportunities for people with arrest and conviction records reduce recidivism, promote the

1 financial stability of our communities, and enhance the City's potential for economic growth. Policies
2 that encourage reintegration and reduce recidivism can also help reduce criminal justice costs. The
3 San Francisco Sheriff's Office predicts it will spend approximately \$90,000 to incarcerate persons in
4 jail in 2017-2018. When a person successfully reintegrates and does not return to the criminal justice
5 system, these costs are avoided, allowing scarce public dollars to be reinvested in programs that make
6 our communities stronger and safer.

7 (e) Many cities and counties in the United States, including San Francisco, have regulated
8 inquiries into criminal history in other contexts, such as in housing and employment decisions. In the
9 higher education context as well, San Francisco should lead the nation in curbing such inquiries. By
10 addressing roadblocks in the pathways to achieving a higher education, this Article 50 will support
11 individuals that have paid their debt to society and served their sentences by assuring them an equal
12 chance to learn and thrive in society. Prohibiting pre-admission inquiries on college applications will
13 provide youth and adults who have been subject to the criminal justice system a fair chance to realize
14 their full potential and become contributing members of society. Given these considerations, it is wise
15 public policy – in the context of the criminal justice system, public health and safety, and the economy –
16 to improve access to post-secondary institutions for individuals with prior arrest or conviction records.

17
18 **SEC. 5003. DEFINITIONS.**

19 For purposes of this Article 50, the following definitions apply:

20 "Admit" or "Admission" means a College's invitation to an Applicant to enroll in the College,
21 including a conditional or deferred invitation, or a decision to place an Applicant on the College's
22 waitlist.

23 "Agency" means the Office of Labor Standards Enforcement, or any successor department or
24 office.

1 "Applicant" means (a) a person who has applied for admission to a College; or (b) a person
2 who has inquired about admission to a College, but only where the inquiry relates to the inquiring
3 party's possible admission to the College, not to inquiries made on behalf of another person.

4 "Arrest" means questioning, apprehending, taking into custody or detention, holding for
5 investigation, charging, indicting, or trying, a person for any felony, misdemeanor, or other criminal
6 offense. "Arrest" includes these actions only when conducted by a law enforcement officer.

7 "College" means any private post-secondary educational institution located in San Francisco
8 that awards degrees signifying satisfactory completion of the requirements of a postsecondary
9 educational program at the associate's level or above. "College" does not include institutions that are
10 part of the State of California, including City College of San Francisco, San Francisco State
11 University, and the University of California.

12 "Conviction" means an adjudication (following a trial, guilty plea, or no-contest plea) that a
13 person was guilty of any felony or misdemeanor. "Conviction" includes: (a) an adjudication that a
14 person was guilty in a juvenile proceeding of, or had a juvenile petition sustained in connection with,
15 any felony or misdemeanor; and (b) convictions that have been judicially dismissed, expunged, voided,
16 invalidated, or otherwise rendered inoperative, by way of example but not limitation, under California
17 Penal Code Sections 1203.4, 1203.4a, or 1203.41.

18 "Criminal History" means an Applicant's record of Arrest or Conviction.

19 "Director" means the Director of the Office of Labor Standards Enforcement, or the Director's
20 designee.

21
22 **SEC. 5004. PROHIBITION ON INQUIRING ABOUT CRIMINAL HISTORY IN**
23 **ADMISSIONS DECISIONS.**

24 (a) A College may not, for the purpose of considering whether to Admit an Applicant, inquire
25 about the Applicant's Criminal History, such as by making any direct or indirect statement, question,

1 prompting, or other communication, orally or in writing, personally or through an agent, using any
2 mode of communication, including, but not limited to, application forms and interviews. "Inquire," as
3 used in this subsection (a), includes providing, or directing the Applicant to, an application form that is
4 subsequently viewed by an Applicant. This subsection (a) applies to application forms devised or
5 administered by third parties that Colleges use for the purpose of considering whether to Admit the
6 Applicant.

7 (b) As subsection (a) indicates, a College may not use application forms that contain a request
8 for information about the Applicant's Criminal History. A College is in violation of this Article 50 if it
9 makes any such application form available to the general public or to potential Applicants in any
10 format, including but not limited to, posting it on the College's website, or distributing paper copies.

11 (c) Nothing in this Article 50 prohibits an Applicant from voluntarily, and without prompting,
12 disclosing the Applicant's Criminal History.

13 (d) A College that receives Criminal History from a person or entity other than the Applicant is
14 not in violation of this Article 50 if the College did not receive the information in response to an inquiry
15 about the Applicant's Criminal History for the purpose of considering whether to Admit the Applicant.

16 (e) Nothing in this Article 50 prohibits a College from requesting, or obtaining, Criminal
17 History from an Applicant after an Applicant has accepted Admission and agreed to enroll in the
18 College.

19 20 **SEC. 5005. IMPLEMENTATION AND ENFORCEMENT.**

21 (a) The Agency is authorized to take appropriate steps to enforce and coordinate enforcement
22 of this Article 50, including the investigation of possible violations of this Article.

23 (b) An Applicant or any other person may report to the Agency any suspected violation of this
24 Article 50. The Agency shall encourage reporting pursuant to this subsection (b) by keeping
25 confidential, to the maximum extent permitted by applicable laws, the name and other identifying

1 information of the Applicant or person reporting the violation; provided, however, that the Agency may
2 disclose the name and identifying information of the Applicant or person as necessary to enforce this
3 Article 50 or for other appropriate purposes.

4 (c) The Director shall establish rules governing the administrative process for determining and
5 appealing violations of this Article 50. The rules shall include procedures for providing the College
6 with the following:

7 (1) Notice that it may have violated this Article 50;

8 (2) A right to respond to the notice;

9 (3) Notice of the Agency's determination of a violation; and

10 (4) An opportunity to appeal the Agency's determination to a hearing officer, who is
11 appointed by the Controller.

12 (d) If the College appeals the Agency's determination of a violation, the Agency's
13 determination shall be considered prima facie evidence of a violation, and the College shall have the
14 burden of proving, by a preponderance of the evidence, that the Agency's determination of a violation
15 is incorrect. The hearing officer's decision of the appeal shall constitute the City's final decision.

16 (e) The Agency may impose upon the College an administrative penalty of \$250 for each
17 Applicant as to whom a violation of Section 5004(a) occurred.

18 (f) The Agency may impose upon the College an administrative penalty of \$250 for each day a
19 violation of Section 5004(b) occurred or continued.

20 (g) The City Attorney may bring a civil action in a court of competent jurisdiction against a
21 College for violating any requirement of this Article 50, and, upon prevailing, shall be entitled to such
22 legal or equitable relief as may be appropriate to remedy the violation, including a civil penalty, and
23 shall be awarded reasonable attorneys' fees and costs.

1 (h) In any administrative or civil action brought under this Article 50, the Agency or court, as
2 the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in
3 subdivision (b) of Section 3289 of the California Civil Code.

4 (i) In the event the City brings a civil enforcement action for violation of this Article 50, any
5 person or association by or with a direct interest in compliance with this Article may join in that
6 enforcement action as a real party in interest. In the event the City does not institute a civil
7 enforcement action for violation of this Article, a directly interested person or association, after
8 receiving confirmation from the City Attorney that the City does not intend to institute a civil suit, may
9 bring a civil proceeding on its own behalf and on behalf of the City against that College and seek all
10 remedies available for violation of this Article available under state law, including but not limited to
11 monetary, injunctive, and declaratory relief. Should actual damages incurred by such a violation be
12 difficult to determine, liquidated damages may be awarded at the rate of \$1,000 per day of violation, to
13 be distributed equally between a private plaintiff, if any, and the general fund of the City, unless such
14 liquidated damages award is found to be so excessive in relation to the violator's resources as to
15 constitute a penalty.

16 (j) The Director shall have authority to adopt regulations or guidelines that implement the
17 provisions of this Article 50.

18 (k) The remedies, penalties, and procedures provided under this Article 50 are cumulative of
19 any other remedies, penalties, or procedures that may be available to address conduct that is violative
20 of this Article.

21
22 **SEC. 5006. RECORDKEEPING REQUIREMENTS.**

23 (a) Colleges shall retain, for a period of three years, completed applications and any other
24 pertinent data and records about each Applicant; and blank application forms and other admissions
25

1 documents that reflect questions posed to Applicants for a period of three years from the last use of the
2 form or document.

3 (b) Colleges shall allow the Agency access to such records, with appropriate notice and at a
4 mutually agreeable time, to monitor compliance with the requirements of this Article 50.

5 (c) It is recommended, but not required, that Colleges retain, for a period of three years,
6 applications that were begun but not completed.

7 (d) Colleges shall provide information to the Agency, or the Agency's designee, as may be
8 required to verify the College's compliance with this Article 50.

9 (e) In no event shall the Agency require a College to provide any information or documents the
10 disclosure of which would violate state or federal law.

11 (f) Where a College does not maintain or retain adequate records documenting compliance
12 with this Article 50 or does not allow the Agency reasonable access to such records, it shall be
13 presumed that the College did not comply with this Article, absent clear and convincing evidence
14 otherwise.

15 (g) Pursuant to its rulemaking authority under this Article 50, the Agency shall adopt rules that
16 establish procedures for Employers to maintain and retain accurate records and to provide annual
17 reporting of compliance to the Agency in a manner that does not require disclosure of any information
18 that would violate State or Federal privacy laws.

19
20 **SEC. 5007. PREEMPTION.**

21 The City recognizes that in some circumstances state or federal law may govern some of the
22 matters addressed in this Article 50. Nothing in this Article shall be interpreted or applied by a court
23 or the Agency or any other part of City government so as to create any requirement, power, or duty in
24 conflict with federal or state law or with a requirement of any government agency, including any
25 agency of City government, implementing federal or state law. Consistent with the foregoing

1 preemption principle, for example, the Agency is authorized to not enforce any provision of this Article
2 upon determining that its application in a particular context would conflict with federal or state law or
3 with a requirement of a government agency implementing federal or state law. Further, this Article
4 does not prevent Colleges from inquiring about Criminal History where such inquiry is required by
5 federal or state law or a government agency implementing federal or state law, but this Article does
6 require that such an inquiry be limited to those aspects of inquiries regarding Criminal History that are
7 necessary to comply with federal or state law. These examples are illustrative and do not limit the
8 scope of the preemption principle stated in this Section 5007.

9
10 **SEC. 5008. SEVERABILITY.**

11 If any section, subsection, sentence, clause, phrase, or word of this Article 50, or any
12 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
13 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
14 portions or applications of the Article. The Board of Supervisors hereby declares that it would have
15 passed this Article and each and every section, subsection, sentence, clause, phrase, and word not
16 declared invalid or unconstitutional without regard to whether any other portion of the Article or
17 application thereof would be subsequently declared invalid or unconstitutional.

18
19 **SEC. 5009. CONSTRUCTION.**

20 (a) This Article 50 shall not be construed to require a College to give preference to or admit a
21 student with a Criminal History. Moreover, this Article shall not be construed to limit a College's
22 discretion to choose its students from applicants, consistent with existing law and with this Article.
23
24
25


1 Section 2. Effective Date; Operative Date.

2 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
3 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
4 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
5 Mayor's veto of the ordinance.

6 (b) This ordinance shall become operative on August 1, 2019.
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11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By:

14 
LEILA K. MONGAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code - Prohibiting Criminal History Inquiries in Private College Admissions]

Ordinance amending the Police Code to prohibit private post-secondary educational institutions from using an application form that contains questions about an applicant's criminal history, or asking an applicant about criminal history for the purpose of deciding whether to offer admission; requiring educational institutions to retain relevant records for three years; authorizing the Office of Labor Standards Enforcement to investigate possible violations and impose penalties; and providing for a private right of action.

Existing Law

The City has no current laws regarding the use of criminal history information in college admissions. There are, however, City ordinances relating to the use of criminal history and salary history in other contexts:

- Article 49 of the Police Code prohibits the use of prohibits employers and housing providers from inquiring about, or considering, criminal history until after a conditional offer of employment or housing; and
- Article 33J of the Police Code prohibits employers from inquiring about, or considering, an applicant's salary history in determining whether to offer employment or what salary to offer.

Amendments to Current Law

The proposed ordinance would apply a similar restriction in the college admissions context. It would prohibit private post-secondary educational institutions located in San Francisco from inquiring about criminal history in two ways.

First, a college may not make available to the potential applicants, or the general public, application forms that ask any questions about the applicant's criminal history. That prohibition applies to third-party applications, such as the Common Application. A college who violates this provision would be subject to a \$250 administrative penalty for each day the violation occurred or continued.

Second, a college may not directly or indirectly inquire into the criminal history of anyone who has either applied for admission or inquired about admissions. A college may not ask an applicant in an interview, a phone call, or any other context, about the applicant's criminal history. That includes directing the applicant to an application that asks the question.

After an applicant has accepted an offer of admission, the proposed ordinance imposes no restrictions on an institution's ability to inquire about and consider criminal history in making other decisions, such as housing or financial aid.

The proposed ordinance would require colleges to retain applications and related files for a period of three years. The Office of Labor Standards Enforcement is authorized to investigate possible violations and impose penalties. The City Attorney's Office may bring a civil action, and a person or association with a direct interest in compliance may join the litigation, or initiate his or her own action if the City declines to do so.

Background Information

The proposed ordinance is intended to improve access to post-secondary education among persons with a criminal record. It is driven by research showing that application questions about criminal history discourage people with criminal records—even old or minor crimes—from applying in the first place. The City has an interest in encouraging education among this population because the attainment of higher education is linked with a reduction in recidivism.

Several postsecondary educational institutions have voluntarily removed questions about criminal history from their admissions procedures, and The Common Application, Inc., has announced that it will soon allow its member institutions to omit criminal history questions from their applications.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 OCT 16 PM 4:45
Time stamp
or meeting date Ak

I hereby submit the following item for introduction (select only one):

- ☒ 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- ☐ 2. Request for next printed agenda Without Reference to Committee.
- ☐ 3. Request for hearing on a subject matter at Committee.
- ☐ 4. Request for letter beginning : "Supervisor inquiries"
- ☐ 5. City Attorney Request.
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget Analyst request (attached written motion).
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Ordinance amending the Police Code to prohibit private post-secondary educational institutions from using an application form that contains questions about an applicant's criminal history, or asking an applicant about criminal history for the purpose of deciding whether to offer admission; requiring educational institutions to retain relevant records for three years authorizing the Office of Labor Standards Enforcement to investigate possible violations and impose penalties; and providing for a private right of action.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only


BOARD of SUPERVISORS



City Hall
 1 Dr. Carlton B. Goodlett Place, Room 244
 San Francisco 94102-4689
 Tel. No. 554-5184
 Fax No. 554-5163
 TDD/TTY No. 554-5227

MEMORANDUM

TO: Kiely Hosmon, Director
 Youth Commission

FROM:  Angela Calvillo, Clerk of the Board

DATE: October 22, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following proposed legislation which is being referred to the Youth Commission as per Charter, Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 181001

Charter Amendment (First Draft) to establish the Free City College Fund to defray certain costs of City College students, and to require annual appropriations in designated amounts to the Fund; at an election to be held on November 5, 2019.

Please return this cover sheet with the Commission's response to **Alisa Somera, Deputy Legislative Director, Rules Committee.**

RESPONSE FROM YOUTH COMMISSION Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Youth Commission

[Charter Amendment - Free City College Fund]

Describing and setting forth a proposal to the voters at an election to be held on November 5, 2019, to amend the Charter of the City and County of San Francisco to establish the Free City College Fund to defray certain costs of City College students, and to require annual appropriations in designated amounts to the Fund.

Section 1. The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 5, 2019, a proposal to amend the Charter of the City and County by adding Section 16.130, to read as follows:

NOTE: **Unchanged Charter text and uncodified text** are in plain font.
Additions are *single-underline italics Times New Roman font*.
Deletions are ~~*strike-through italics Times New Roman font*~~.
Asterisks (* * * *) indicate the omission of unchanged Charter subsections.

SEC. 16.130. FREE CITY COLLEGE FUND.

(a) Establishment of Fund. *There is hereby established in the City treasury the Free City College ("Fund"), to be administered by the Department of Children, Youth, and Their Families ("DCYF"), or any successor agency. Monies in the Fund shall be expended by the City acting through DCYF, subject to the budgetary and fiscal provisions of the Charter, to provide assistance to San Francisco residents enrolled in City College of San Francisco ("City College").*

(b) Annual Baseline Contributions to the Fund. *The City shall make an annual baseline contribution to the Fund for each fiscal year, beginning with fiscal year 2020-2021 and ending with fiscal year 2030-2031. The annual baseline contributions to the Fund for fiscal years 2020-2021 through 2022-2023 are as follows:*

1 For fiscal year 2020-2021, the City shall make an annual baseline contribution to the
2 Fund in the amount of \$15 million.

3 For fiscal year 2021-2022, the City shall make an annual baseline contribution to the
4 Fund in the amount of \$15.7 million.

5 For fiscal year 2022-2023, the City shall make an annual baseline contribution to the
6 Fund in the amount of \$16.4 million.

7 **(c) Adjustments to the Baseline Contributions for FY 2023-2024 through FY 2030-**
8 **2031.** Each year in fiscal years 2023-2024 through 2030-2031, the Controller shall adjust the
9 baseline contribution by the percentage increase or decrease in aggregate City discretionary
10 revenues based on calculations consistent from year to year.

11 **(d) Projected Budget Deficits.** Notwithstanding the provisions of subsection (b), the
12 City, acting through the Board of Supervisors, may freeze the City's annual contribution to the
13 Fund at the prior year's level for any fiscal year between and including fiscal year 2021-2022
14 through fiscal year 2029-2030 when the City's projected budget deficit for the upcoming fiscal
15 year exceeds \$200 million, adjusted annually beginning with fiscal year 2020-2021 by the
16 percentage increase or decrease in aggregate City discretionary revenues, as determined by the
17 Controller, based on calculations consistent from year to year. The Controller shall calculate
18 the City's projected budget deficit at the time of the Joint Report or Update to the Five Year
19 Financial Plan prepared jointly by the Controller, the Mayor's Budget Director, and the Board
20 of Supervisors' Budget Analyst.

21 **(e) Aggregate City Discretionary Revenues.** In determining aggregate City
22 discretionary revenues under this Charter section 16.130, the Controller shall include only
23 revenues received by the City that are unrestricted and may be used at the option of the Mayor
24 and the Board of Supervisors for any lawful City purpose.

1 (f) **Additional Contributions.** Notwithstanding subsections (b) and (c), the City may
2 contribute more to the Fund than the annual baseline amounts required under subsections (b)
3 through (c), but those increases shall not alter or affect the amounts of the City's required
4 annual baseline contributions for subsequent fiscal years.

5 (g) **Unspent and Uncommitted Funds.** The Controller shall maintain the Fund separate
6 and apart from all other City funds. Any amount in the Fund unspent or uncommitted at the end
7 of the fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary
8 and fiscal limitations of this Charter, shall be appropriated then or thereafter for the services
9 and purposes specified in this Charter Section 16.130, unless otherwise limited by subsection (h)
10 below.

11 (h) **Free City College Reserve.** Any amount in the Fund in excess of the amount
12 expended in any fiscal year shall constitute the Free City College Reserve ("Reserve"). The
13 total amount in the Reserve may not exceed 20% of the upcoming fiscal year's annual baseline
14 contribution. Any funds in excess of the 20% limit shall be returned to the General Fund.

15 (i) **Eligible Uses.** The City shall use monies from the Fund only to benefit eligible
16 students who are San Francisco residents enrolled in City College or to administer the Fund, as
17 follows:

18 (1) **Full-Time California Promise Grant Eligible Students:** San Francisco
19 residents eligible for a California Promise Grant who attend City College on a full-time basis,
20 and who are receiving state or federal financial aid, may receive a stipend of up to \$500 per
21 semester that may be used for books, college fees other than enrollment fees, supplies, and
22 transportation costs related to their enrollment at City College. For purposes of this subsection
23 (i)(1), "full-time basis" means enrollment in 12 or more credit units per semester. For purposes
24 of this subsection (i)(1), and subsections (i)(2) and (i)(3), a California Promise Grant means a
25

1 grant established by Part 40.2 (commencing with Section 67430) of Division 5 of Title 3 of the
2 California Education Code, or any successor California grant program.

3 (2) **Part-Time California Promise Grant Eligible Students:** San Francisco
4 residents eligible for a California Promise Grant who attend City College on a part-time basis,
5 and who are receiving state or federal financial aid, may receive a stipend of up to \$200 per
6 semester that may be used for books, college fees other than enrollment fees, supplies, and
7 transportation costs related to their enrollment at City College. For purposes of this subsection
8 (i)(2), "part-time basis" means enrollment in 6 to 11 credit units per semester.

9 (3) **Students Ineligible for a California Promise Grant:** Subject to available
10 appropriated funds, the City shall expend monies in the Fund to pay all enrollment fees for San
11 Francisco residents who are ineligible for a California Promise Grant.

12 (4) **Stipend Amount Adjustment.** The Controller shall adjust the stipend amount
13 in subsections (i)(1) and (i)(2) annually for all fiscal years starting with fiscal year 2021-2022,
14 in accordance with the Consumer Price Index. The Controller shall use for these purposes the
15 San Francisco All Items Consumer Price Index for All Urban Consumers (CPI-U), or its
16 successor, as reported by the U.S. Department of Labor's Bureau of Labor Statistics.

17 (5) **Administrative Costs.** The City may expend money in the Fund to cover the
18 actual costs of the Controller and DCYF, for administration of the Fund.

19 **(i) Board of Supervisors Amendments.**

20 (1) The Board of Supervisors may from time to time, by an ordinance adopted by
21 a majority of the Board, increase or decrease the stipend amount to California Promise Grant
22 eligible students in subsections (i)(1) and/or (i)(2) and, as applicable, the adjusted stipend
23 amount under subsection (i)(4).

24 (2) The Board of Supervisors may from time to time, by an ordinance adopted by
25 a two-thirds majority of the Board, expand the eligible uses of the Fund to permit the City to use

1 monies from the Fund to benefit any or all students enrolled at City College by defraying any
2 costs related to their enrollment in City College.

3 (k) **Report.** In fiscal year 2027-28, the Controller shall produce and file with the Board
4 of Supervisors, a report on the Fund.

5 (l) **Sunset.** The provisions of Sections 16.130 shall expire at the end of Fiscal Year 2030-
6 31, at which time all unexpended and uncommitted funds shall revert to the General Fund.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By:

11 
12 JANA CLARK
13 Deputy City Attorney

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LEGISLATIVE DIGEST

[Charter Amendment - Free City College Fund]

Describing and setting forth a proposal to the voters at an election to be held on November 5, 2019, to amend the Charter of the City and County of San Francisco to establish the Free City College Fund to defray certain costs of City College students, and to require annual appropriations in designated amounts to the Fund.

Existing Law

In 2016, by ordinance, the City established the San Francisco City College Financial Assistance Fund as a category four fund to provide financial assistance to students at City College of San Francisco ("City College"). The ordinance further provided that the Department of Children, Youth, and Their Families ("DCYF") would administer the fund and use monies in the fund to make grants to reimburse City College for enrollment fees and other education-related financial support for students.

Amendments to Current Law

The proposal is a Charter amendment that establishes the Free City College ("Fund"), to be administered by DCYF. The proposal would require that the Controller maintain the Fund separate and apart from all other City funds and carry forward to the next fiscal year any amount in the Fund unspent or uncommitted at the end of the fiscal year. The proposal would require that monies in the Fund be used by the City to benefit San Francisco residents enrolled in City College by providing funds for student stipends to cover education costs, subject to certain defined conditions, and to cover the City's costs related to administering the Fund.

The proposal would require that beginning in fiscal year 2020-2021 the City annually appropriate a "baseline amount" to the Fund as follows:

For fiscal year 2020-2021 - \$15 million.

For fiscal year 2021-2022 - \$15.7 million.

For fiscal year 2022-2023 - \$16.4 million.

The proposal would require that for fiscal years 2023-2024 through 2030-2031, the Controller would adjust the baseline contribution by the percentage increase or decrease in aggregate City discretionary revenues.

The proposal would allow the City to suspend growth in the baseline for any year in which the Controller, projected a budget deficit of \$200 million or more. The proposal would allow the City to contribute more to the Fund than the annual baseline amounts required, without affecting the City's required baseline contribution.

The proposal would require that any amount in the Fund over what is spent in any fiscal year be kept in the Free City College Reserve ("Reserve"). But the total amount in the Reserve would not be allowed to exceed 20% of the next year's annual baseline contribution. Any amount over the 20% limit would be returned to the General Fund.

The proposal would allow the Board to adjust the student stipend amounts by a majority vote and would allow the Board, by a two-thirds majority vote, to expand the eligible uses of the Fund to benefit any or all students enrolled at City College by defraying any costs related to their enrollment in City College.

Finally, the proposal would require the Controller to produce and file with the Board a report on the Fund, in fiscal year 2027-28.

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