

April 15, 2014

Supervisor London Breed
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VIA EMAIL ONLY

Supervisor Katy Tang
Katy.Tang@sfgov.org

Supervisor David Chiu
David.Chiu@sfgov.org

San Francisco Board of Supervisors
Government Audit & Oversight Committee
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: Proposed Legislation to Revise San Francisco Campaign and Governmental Conduct Code – Lobbying Regulations

Dear Supervisors Breed, Tang and Chiu:

We are writing with concerns about proposed legislation the Government Audit and Oversight Committee is considering that would change the lobbying disclosure laws in the City and County of San Francisco and may adversely affect nonprofit organizations. We at Alliance for Justice (AFJ) are concerned that the proposed changes, if adopted in their current form, would have a chilling effect on the vital participation of the nonprofit sector in shaping public policy in San Francisco.

Founded in 1979, AFJ is a national association of over 100 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society. AFJ, through our Bolder Advocacy initiative, is the leading expert on the legal framework for nonprofit advocacy efforts, providing definitive information, resources, and technical assistance that encourages organizations and their funding partners to fully exercise their right to be active participants in the democratic process. Since 2004, AFJ's West Coast Office has provided advocacy resources to an ever-expanding list of nonprofit organizations in California.

At AFJ, we believe that the role of the nonprofit sector in representing the voices of diverse communities in public policy decisions is vital and irreplaceable. Adding the burden of yet more registration and reporting onto nonprofits, even when well-intentioned, may have the effect of driving nonprofits out of public policy debates. The more complex the law, the more confusing the rules, the more likely that too many nonprofits will decide lobbying just is not worth it: not worth the cost of compliance and not worth the risk of failing to comply. As a consequence, local policymakers will lose the valuable information and perspective provided by nonprofits regarding environmental, economic, social justice, and other important issues that protect and strengthen the public good. In a city facing an acute housing and affordability crisis, San Francisco cannot risk losing the voice of the public that the nonprofit sector so often represents.

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The benefits from increased lobbying disclosure are outweighed by the withdrawal from policy debates of nonprofits that cannot bear the costs of compliance with the new requirements.

We have written more fully about our concerns and the proposal on our blog: [Expanded Lobbying Disclosures Possible for San Francisco](#). Copy attached. We would welcome the opportunity to speak with you about the proposal and answer any questions you may have about our concerns.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca Hamburg Cappy". The signature is fluid and cursive, with a long horizontal flourish at the end.

Rebecca Hamburg Cappy
West Coast Director

Attachment (as noted)

Expanded Lobbying Disclosures Possible for San Francisco

Posted by Nayantara Mehta on April 14, 2014 at 5:43 pm

San Francisco's Board of Supervisors is considering a change to the lobbying disclosure laws in the City and County of San Francisco that may affect nonprofit organizations. We at Alliance for Justice are concerned that the proposed changes, if adopted in their current form, would have a chilling effect on the vital participation of the nonprofit sector in shaping public policy in San Francisco.

The proposal, authored by David Chiu, President of the San Francisco Board of Supervisors, would expand the definition of "lobbyist," the list of reportable contacts, and training requirements for those who qualify as lobbyists. Under [Chiu's current proposal](#), a "lobbyist" will include anyone who "makes five or more contacts in a calendar month" with a government official, including nonprofit staff.

Once deemed a lobbyist, such employees would have to file monthly reports with the City and County of San Francisco for an indefinite period of time, and the nonprofit who employs them would be jointly and severally liable for all violations of the new ordinance.

Increased reporting requirements burden grassroots groups

At Alliance for Justice, we believe that the role of the nonprofit sector in representing the voices of diverse communities in public policy decisions is [vital and irreplaceable](#). Adding the burden of yet more registration and reporting onto nonprofits, even when well-intentioned, may have the effect of driving nonprofits out of public policy debates. The more complex the law, the more confusing the rules, the more likely that too many nonprofits will decide lobbying just is not worth it: not worth the cost of compliance and not worth the risk of failing to comply. As a consequence, local policymakers will lose the valuable information and perspective provided by nonprofits regarding environmental, economic, social justice, and other important issues that protect and strengthen the public good. In a city facing an acute housing and affordability crisis, San Francisco cannot risk losing the voice of the public that the nonprofit sector so often represents. The benefits from increased lobbying disclosure are outweighed by the withdrawal from policy debates of nonprofits that cannot bear the costs of compliance with the new requirements.

The proposed reporting requirements would classify as lobbying many contacts that nonprofit staff routinely have with Supervisors in the course of explaining the impact of policy decisions on their clients. For example, Randy Shaw, Director of the Tenderloin Housing Clinic, noted in [a piece published by PublicCEO.com](#), that such a definition would be mean "nonprofit employees pushing Supervisors to provide cost of doing business increases are deemed 'lobbyists' if they contact five Supervisors—a logical plan given the need for eight votes to pass a budget."

Deterring nonprofits from engaging?

Nonprofits that engage in advocacy must comply with multiple laws—tax law, the California Political Reform Act (which mandates lobbying disclosure at the state level), and local lobbying laws in jurisdictions throughout California. All define lobbying differently, requiring reporting of different

activities and expenses, on different schedules. Navigating these many overlapping yet distinct laws is confusing, especially for some smaller organizations, and may prove to be too complex to comply. To make matters worse, many nonprofits, particularly 501(c)(3) public charities, are constrained (by funders, public opinion, congressional opinion, watchdog groups, and workplace giving campaigns) regarding how much they can spend on administrative functions, such as internal training, tracking systems, and legal and accounting advice. This financial obstacle further compounds the added burdens of reporting.

Any proposals that would mandate yet more reporting for nonprofit organizations should carefully weigh the purported benefits against the likely risk: that the complexity of the new rules would deter nonprofits from engaging at all.

At the March 13 meeting of the Government Audit and Oversight Committee of the Board, Supervisor Chiu acknowledged on several occasions that the current proposal would “capture nonprofit organizations,” which he said was “not the intent of the legislation.” The Committee will take up the legislation again at an upcoming meeting. We urge Supervisor Chiu and his fellow Supervisors to carefully consider any legislation that would-- through enhanced registration and reporting requirements--restrict the important voice of nonprofits and the communities they service in public policy debates.