

The Sunshine and Open Government Act APR 23 AM 10: 29

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman 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. Title.

This measure shall be known and may be cited as "The Sunshine and Open Government Act."

Section 2. The Sunshine and Open Government Act.

The Administrative Code is hereby amended by revising Section 67.1 and adding Sections 67.14-1, 67.15-1, 67.18, 67.19, and 67.19-1 to read as follows.

SEC. 67.1. FINDINGS AND PURPOSE.

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.
- (c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force, can protect the public's interest in open government.

(f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.

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(g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

(h) The Board of Supervisors (the "Board") and City Commissions make important decisions affecting the lives of all San Franciscans during public meetings, but current meeting procedures are an obstacle to public input and participation in this process.

(i) While technology has increased the City's responsiveness to its residents in many ways, the meeting procedures of the Board and City Commissions have not kept pace with technological advances.

(j) San Franciscans have shown a willingness to further engage with local government, and the City has shown support for increasing public engagement through various technological means.

(k) Meeting procedures must be reformed and updated using all available technology in order to best meet the current and evolving needs of San Franciscans.

(l) Current procedures for meetings of City policy bodies hinder public participation and government transparency in the following ways:

(1) Board and Commission meetings often take place at times and locations inconvenient for public attendance, especially for working families.

(2) Current meeting procedures require people to attend meetings in person in order to hear deliberations by public officials or to comment on actions under consideration by the policy body.

(3) People are often discouraged from commenting on agenda items important to them because of the unpredictability of the time when the policy body will consider the item during the meeting.

(4) The City has approximately 60 commissions and other policy bodies which meet at different times and in different locations.

(5) Policy bodies often do not have the benefit of receiving the viewpoints of limited English speaking persons.

(m) Requiring that all meetings of the Board and Commissions be broadcast live via the internet will ensure that all people, regardless of their work, school or family schedule, have the opportunity to watch public officials deliberate on agenda items during meetings from any location.

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(n) Allowing people to submit pre-recorded video testimony before a meeting, and to virtually submit audio, video or written testimony during a meeting, will ensure that all San Franciscans have the opportunity to participate in the meetings of public bodies.

(o) Developing a procedure by which members of the public or the policy body can request that discussion on a certain item begin at a pre-determined time during the meeting will increase participation by people who wish to watch deliberations and/or comment on a particular agenda item.

(p) Requiring video and live remote testimony to be translated and presented to policy bodies in English will give a voice in the process to limited English speaking persons.

(q) Making it easier to participate in the meetings of the School Board and the Community College Board is especially important because those with the biggest stake in the decisions of these bodies -- parents and students -- often have the least flexible schedules.

SEC. 67.14-1. LIVE STREAM MEETINGS.

(a) In addition to the requirements of Section 67.14, every policy body shall live stream every noticed regular meeting, special meeting, or hearing open to the public. The live stream shall be accessible from a centralized location either on the policy body's website, or if the policy body does not maintain a website, from the City's website.

(b) As used in this section "live stream" shall mean real-time video broadcasting on a website accessible to the general public.

(c) A policy body may adopt reasonable rules and regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, the method for live streaming meetings, the medium by which the live stream shall be made available, and the procedures for setting up and maintaining the live stream.

(d) Every policy body shall implement the requirements of this section within six months of the effective date of this ordinance.

SEC 67.15-1. VIDEO AND LIVE REMOTE TESTIMONY.

(a) When public testimony is permitted pursuant to Section 67.15, every policy body shall allow for members of the public to submit pre-recorded video testimony.

(1) Video testimony shall be submitted to the policy body at least 48 hours before the meeting for which it will be presented, shall specify the agenda item for which it is being submitted, and may include the member of the public's name and other identifying information.

(2) Video testimony shall be presented to the policy body at the same time and in a manner similar to how in-person public testimony is heard, and shall be a public record.

(3) To effectuate the purpose of Administrative Code Chapter 91 and Administrative Code Section 67.13(e), video testimony submitted in a language other than English shall be translated to English and presented to the policy body at the meeting using subtitles, voice-over translation or other appropriate means.

(b) When public testimony is permitted pursuant to Section 67.15, every policy body shall allow for members of the public to submit live remote testimony.

(1) Live remote testimony shall specify the agenda item for which it is being submitted, and may include the member of the public's name and other identifying information.

(2) Live remote testimony shall not be accepted after the conclusion of the time allocated for public testimony for that agenda item.

(3) Live remote testimony shall be presented to the policy body at the same time and in a manner similar to how in-person public testimony is heard, and shall be a public record.

(4) To effectuate the purpose of Administrative Code Chapter 91 and Administrative Code Section 67.13(e), live remote testimony submitted in a language other than English shall be translated to English and presented to the policy body in one of the following ways:

(A) Pursuant to Administrative Code Section 91.7(b), at least 48 hours in advance of a meeting, a member of the public may request that oral interpretation or translation services be provided. All live remote testimony received in the requested language shall be translated into English and read out loud to the policy body.

(B) If a member of the public has not made a request pursuant to subsection (A), but oral interpretation or translation services are otherwise being provided during the meeting, live remote testimony submitted in the same language as those services shall be translated into English and read out loud to the policy body.

(C) If live remote testimony is submitted in a language for which oral interpretation or translation services are not being provided pursuant to subsections (A) or (B), a translation of the testimony shall be included in the final meeting minutes adopted by the policy body.

(5) As used in this section "live remote testimony" shall mean written, video or audio comments submitted electronically from any location during the meeting.

(c) In creating and maintaining a system for submitting video and live remote testimony, each policy body shall adhere to the City's privacy policy, as outlined on the City's website (www.sfgov.org) including, but not limited to:

(1) Not collecting personal information of those submitting testimony.

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(2) Not giving, sharing, selling, renting or transferring any personal information to third parties.

(3) Not collecting and retaining information on the names, dates, occurrences and policy positions of those submitting testimony, except to the extent necessary to present testimony to the policy body as outlined in this section.

(d) A policy body may adopt reasonable rules and regulations to ensure that the intent of this section is carried out, including, but not limited to, the method for submitting video and live remote testimony, the method for presenting video and live remote testimony to the policy body during the meeting, the method for presenting translated video and live remote testimony to the policy body, the number of video and live remote testimony submissions per agenda item, the permitted length of video and live remote testimony, and the total amount of time allocated for video and live remote testimony per agenda item and for each individual speaker, but the policy body shall not be allowed to limit the total amount of time allocated to video and live remote testimony to fewer than 30 minutes per agenda item.

(e) Every policy body shall implement the requirements of this section within six months of the effective date of this ordinance.

SEC. 67.18. TIME CERTAIN AGENDA ITEMS.

(a) At least 48 hours before a meeting, the following persons may submit a request to the clerk or secretary of a policy body for an agenda item to be designated as "time certain":

(1) Any member of the policy body. Requests submitted by a member of the policy body shall be in writing and shall include a short reason for the request, a preferred start time for the agenda item, and a preferred duration of time to be devoted to public testimony on the particular agenda item.

(2) Any member of the public. Requests submitted by a member of the public shall be in writing and shall include a short reason for the request, a preferred start time for the agenda item, and a preferred duration of time to be devoted to public testimony on the particular agenda item, along with e-mails, letters or other forms of written communication from at least 50 other individuals supporting the request. Each e-mail, letter or other form of written communication submitted with the request shall include the concurring individual's name and residential or business address.

(b) Nothing in this section shall be interpreted as requiring the member of the public submitting the request, or the concurring individuals, to address the policy body during a time certain agenda item.

(c) The clerk or secretary of the policy body shall grant time certain requests at least 24 hours before the meeting. The clerk or secretary shall grant the requestor's preferred start time and duration of public testimony unless the request is unreasonable or would otherwise interfere with the proper conduct of the meeting.

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(d) Upon granting time certain requests, the clerk or secretary of the policy body shall update the posted agenda to clearly distinguish the time certain items from all other items, and include the time at which the time certain agenda items will start and the duration of time devoted to public testimony on the agenda items.

(e) An agenda item designated as time certain shall start at the time indicated on the agenda, even if the policy body is considering another agenda item at that time. Public testimony shall be allowed for at least the designated duration of time.

(f) A policy body may adopt reasonable rules and regulations to ensure that the intent of this section is carried out, including, but not limited to, the manner by which time certain requests shall be made, the criteria for determining the start time and duration for time certain agenda items, the criteria for determining the number of time certain agenda items allowed per meeting, the method for members of the public to request a time certain agenda item, and the method and rules for conducting meetings with time certain agenda items.

(g) Every policy body shall implement the requirements of this section within six months of the effective date of this ordinance.

SEC 67.19. POLICY BODY; BOARD OF EDUCATION.

For purposes of Sections 67.14-1, 67.15-1, and 67.18, the term "policy body" shall include the San Francisco Unified School District Board of Education, as enumerated in Charter Section 8.100.

SEC 67.19-1. POLICY BODY; COMMUNITY COLLEGE BOARD.

For purposes of Sections 67.14-1, 67.15-1, and 67.18, the term "policy body" shall include the San Francisco Community College District Governing Board, as enumerated in Charter Section 8.101.

Section 3. Effective Date.

Except as otherwise provided herein, in accordance with California Elections Code Section 9217, if a majority of the voters vote in favor of this measure, the measure shall go into effect ten (10) days after the vote is declared or certified by the Board of Supervisors.

Section 4. Conflicting Measures.

This measure is intended to be comprehensive. It is the intent of the people of the City and County of San Francisco that in the event this measure and one or more measures relating to the same subject matter shall appear on the same ballot the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

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Section 5. Liberal Construction.

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This measure is an exercise of the initiative power of the people of the City and County of San Francisco for the protection of the health, safety, and welfare of the people, and shall be liberally construed to effectuate its purposes.

Section 6. Amendment.

This measure may be amended to further its purposes by an ordinance passed by a two-thirds vote of the Board of Supervisors and signed by the Mayor.

Section 7. Severability.

If any provision of this measure, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this measure are severable. The voters hereby declare that this measure, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.