



# Memorandum

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT:** Board of Fair Campaign and Political Practices Applicants: Conflicts of Interest

**DATE:** February 3, 2025

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## **BACKGROUND**

The City Council will interview applicants for the San José Board of Fair Campaign and Political Practices (“BFCPP”) to fill any vacancies.

This office routinely reviews applications to City Boards, Commissions and Committees. Although the applications do not provide complete information, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight major areas of potential conflict that are disclosed by the applications. In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission or committee to which the applicant is seeking appointment.

## **DUTIES**

The BFCPP is a five-member commission established to:

- Monitor compliance with all campaign, lobbying and ethics ordinances in the San José Municipal Code (See SJMC Title 12);
- Investigate complaints and issue findings where appropriate, including fines; and
- Recommend changes to campaign, lobbying, and ethics regulations and policies.

## **MEMBERSHIP REQUIREMENTS**

BFCPP members must be appointed by a two-thirds vote of the City Council and selected by the same procedure of application and public interview used for the Planning Commission. (SJMC §2.08.1610.) BFCPP members may also be removed by two-thirds vote of the City Council for any reason or no reason. (SJMC §2.08.1640.)

BFCPP members must have some demonstrated familiarity and experience with campaign laws and should be representative of the community. (SJMC §2.08.1630(A).) They also have special eligibility requirements, which may result in a vacancy or removal

if not followed. (SJMC §2.08.1630, see also SJMC §2.08.050.) BFCPP members must be qualified electors of the City and may not hold elected public office; publicly endorse any candidate for City office; engage in political or campaign activity on behalf of any candidate for City office; or be employed by or have any contractual relationship with any candidate for City office. (SJMC §2.08.1630(A)(C)(E)(F).) Further, no member can participate as a candidate in any election for public office for a period of one year before and after tenure on the Board. (SJMC §§2.08.1630(D).) Finally, no member may be employed by the City or have any direct and substantial financial interest in any business, work or official action taken by the City. (SJMC §§2.08.1630(B).)

### **LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION**

Certain positions may preclude a commissioner from participating in a commission discussion or from voting on a matter if there is a conflict. While this list is not complete, conflicts usually fall within the following situations:

- An application shows entities that are “sources of income” to a potential commissioner within the 12 months preceding the start of the commission term, as defined under the Political Reform Act.
- An application shows sources of income to a spouse or Domestic Partner of a potential commissioner within the 12 months preceding the start of the commission term.
- An applicant or the spouse or Domestic Partner of an applicant, is an Officer or Board Member of an entity and it is foreseeable that the entity could be involved in a matter coming before the commission.

In each of these instances, the commissioner may be required to recuse himself or herself if a matter comes before the Commission affecting the above interests. A Commissioner’s employer, or the employer of the Commissioner’s spouse, is generally considered a source of income to the Commissioner such that the Commissioner will have to recuse himself or herself from taking part in the Commission’s decision on a matter if the decision will have a foreseeable financial effect on the employer.

### **APPEARANCE OF BIAS**

There may also be facts which would not amount to a legal conflict of interest, but still require recusal because certain relationships may create an appearance of bias. City Council policy requires commissioners to be free from bias in their decision making and may require recusal if the facts could reasonably lead one to conclude that the commissioner would be biased for or against an entity or entities.

## **APPLICANTS**

**Pavel, Tom:** Applicant applied on November 18, 2024. Applicant is a resident of District 1 in San Jose and is retired. The Applicant has served on the San Jose Board of Fair Campaign and Political Practices since May 2022 and is currently serving as the Vic Chair. The Applicant reports previous service on the Santa Clara County Civil Grand Jury in 2021. The Applicant's experience may satisfy the special eligibility requirement to demonstrate familiarity and experience with campaign laws. The Applicant does not hold an incompatible office.

**Manu, Shreya:** The Applicant applied on August 26, 2024. The Applicant is a resident of District 10 in San Jose and is not currently employed. The Applicant reports that they are currently a High School junior at Leland High School and not a current registered voter in the City of San Jose. If the Applicant is not a registered elector of the City, they are not eligible to serve on the Board of Fair Campaign and Political Practices as is required by San Jose Municipal Code Section 2.08.1630(A.). Based on this response, it appears that the Applicant is ineligible for appointment.

**Sharma, Manu:** The Applicant applied on January 24, 2025. The Applicant is a resident of District 1 in San Jose and is currently employed with Apple Inc. The Applicant reports past and current community involvement with the Board of Directors for the HOA Centria. The Applicant reports familiarity or experience with campaign laws gained while participating in the elections of the HOA Centria. Based on this response, it appears the Applicant may satisfy the special eligibility requirement to demonstrate familiarity or experience with campaign laws. The Applicant does not hold an incompatible office.

**Barke, Priya:** Applicant applied on December 8, 2024. Applicant is a resident of District 10 in San Jose and is employed as the Founder & Admissions Director of Prudence Insurance & Risk Management Business School. The Applicant reports previous service with the Youth Advisory Council for District 10, Attire & Attitude Ballet Foundation, Basis Independent Silicon Valley (BISV) Caring Cards Committee, BISV Social Innovation Club, BISV Associated Student Body, and the BISV National Junior Honors Society. The Applicant reports that they are not a current registered voter in the City of San Jose. If the Applicant is not a registered elector of the City, they are not eligible to serve on the Board of Fair Campaign and Political Practices as is required by San Jose Municipal Code Section 2.08.1630(A.). Based on this response, it appears that the Applicant is ineligible for appointment.

**Joho, Keith:** The Applicant applied on May 14, 2024. The Applicant is a resident of District 4 in San Jose and is retired. The Applicant did not provide a response indicating familiarity or experience with campaign laws. Based on this response, the Applicant has not demonstrated familiarity with campaign laws as required by San Jose Municipal Code

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Section 2.08.1630(A.). Without additional information it is unclear if the Applicant is eligible for appointment.

**Bui, Hai:** Applicant applied on January 13, 2025. Applicant is a resident of District 2 in San Jose and is currently employed as a Principal Software Engineer with VMware. The Applicant reports past community involvement with the Eta Kappa Nu Honors Society and the Association for Computing Machinery. The Applicant reports familiarity with civil and business laws as part of their profession over the course of two decades. It is unclear if the Applicant's experience satisfies demonstrated familiarity with campaign laws as required by San Jose Municipal Code Section 2.08.1630(A.). The Applicant does not otherwise hold an incompatible office.

## **CONCLUSION**

The Council may wish to consider the above comments in making its recommendations regarding appointments to the BFCPP.

NORA FRIMANN  
City Attorney

By /s/ Matthew Tolnay (electronically signed)  
Matthew Tolnay  
Senior Deputy City Attorney

cc: Jennifer Maguire, City Manager  
Toni J. Taber, City Clerk