

**SUNSHINE & ETHICS 2010
SELF-ASSESSMENT TOOL**

INSTRUCTIONS: Print out this test and answer each question after watching the training. Check your answers when you are done using the answer key at the end of the test.

1. Public meetings require both public notice of, and opportunity for public comment on, every agenda item.

True False
2. Only formally scheduled meetings of policy bodies are considered "meetings" for purposes of the public meetings laws.

True False
3. If a majority of the members of a policy body get together for dinner immediately before a meeting of the body, the dinner itself is a public meeting, even if the members do not discuss matters within the jurisdiction of the body.

True False
4. If a majority of the members of a policy body go on a site tour of a building, the site tour will not be considered a meeting because of the logistical difficulties inherent in trying to adhere to the formalities of a public meeting on a site tour.

True False
5. If a majority of the members of a policy body attend the wedding of the department head, their attendance at the wedding will not be considered a meeting because the wedding is a purely social or ceremonial event.

True False
6. All meetings of boards and commissions recognized in the City Charter must be preserved by audio recording.

True False
7. It is lawful for a majority of members of a policy body to discuss substantive agenda items privately via e-mail, so long as copies of the e-mail correspondence are made promptly available to the public on request.

True False
8. It is lawful for a majority of members of a policy body to participate in a conference call to determine when a special meeting of the body should be held.

True False

9. It is lawful for a majority of members of a policy body to attend the same regional educational conference that will address subjects that regularly come before the body.

True False

10. Agendas for both regular and special meetings of policy bodies must be posted 72 hours prior to the meeting taking place.

True False

11. Public comment on any agenda item must be allowed before or during consideration of that item by the policy body.

True False

12. The opportunity for general public comment on all matters within the jurisdiction of a policy body is required at both regular and special meetings of the body.

True False

13. A policy body must allow individual members of the public to speak for up to three minutes on an agenda item, and must give all members of the public equal speaking time.

True False

14. A policy body is not required to allow members of the public to offer public comment anonymously, although it has discretion to allow for anonymous public comment.

True False

15. While a member of the public during public comment on a specific agenda item may pose questions to a member of the policy body, there is no requirement that the member answer the questions.

True False

16. A "working group" created by a policy body is not itself recognized as a policy body under the Sunshine Ordinance, so long as it has no substantive powers and may only advise and make recommendations.

True False

17. A "passive meeting", such as a social occasion organized by the policy body to which a majority of the body has been invited, must be accessible to the public.

True False

18. A gathering of a passive meeting body must have a formal agenda that is posted at the San Francisco Public Library and on the City's website 24 hours in advance of the meeting.

True False

19. A policy body must always take a vote on whether to go into closed session before going into closed session.

True False

20. A policy body has discretion to include in a closed session a representative of the local media if the issue to be discussed in the closed session is of pressing interest to the public.

True False

21. Members of a policy body who disclose to the public confidential information that has been acquired in a closed session may be ousted from office as a result.

True False

22. Under some circumstances members of a policy body who violate the Brown Act are subject to criminal prosecution.

True False

23. A request for public records must be made in writing unless the requester's disability makes it burdensome for the requester to put the request in writing.

True False

24. If a request for public records simply says that the requester is seeking to obtain them "under the Public Records Act," the City may respond in accordance with the law that governs requests under the Public Records Act and need not consider any legal requirements independently imposed by the Sunshine Ordinance.

True False

25. Because of the importance both the Public Records Act and Sunshine Ordinance place on promptly responding to public records requests, City departments have no authority on their own to extend the deadline for responding to a public records request

True False

26. If a custodian of records withholds a requested record, or provides to the requester a redacted version of the record, he or she must state in writing the legal basis for the withholding or redaction.

True False

27. A City department may charge a member of the public who has requested to inspect public records a reasonable fee for making the records available for review.

True False

28. E-mail communication is not a "writing" under the Public Records Act unless it has been reduced to hard copy prior to receipt of a public records request.
- True False
29. A public record may be withheld from disclosure if, on balance, the public interest in nondisclosure clearly outweighs the public interest in disclosure.
- True False
30. When commissions act as "adjudicatory" bodies rather than "legislative" bodies, they must have consideration for constitutional due process rights.
- True False
31. A City officer is prohibited from also serving on a state board or commission when the officer receives salary of \$2,500 or more in both positions.
- True False
32. City officers may make decisions regarding employment actions involving relatives.
- True False
33. To constitute bribery, a City officer must receive money in exchange for taking an official action.
- True False
34. Only elected officials and commissioners – not City employees – are subject to the conflict of interest rules in the Political Reform Act.
- True False
35. The Political Reform Act usually prohibits a public official from making, participating or seeking to influence decisions about property within 500 feet of the official's own property.
- True False
36. A public official's economic interests under the Political Reform Act include investments of \$1,000 or more in a business entity.
- True False
37. Under the Political Reform Act, a City officer's economic interests also include the investments of the officer's spouse, registered domestic partner or dependent children.
- True False
38. Under the Political Reform Act, a City officer has an economic interest in a person who bought a car from him or her for \$1,000 two years ago.

True False

39. Under the Political Reform Act, a City officer has an economic interest in her spouse's employer if the spouse earned \$1,000 or more in the past twelve months.

True False

40. Under the Political Reform Act, an officer with a legal conflict in a particular decision must abstain from participating in any decisions, but may lobby members of his or her department behind the scenes.

True False

41. Only elected officials must file Statements of Economic Interests (Form 700).

True False

42. City officers must file Statements of Economic Interests (Form 700) with the Ethics Commission within 30 days of assuming office, annually by April 1 and within 30 days of leaving office.

True False

43. Only members of a City officer's department can see a copy of his or her Statement of Economic Interests (Form 700).

True False

44. A public official may resign his or her position and submit a bid under requests for proposals that the public official assisted in drafting when with the City.

True False

45. A City commission member who will benefit financially from a contract that must be approved by her commission may always cure the conflict of interest by recusing herself from voting on the contract.

True False

46. A City employee may solicit campaign contributions from other City employees as long as the solicited employees serve in a different City department.

True False

47. Under the City's post-service and post-employment laws, City officers are permanently barred from switching sides in a particular matter in which the officer participated personally and substantially while in City service.

True False

48. Under the City's post-service and post-employment laws, City employees are permanently barred from lobbying their former departments after they leave City employment.

True False

49. City officers are prohibited from making, participating in making or otherwise seeking to influence government decisions directly relating to a person with whom they are negotiating about future employment.

True False

50. Under the Political Reform Act, a gift is anything of value that a City officer receives from anyone else for which the officer did not provide equal or greater consideration, including flowers, cups of coffee, tickets to sporting events and payments for travel.

True False

51. A City officer may not accept any gifts from a person or entity doing business with the officer's department or who has sought to influence the officer in any governmental decision in the past twelve months.

True False

52. A City officer or employee may accept a gift from a subordinate regardless of the gift's value.

True False

53. A party entering a \$50,000 contract that must be approved by an elected City officer may not make political contributions to that officer's campaign while the contract is being negotiated.

True False

54. A City officer may use his or her mobile phone to make calls to solicit campaign contributions to support a local ballot measure in City Hall so long as the calls are made in the public hallways and not within any offices or hearing rooms.

True False

55. The California Constitution prohibits City officers from receiving frequent flyer miles from an airline.

True False

56. A City officer may be paid by a private client to advocate on behalf of the client before a City department other than the officer's department.

True False

57. Members of City commissions may not enter contracts worth more than \$10,000 with other City commissions or departments.

True False

58. A City officer may provide confidential information to the executive director of a non-profit organization if the non-profit receives grant money from the City and the confidential information will further the financial well being of the non-profit.

True False

59. City officers who violate conflict of interest laws could be subject to a one-year jail term and/or a penalty of up to \$10,000 for each violation.

True False

60. City officers should call the Ethics Commission or the City Attorney's Office in advance of taking any action that might implicate an ethics law.

True False

Answer Key:

1. *True. S.F. Admin. Code Sec. 67.5 states that all meetings of any policy body shall be open and public and governed by the provisions of the Brown Act and the Sunshine Ordinance. Further, there is a right to comment on every agenda item. S.F. Admin. Code Sec. 67.13(a). In very rare and unusual circumstances, a policy body may discuss and act upon a matter that has not been agendaized. S.F. Admin. Code Sec. 67.7(e).*
2. *False. S.F. Admin. Code Sec. 67.3(b)(1) defines a meeting to be "a congregation of a majority of the members of a policy body at the same time and place." Thus, even absent the formalities typically associated with public meetings such as advance scheduling of the meeting, a policy body will still be having a meeting (although probably unlawfully) if this definition is satisfied.*
3. *True. S.F. Admin. Code Sec. 67.3(b)(4)(C) states that meal gatherings of a policy body before, during or after a business meeting are part of that meeting and must be conducted under circumstances that permit public access to hear and observe the discussion of members.*
4. *False. A site tour, like a retreat, is a meeting of the policy body if a majority of the members attend. S.F. Admin. Code Sec. 67.3(b)(1). The policy body must satisfy meeting requirements (such as allowing for public comment) even when the meeting is not a traditional, sit-down meeting in a public building such as City Hall. There is some leeway to adapt these requirements in unusual settings for public meetings such as a site tour, but they may not be abandoned.*
5. *True. S.F. Admin. Code Sec. 67.3(b)(4)(C) states that the attendance of a majority of members of a policy body at a purely social, recreational or ceremonial event such as a wedding is not a meeting, provided a majority of the members do not discuss the business of the body at the wedding.*
6. *True. S.F. Admin. Code Sec. 67.14(b) provides that each board and commission enumerated in the charter shall audio record each regular and special meeting. However, policy bodies that are not enumerated in the Charter are not required to audio record their meetings. Closed session meetings of any policy body, whether or not enumerated in the Charter, must be taped. S.F. Admin. Code Sec. 67.8-1.*
7. *False. Substantive communications among a majority of the members of a policy body that may aid the body in reaching a consensus on an issue generally are unlawful "seriatim" (or "serial") meetings. An unlawful seriatim meeting may occur through the use of a technological aid such as the telephone or e-mail. Even if the e-mail communications have been made public, there has still been an unlawful seriatim meeting.*
8. *True. The prohibition on "seriatim" meetings does not generally apply to a communication addressing the logistics of holding a meeting, for example, scheduling the time and place of a special meeting. However, when discussing such logistical matters, members of the policy body should avoid getting into a discussion of substantive issues, to ensure that the conversation does not become a seriatim meeting.*

9. *True. S.F. Admin. Code Sec. 67.3(b)(4)(B) makes an exception for these types of occasions, provided that a "majority of the members refrain from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City."*
10. *True. Both Cal. Govt. Code Sec. 54954.2 and S.F. Admin. Code Sec. 67.7 provide for 72-hour notice for regular meetings. In addition, the Sunshine Ordinance requires 72-hour notice of special meetings. S.F. Admin. Code Sec. 67.6(f).*
11. *True. The Brown Act requires that public comment on an agenda item occur before or during consideration of the item. Cal. Govt. Code Sec. 54954.3. To hear public comment on an agenda item after the policy body has completed its consideration of the item would serve little purpose.*
12. *False. The requirement of an opportunity for general public comment applies only to regular meetings of a policy body. General public comment may be allowed but is not required at special meetings.*
13. *True. S.F. Admin. Code. Sec. 67.15(c) specifies that time limits shall be applied uniformly to all members of the public who wish to offer public comment. Speakers from the public may be given less than three minutes of comment time if that is warranted under the circumstances, but such time restrictions must be applied equally to all speakers from the public.*
14. *False. Both the Brown Act and Sunshine Ordinance implicitly recognize the right to comment anonymously. Moreover, there is a serious constitutional question whether a policy body may require speakers to identify themselves as a condition of giving public comment at a meeting of the body.*
15. *True. The method by which a member of the public phrases public comment is largely up to the speaker. Thus, the speaker may pose questions to a member of the policy body when commenting on a specific agenda item. The member has no obligation to answer such questions, however. The chair may discourage such questions and may advise the member that there is no requirement to answer.*
16. *False. S.F. Admin. Code Sec. 67.3(d)(4) provides that any advisory board, commission, committee or body, created by the policy body is also considered a policy body. The label given the advisory body, such as "working group", does not alter the legal character of the advisory body.*
17. *True. S.F. Admin. Code Sec. 67.4(a) states that gatherings of "passive meeting bodies" must be "accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur."*
18. *False. S.F. Admin. Code Sec. 67.4(a)(1) states that gatherings of passive meeting bodies need not be formally noticed, except on the City's web site whenever possible. In addition, that provision implies that there is no requirement of having an agenda, because it references "any agenda actually prepared."*

19. *False. The requirement of taking a vote to go into closed session only applies to closed sessions for pending litigation. S.F. Admin. Code Sec. 67.10(d). For other types of closed sessions, there is no requirement of taking a vote beforehand. Each policy body may have its own rule or custom in this regard. Some policy bodies always take a vote before going into closed session of any kind; others do not.*
20. *False. Only members of the policy body, and others who have an official or essential role with respect to the subject of the closed session, may attend the closed session. If a member of the media attended the closed session, the confidentiality of the closed session would be breached.*
21. *True. The Brown Act provides for referral of a member of a policy body to the grand jury if that member has willfully disclosed confidential information obtained in a closed session. Cal. Govt. Code Sec. 54963. The grand jury may take action to remove the policy body member from office. In addition, unauthorized disclosure of closed session discussions may constitute official misconduct under the City Charter and result in removal of the member from office.*
22. *True. Cal. Govt. Code Sec. 54959 provides that a member of a policy body who attends a meeting of the body where an action is taken violating the Brown Act and where the member intends to deprive the public of information to which the public is entitled is guilty of a misdemeanor.*
23. *False. There is no requirement in either the Public Records Act or the Sunshine Ordinance that a public records request from the public be in writing.*
24. *False. No magic words need be used when making a public records request. So long as it is reasonably clear that the requester is seeking a public record, all legal requirements for responding to the request apply, including requirements imposed by the Sunshine Ordinance. Even if the Sunshine Ordinance is not mentioned in the request, the City must abide by that ordinance when responding to the request.*
25. *False. Both Cal. Govt. Code Sec. 6253(c), which addresses public records requests generally, and S.F. Admin. Code Sec. 67.25(b), which addresses immediate disclosure requests, allow for extensions of time to respond if, for example, the request requires a search of voluminous records or the retrieval of records from a remote storage facility.*
26. *True. Both Cal. Govt. Code Sec. 6253(c) and S.F. Admin. Code Sec. 67.27 require the custodian to state the legal authority for the withholding or redaction. The Sunshine Ordinance requires that this notification to the requester be in writing. S.F. Admin. Code Sec. 67.21(b).*
27. *False. Although a member of the public may be charged a fee for a copy of a public record, no fee may be charged for making the records available for inspection or review. S.F. Admin. Code Sec. 67.28(a)*
28. *False. The definition of "writing" under the Public Records Act is very broad and includes faxes, emails and other electronic documents. Cal. Govt. Code Sec. 6252(g).*

29. *False. While the Public Records Act permits nondisclosure on the basis of this general balancing test (Cal. Govt. Code Sec. 6255), the Sunshine Ordinance prohibits the City from relying on this balancing test to withhold records. S.F. Admin. Code Sec. 67.21(g).*
30. *True. When hearing an adjudicatory matter, the members of a policy body must act as judges and be careful to listen to all the evidence, base their decision on the evidence alone, and follow all applicable procedural rules.*
31. *True. The doctrine of incompatible offices, which is codified in California Government Code section 1099 and San Francisco Campaign and Governmental Conduct Code section 3.220, sometimes prohibits City officers from serving as officers of other governmental bodies. Local law provides that a City officer may not hold both offices if the officer receives an annual salary of more than \$2,500 for each position..*
32. *False. San Francisco Campaign and Governmental Conduct Code section 3.212 prohibits City officers from making, participating in making, or otherwise seeking to influence decisions related to hiring, promoting or disciplining a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, first-cousin or any similar step relationship.*
33. *False. A bribe may occur when a City officer asks, receives, or agrees to receive anything of value with an understanding that an official action will be influenced thereby.*
34. *False. The Political Reform Act, which is incorporated into local law by San Francisco Campaign and Governmental Conduct Code section 3.206, applies to all public officials, which includes every officer and employee of the City.*
35. *True. Under the Political Reform Act, an official generally is presumed to have a material financial interest in decisions regarding property whose boundaries are within 500 feet of property that the official owns or rents on more than a month-to-month basis.*
36. *False. State law defines economic interests to include investments in business entities with a value of \$2,000 or more.*
37. *True. State law defines investments for the purposes of the Political Reform Act to include not only a public official's investments but also those of the public official's spouse, domestic partner or dependent children.*
38. *False. Under the Political Reform Act, public officials have an economic interest in any source of income to them of \$500 or more in the previous 12 months. As such, a person that purchases a car from a public official for \$1,000 is deemed a source of income to that public official only for the next 12 months and not for the two years presented in the question.*
39. *True. Under the Political Reform Act, a public official has an economic interest in any source of income to him or her of \$500 or more in the previous 12 months, including the official's community property interest in the income of the official's spouse or registered domestic partner.*

40. *False. The Political Reform Act generally prohibits public officials from making, participating in or using one's position to seek to influence governmental decisions in which they have a material economic interest. This includes communicating with members of the official's department or commission with the intent to influence the decision – even if the official has formally recused himself from voting on the matter.*
41. *False. All City elected officers and candidates and employees and officers designated in the Conflict of Interest Code (Campaign and Governmental Conduct Code section 3.100, et seq.) must file Statements of Economic Interests.*
42. *True. City officers must file a Form 700 with the Ethics Commission within 30 days of assuming office, annually by April 1 and within 30 days of leaving office. Designated City employees must file a Form 700 on the same deadlines but do so with their department instead of the Ethics Commission.*
43. *False. The Form 700 is a public document that anyone can see in order to determine when a public official might have a prohibited conflict of interest under the Political Reform Act.*
44. *False. California Government Code section 1090, which is incorporated into local law by San Francisco Campaign and Governmental Conduct Code section 3.206, precludes the City from entering into a contract with a public official when that public official assisted in making the contract in his or her official capacity. For the purposes of these laws, making a contract includes all of the preliminary steps that go towards making a contract including, but not limited to, planning, drafting requests for proposals, and judging the merits of submitted bids.*
45. *False. California Government Code section 1090, which is incorporated into local law by San Francisco Campaign and Governmental Conduct Code section 3.206, prohibits an officer from having an interest in a contract made by that officer or the board or commission on which she serves. The law provides some exceptions, but some conflicts prohibited by section 1090 cannot be cured by abstention. Instead, the board member or commissioner may have to step down from the board or commission to avoid violating section 1090.*
46. *False. State and local law preclude City employees and officers from soliciting campaign contributions from any other City officer or employee unless the solicitation is part of a solicitation made to a significant segment of the public that happens to include a few City officers or employees.*
47. *True. San Francisco Campaign and Governmental Conduct Code section 3.234 prohibits City employees and officers from switching sides in particular matters once they leave City service.*
48. *False. San Francisco Campaign and Governmental Conduct Code section 3.234 prohibits City officers and employees from communicating with their former departments, board, commissions, or offices with the intent to influence a governmental decision for one year after termination of City employment or service.*

49. *True. California Government Code section 87407 and San Francisco Campaign and Governmental Conduct Code section 3.206(c) prohibit City officers from making, participating in making or otherwise seeking to influence government decisions directly relating to a person with whom they are negotiating (or have any arrangement) concerning prospective employment.*
50. *True. Although there are exceptions to this definition of gift, the general rule is that anything of value that a City employee or officer receives for which he or she has not provided equal or greater consideration is a gift. Some common exceptions to this definition include gifts from family members and gifts of similar value exchanged on birthdays and holidays.*
51. *True. Campaign and Governmental Conduct Code section 3.216(b)(1) prohibits officers and employees from soliciting or accepting any gift from a person who the officer or employee knows or should know is a restricted source. A restricted source is someone doing business or seeking with the officer or employee's department or who knowingly has sought to influence the officer or employee in any legislative or administrative action in the past 12 months. Common exceptions to this rule include gifts, other than cash, with an aggregate value of \$25 or less per occasion up to four times per year, and food shared in the office.*
52. *False. With some exceptions, City officers and employees are prohibited from accepting anything of value from a subordinate. Common exceptions to this rule include gifts, other than cash, with an aggregate value of \$25 or less per occasion on occasions on which gifts are traditionally given (such as birthdays and weddings), and food shared in the office.*
53. *True. Under Campaign and Governmental Conduct Code section 1.126, a person who receives a grant from or contracts with the City, the San Francisco Unified School District, or the Community College District to render any service or furnish any supplies, materials, equipment, or sell or lease land or buildings may not contribute to any elected officer or candidate whose office would have to approve any such contract. The law only prohibits such contributions if the grant or contract has a value of \$50,000 or more, or a combination of grants or contracts approved by the same office in one fiscal year has a value of \$50,000 or more. The prohibition applies from the commencement of negotiations until the termination of negotiations or six months after the approval of the contract.*
54. *False. San Francisco Campaign and Governmental Conduct Code section 3.230(c) prohibits City officers and employees from engaging in political activity on City premises. For the purposes of this law, City premises include all City owned property unless the City has made the property available to the public for political purposes. None of the interior of City Hall has been made available for such purposes.*
55. *False. The California Constitution prohibits City officers from receiving free travel, including upgrades, from transportation companies such as airlines. But this prohibition does not preclude City officers from accepting frequent flyer miles awarded in the airline's normal course of business if the award is not based on the City officer's governmental status.*

56. *False. Section 3.224 of the Campaign and Governmental Conduct Code prohibits any City officer from directly or indirectly receiving any compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City with the intent to influence a government decision. There are some exceptions to this rule. For instance, the prohibition does not apply to an officer of the City who is communicating on behalf of a business, union, or organization of which the officer is a member or full-time employee.*
57. *True. San Francisco Campaign and Governmental Conduct Code section 3.222 prohibits City officers from contracting with the City, the School District, the Redevelopment Agency, the Housing Authority or the Community College District. This provision applies to any contract or subcontract of \$10,000 or more per year, with some exceptions.*
58. *False. San Francisco Campaign and Governmental Conduct Code section 3.228 prohibits current and former City officers from using any confidential or privileged information to advance the financial or other private interest of themselves or others. For the purposes of this law, confidential or privileged information is information that at the time of use was not subject to disclosure under the Sunshine Ordinance or California Public Records Act.*
59. *True. Criminal penalties for violations of most local ethics laws include up to one year in jail and monetary penalties of up to \$10,000 per violation. In addition, City officers who violate these laws may be subject to civil or administrative penalties of up to \$5,000 per violation as well as removal from office.*
60. *True. City officers may contact the City Attorney's Office or the San Francisco Ethics Commission for advice regarding state and local ethics laws. The Ethics Commission and the City Attorney's Office can provide City officers assistance with a question regarding the applicability of an ethics law to a future action that a City officer might take, but often are unable to do so after the fact. So it is important to seek assistance in advance. In addition, valuable information is available from other resources such as the California Fair Political Practices Commission, the California Attorney General and the California Institute for Local Government.*

NOTE: These test questions and answers have been prepared for the purpose of having a self-testing mechanism to satisfy the requirements of A.B. 1234 for those persons who have not received "live" training. The questions and answers necessarily are stated in general terms and cannot take into account all the myriad facts and circumstances that can arise in any particular case. While the questions and answers serve an educational as well as testing function, they do not necessarily offer sufficient guidance for resolving concrete situations. Please consult the Office of the City Attorney as appropriate to resolve questions about application of the law to specific circumstances.