



## ADMINISTRATIVE MEMORANDUM COUNTY OF SAN MATEO

NUMBER: C-8

SUBJECT: Levine Act Policy

RESPONSIBLE DEPARTMENT: County Attorney's Office

APPROVED:   
Michael Callagy, County Executive Officer

DATE: July 1, 2025

### I. PURPOSE

This memorandum establishes procedures to assist County officers with their obligation to comply with the State law commonly referred to as the "Levine Act," which is a component of the Political Reform Act. The Levine Act is codified at Government Code Section 84308 and the Fair Political Practices Commission has issued regulations related to the Levine Act that are codified at Sections 18438 through 18438.8 of Title 2 of the California Code of Regulations.

### II. OVERVIEW

The Levine Act imposes obligations on County officials who are elected or appointed, or who run for elected office, and who have decision-making responsibility for licenses, permits, or other entitlements for use, including certain County contracts.

Specifically, while a license, permit, or other entitlement for use from the County is pending and for 12 months after a final decision is rendered on the matter, a County officer may not accept, solicit, or direct a campaign contribution of more than \$500 from any party or party's agent, or from a participant or participant's agent if the County officer knows or has reason to know that the participant has a financial interest in the proceeding. A proceeding is "pending" before a County officer when either: 1) the item is placed on the agenda for discussion or decision at a public meeting of the body of which the County officer is a member; or 2) the officer knows that the proceeding is before the jurisdiction of the agency and it is reasonably foreseeable that the decision will come before the officer in their decision-making capacity.

If a County officer willfully or knowingly received a contribution of more than \$500 from a party, a party's agent, or a participant within the 12 months before a decision, the County officer cannot make, participate in making, or in any way use their official position to influence a decision regarding a license, permit, or other entitlement for use. An officer knowingly receives a contribution if the officer has actual knowledge of the contribution, and an officer willingly receives or should have known about the contribution if: 1) the contribution was disclosed by the party on the record of proceeding; or 2) the officer is aware of facts establishing other reasons to know, e.g., the officer was informed of the contribution, or the officer personally solicited or accepted the contribution. 2 CCR § 18438.7(b).

A County officer is required to disclose on the record of proceeding, either orally or in writing, any disqualifying contribution that the officer knows of or has reason to know of.

Notwithstanding the disqualification requirement, County officers are permitted to participate in a proceeding if the officer returns the disqualifying contribution within 30 days from the time the officer makes any decision, or knows, or should have known about the contribution and the proceeding, whichever comes last. If the disqualifying contribution is not returned, the officer is required to recuse themselves from the proceeding.

The procedures discussed below are designed to aid County officers' compliance with the Levine Act.

### III. **DEFINITIONS**

**County Officers.** The Levine Act applies to an elected or appointed officer of an agency, any alternate to an elected or appointed officer, and any candidate for elective office who (1) serves in an elected position (or is appointed to an elected position), (2) serves as a member of a board or commission, (3) serves as the chief executive of the agency, or (4) has decision-making authority in a proceeding and is also a candidate for elective office or had been a candidate for elective office in the 12 months prior to the proceeding. The restrictions in the Levine Act only apply to elected officers if the officer or the body of which they are a member has the authority to make any decision or recommendation with respect to a license, permit, or other entitlement for use proceeding.

County Officers include elected members of the San Mateo County Board of Supervisors, as well as the Assessor-County Clerk-Recorder, Controller, Coroner, District Attorney, Sheriff, and Tax Collector-Treasurer.

**Parties.** A "Party" is anyone who files an application for (or is the subject of) a license, permit, or entitlement for use. Gov. Code § 84308(a)(1).

**License, permit, or other entitlement for use.** A "license, permit, or other entitlement for use" includes all non-ministerial business, professional, trade, and land use licenses and permits and all other non-ministerial entitlements for use, including entitlements for land use, most contracts valued above \$50,000, and franchise agreements. Amendments, extensions, and renewals of licenses, permits, or other entitlements for use are included within this definition.

**Participants.** A "Participant" is anyone who is not a Party but who actively supports or opposes a particular decision and has a "financial interest" in the decision. A Participant has a "financial interest" if there will likely be a material financial effect on them as a result of the decision. Gov. Code § 84308(a)(2).

**Agents.** An "Agent" of a Party or Participant is a person, including a registered lobbyist, that represents that Party or Participant for compensation and appears before or otherwise communicates with an agency for the purpose of influencing the proceeding on behalf of the Party or Participant. Gov. Code § 84308(h)(1).

A County Officer is deemed to know that a person is a "Participant" with an financial interest in the proceeding if that person states to a County Officer that they (i) have an interest in a property located within 500 feet of the property at issue, (ii) have a business entity that may see a significant increase or decrease in customers as a result of the proceeding, or (iii) have a

business relationship with the applicant that may result in additional services provided as a result of the proceeding. 2 CCR § 18438.7(a).

#### IV. PROCEDURE

##### A. Board Agenda

Each County Board of Supervisors Board Meeting Agenda shall contain the following language:

##### Levine Act

The Levine Act (California Government Code Section 84308) prohibits, in certain cases, campaign contributions to members of the Board of Supervisors by those who have proceedings (e.g., applications for land use and other entitlements, contracts, etc.) pending before the Board of Supervisors and by those who may have an interest in such proceedings (including those acting as agents for applicants or potential contractors). Moreover, the Levine Act may require disclosure of contributions by such individuals. The law is complex and this brief description is not legal advice. If you or an agent have made any campaign contributions to a Board member in the 12 months before a proceeding in which you have an interest or you are contemplating making a contribution within the 12 months after such a proceeding, you are urged to review the Levine Act and consider consulting an attorney. A copy of the Levine Act and Fair Political Practices Commission resources can be found here: <https://www.smcgov.org/bos/levine-act-information>

##### B. Contracts

As part of the contract solicitation process for contracts that require Board (or other County Officer) approval, applicants shall be informed that, if their proposal is selected for contracting with the County, they will be required to certify compliance with the Levine Act. Accordingly, the language of **Attachment A**, "LEVINE ACT CONTRACT SOLICITATION DISCLOSURE," shall be incorporated into the RFP (or other contract solicitation process) to inform applicants of the Levine Act and County requirements.

The standard County templates for contracts and contract amendments that require Board (or other County Officer) approval shall include a new contract provision which states:

The Contractor certifies and warrants that Contractor has fully complied, and will remain in full compliance, with all applicable requirements of the Levine Act in connection with this Agreement, including making any required disclosures of campaign contributions to County Officers, which includes but may not be limited to elected County Officers. Elected County Officers include members of the San Mateo County Board of Supervisors, as well as the Assessor-County Clerk-Recorder, Controller, Coroner, District Attorney, Sheriff, and Tax Collector-Treasurer. Any campaign contribution required to be disclosed under the Levine Act in connection with this Agreement shall be disclosed on the County of San Mateo Levine Act Disclosure Form, a copy of which is available from the County upon request.

If the Party submits the County of San Mateo Levine Act Disclosure Form, **Attachment C**, then such completed form shall be added to the contract file (i.e., in the County's designated platform) and forwarded to the Deputy County Attorney for the contracting Department.

When a County Officer recuses themselves from the contract approval process due to the Levine Act or for other reasons, the following procedure shall apply. For contracts or amendments requiring Board approval, non-recusing members of the Board shall vote on the item. For contracts or amendments that would otherwise require approval of the recusing County Officer or their designee, the County Executive or County Executive's designee shall instead make the decision whether to approve.

If a department wishes to modify or delete the new standard contract provision above for a particular agreement, then the department must obtain written approval from the County Attorney's Office per Administrative Memo B-1.

#### C. Licenses, Permits, and Other Entitlements for Use

As part of the application process for a license, permit, or other entitlement for use, applicants shall be informed that the Levine Act applies to such proceedings. Accordingly, the language of **Attachment B**, "LEVINE ACT ENTITLEMENT APPLICATION DISCLOSURE," shall be incorporated into applications for a non-ministerial license, permit, or other entitlement for use to inform applicants of the Levine Act and County requirements.

Applications for a license, permit, or other entitlement for use are often decided in the first instance by a subordinate decision-maker, such as the Community Development Director, Zoning Hearing Officer, or Planning Commission. In such a situation, the County will not affirmatively request disclosure from a Party.

However, if it becomes reasonably foreseeable that a Party's application will appear before a County Officer for consideration (e.g., the Planning Commission's decision regarding the Party's application is appealed to the Board of Supervisors), at that time the County department facilitating the proceeding shall require the Party to complete and submit the County of San Mateo Levine Act Disclosure Form.

If a Party submits the County of San Mateo Levine Act Disclosure Form, then such completed form shall be added to the proceeding's file and forwarded to the Deputy County Attorney for the proceeding's Department.

When a County Officer recuses themselves from the license, permit, or other entitlement for use approval process due to the Levine Act or for other reasons, the following procedure shall apply. For items requiring Board decision (or the decision of another board, commission, or committee), the non-recusing members of the Board (or other relevant decision-making body) shall vote on the item. For items that would otherwise require decision of a single recusing County Officer or their designee, or recusal results in a lack of quorum for the relevant decision-making body, the County Executive or County Executive's designee shall instead make the decision, to the extent allowed by law.

#### D. Other Party Disclosures

Parties are solely responsible for accurate certification and disclosure under the Levine Act. If a Department receives a Levine Act disclosure from a Party, a Party's agent, or a Participant in a proceeding outside of the procedures established above, then the Department shall ensure that the disclosure becomes a part of the proceeding's official records, and the Department shall send such disclosure to County Officers who may have decision-making authority with respect

to such proceeding. County Officers who receive such disclosure shall ensure that they do not accept a discloser's contributions exceeding \$500 while the proceeding is pending (in any 12-month period).

E. Updates to Language

Where this Administrative Memorandum requires use of specific language and/or attachments, such language and/or attachments may be modified or updated with approval of the County Attorney from time-to-time, and such updates shall not require revision to this Administrative Memorandum.

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## ATTACHMENT A

### LEVINE ACT CONTRACT SOLICITATION DISCLOSURE

#### **Levine Act Disclosure**

The Levine Act (California Government Code Section 84308) imposes certain requirements on parties contracting with the County of San Mateo related to campaign contributions to County “officers,” including elected County officers and candidates seeking elective office, who may participate in making a decision on certain County contracts. Elected County officers in San Mateo County include: the San Mateo County Board of Supervisors, Assessor-County Clerk-Recorder, County Controller, Coroner, District Attorney, Sheriff, and Tax Collector-Treasurer.

Generally, under current County policy, approval by the Board of Supervisors is required for any agreement for services above \$200,000, and agreements for services below that threshold may be approved by Department heads.

#### **If your proposal is selected, you will be required to certify compliance with the Levine Act.**

As part of this process, you will need to certify and warrant that you have fully complied, and will remain in full compliance, with all applicable requirements of the Levine Act in connection with the Agreement, including making any required disclosures of campaign contributions to County Officers, which includes but may not be limited to elected County Officers. Elected County Officers include members of the San Mateo County Board of Supervisors, as well as the Assessor-County Clerk-Recorder, Controller, Coroner, District Attorney, Sheriff, and Tax Collector-Treasurer. Any campaign contribution required to be disclosed under the Levine Act in connection with this Agreement shall be disclosed on the County of San Mateo Levine Act Disclosure Form, a copy of which is available from the County upon request.

Parties are solely responsible for accurate certification and disclosure. The Levine Act is complex, and this brief description is not legal advice. For example, certain contributions must be aggregated when determining whether contributions have exceeded the \$500 threshold. If your proposal is selected, you are urged to review the Levine Act and consider consulting an attorney.

## ATTACHMENT B

### LEVINE ACT ENTITLEMENT APPLICATION DISCLOSURE

#### Levine Act Disclosure

The Levine Act (California Government Code Section 84308) imposes certain requirements on parties who submit applications for a license, permit, or other non-ministerial entitlement for use to the County of San Mateo. These requirements relate to campaign contributions to County “officers,” including elected County officers and candidates seeking elective office. Elected County officers in San Mateo County include: the San Mateo County Board of Supervisors, Assessor-County Clerk-Recorder, County Controller, Coroner, District Attorney, Sheriff, and Tax Collector-Treasurer.

Once you file your application, you are a Party who must refrain from campaign contributions exceeding \$500 (in the aggregate) to County officers, including elected County officers and candidates seeking elective office, who may participate in making a decision on your application. The Levine Act states that a Party and its agents:

(1) shall not contribute more than \$500 (in the aggregate) to any County officer who may participate in making a decision on the application while the application is pending and for twelve (12) months **after** a final decision; and

(2) shall disclose any contribution of more than \$500 (in the aggregate) to any County officer who may participate in making a decision on the application in the twelve (12) months **preceding** a decision on the Application.

Applications for a license, permit, or other non-ministerial entitlement for use are often decided in the first instance by a subordinate decision-maker, such as the Community Development Director, Zoning Hearing Officer, or Planning Commission. However, **if it becomes reasonably foreseeable that your application will appear before an elected County officer, or candidate seeking elective office, for consideration** (e.g., the Planning Commission’s decision regarding your application is appealed to the Board of Supervisors), **you must at that time complete the attached Levine Act Disclosure Form.**

Parties are solely responsible for accurate certification and disclosure. The Levine Act is complex and this brief description is not legal advice. Before submitting your application and/or disclosure form, you are urged to review the Levine Act and consider consulting an attorney.

## ATTACHMENT C

### COUNTY OF SAN MATEO LEVINE ACT DISCLOSURE FORM

#### Background on the Levine Act Disclosure Requirement

The Levine Act (California Government Code Section 84308) requires parties to proceedings (such as contracts, licenses, permits, or other entitlements for use) and their agents to affirmatively disclose certain campaign contributions made to County officers, including elected County officers and candidates seeking elective office, who may participate in making a decision in the proceeding.

Parties are solely responsible for accurate certification and disclosure. The Levine Act is complex, and this brief description is not legal advice. Before submitting this disclosure, you are urged to review the Levine Act and consider consulting an attorney.

#### Contribution Disclosure

The undersigned Party, or Agent on behalf of Party, or any person or entity with whom contributions must be aggregated, made the following contributions totaling more than \$500 (in the aggregate) to any elected County officer or candidate in the twelve (12) months preceding the anticipated date of the elected County officer's or candidate's decision regarding this Agreement or Application:

|    | Name of Elected County Officer or Candidate Receiving Contribution | Name of Person or Entity Making Contribution | Date of Contribution | Amount of Contribution |
|----|--|--|----------------------|------------------------|
| 1. |  |  |                      |                        |
| 2. |  |  |                      |                        |
| 3. |  |  |                      |                        |
| 4. |  |  |                      |                        |

By signing below, I certify under penalty of perjury that the statements made herein are true and correct and that the Party will comply with California Government Code Section 84308.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Party or Agent Representative

\_\_\_\_\_  
Name of Party or Agent Representative