

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Monday, October 1, 2018
Hearing Room 1
6:30 p.m.



Commissioners: Jonathan Stein (Chair), Jodie Smith (Vice-Chair), Lisa Crowfoot, James E.T. Jackson, Gail Kong, and Krisida Nishioka

Commission Staff to attend: Whitney Barazoto, Executive Director; Milad Dalju, Deputy Director and Chief of Enforcement; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Simon Russell – Investigator

City Attorney Staff: Trish Hynes, Deputy City Attorney

REGULAR MEETING AGENDA

- 1. Roll Call and Determination of Quorum.**
- 2. Staff and Commission Announcements.**
- 3. Open Forum.**

CONSENT ITEMS

- 4. Approval of Commission Meeting Draft Minutes.**
 - a. September 11, 2018, Regular Meeting Minutes ([Attachment 1 – Minutes](#))

PRESENTATION

- 5. Open Disclosure Project 2018.** Commission staff and Open Oakland volunteers will provide an overview of work completed to launch www.opendisclosure.io, a web-based application created by the team to visualize campaign finance data for all Oakland candidates and ballot measures in the 2018 election. The Open Disclosure Project team will demonstrate the application, which was the product of a partnership between the Public Ethics Commission and OpenOakland, a local Code for America brigade of civic-minded technologists who volunteer their time to help illuminate City data.

DISCUSSION ITEMS

- 6. Penalty Guidelines.** The Commission’s Penalty Guidelines Subcommittee presents a draft revision of the Penalty Guidelines to Commissioners and staff for discussion. ([Attachment 2 – Existing Enforcement Penalty Guidelines, created in 2015](#); [Attachment 3 – Draft Revisions to the Penalty Guidelines, with changes tracked](#); [Attachment 4 – Revised Draft Penalty Guidelines, clean version](#))



7. **Public Ethics Commission Regular Meeting Schedule 2019.** The Commission will review a proposed schedule of regular Commission meetings planned for 2019. ([Attachment 5 – Proposed Meeting Schedule](#))
8. **Subcommittee Reports.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission’s last regular meeting. Current or recent subcommittees include the following:
 - a. **Campaign Finance Subcommittee** – Jonathan Stein (Chair), Lisa Crowfoot, and James Jackson
 - b. **Education and Outreach Subcommittee** – Krisida Nishioka (Chair), James Jackson, and Gail Kong
 - c. **Complaint Procedures Subcommittee** (*ad hoc*, created 3/26/18) – Krisida Nishioka and Jodie Smith
 - d. **Penalty Guidelines Subcommittee** (*ad hoc*, created 3/26/18) – Lisa Crowfoot and Gail Kong
 - e. **Ticket Policy Guidance Subcommittee** (*ad hoc*, created 9/11/18) – James Jackson and Gail Kong

INFORMATION ITEMS

9. **Commissioner Recruitment.** The Commission is recruiting to fill one Commission-appointed vacancy that will occur in January 2019. A second vacancy to occur at the same time will be subject to appointment by the City Auditor, and yet another vacancy currently exists for appointment by the City Attorney for the 2018 – 2021 term. Attached is the announcement and application that is being distributed widely via the Commission’s website, email distribution lists, social media, and other channels. ([Attachment 6 – Announcement and Application](#))
10. **Disclosure Program.** Lead Analyst Suzanne Doran provides a report of recent disclosure and data illumination activities. ([Attachment 7 – Disclosure Report](#))
11. **Education and Engagement Program.** Commissioners will review Ethics Analyst Jelani Killings' report on the Commission’s education and outreach activities. ([Attachment 8 – Education Report](#))
12. **Enforcement Program.** Deputy Director Milad Dalju provides an update on the Commission’s enforcement work since the last regular Commission meeting. ([Attachment 9 – Enforcement Report](#))

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13. Executive Director's Report. Executive Director Whitney Barazoto reports on overall projects, priorities, and significant activities since the Commission's last meeting. ([Attachment 10 – Executive Director's Report](#))

The meeting will adjourn upon the completion of the Commission's business.

A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at (510) 238-3593 or visit our webpage at www.oaklandnet.com/pec.

9/21/18

Approved for Distribution

Date



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CITY OF OAKLAND
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Commissioners: Jonathan Stein (Chair), Jodie Smith (Vice-Chair), Lisa Crowfoot, James E.T. Jackson, Gail Kong, and Krisida Nishioka

Commission Staff to attend: Whitney Barazoto, Executive Director; Milad Dalju, Deputy Director and Chief of Enforcement; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Simon Russell – Investigator

City Attorney Staff: Trish Hynes, Deputy City Attorney; Christina Cameron, Counsel to the Commission

REGULAR MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was called to order at 7:00 p.m., beginning behind schedule due to the fact that the meeting room was occupied by City Council until that time.

Members present: Commissioners Stein, Smith, Crowfoot, Kong, Jackson, Nishioka.

Staff present: Whitney Barazoto, Milad Dalju, Suzanne Doran, and Simon Russell.

City Attorney Staff: Trish Hynes, Deputy City Attorney.

Counsel to the Commission for Agenda Item 6: Christina Cameron.

2. Staff and Commission Announcements.

Commission Chair Jonathan Stein said that a question arose as to whether the meeting should have been noticed as a Special meeting or a Regular meeting. Deputy City Attorney Trish Hynes stated that the meeting met both Special and Regular meeting notice requirements and that it was fine to proceed.

Chair Stein announced that the Open Disclosure Project demonstration would be postponed until the next meeting.

Commissioner Smith announced that the Commission is recruiting for one vacancy beginning in January 2019.

3. Open Forum.

There was one public speaker.



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CONSENT ITEMS

4. Approval of Commission Meeting Draft Minutes.

- a. July 30, 2018, Regular Meeting Minutes
- b. August 23, 2018, Special Meeting Minutes

Commissioner Smith moved and Commissioner Nishioka seconded to approve the minutes for July 30, 2018 and August 23, 2018.

The motion passed 6-0.

There were no public speakers.

GUEST PRESENTATION

5. Open Disclosure Project 2018.

The live demonstration of www.opendisclosure.io was postponed for the next meeting.

ACTION ITEMS

6. In the Matter of Lynette Gibson McElhaney; Case No. 15-07.

City Attorney Trish Hynes stepped down from the dais and outside counsel Christina Cameron served as Counsel to the Commission on this matter.

Milad Dalju, Deputy Director and Chief of Enforcement, presented the staff recommendation to adopt the Proposed Decision by the Administrative Law Judge, for a total administrative penalty of \$8,625.

Respondent Council Member Lynette Gibson McElhaney and her attorney presented their concerns with the staff recommendation.

The Commission heard public comment and deliberated on the issue.

Commissioner Nishioka moved and Commissioner Stein seconded to reduce the fine on the first violation to \$2250, and no penalty on violations 2 and 3.

There were forty-eight public speakers.

7. In the Matter of the Lynette Gibson McElhaney; Case No. 16-08(c).



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Mr. Dalju presented the staff recommendation to close the matter without Commission action.

Commissioner discussed the desire for some action, such as an advisory or warning letter, that addresses the problem of such a large number of tickets being used by elected officials.

Chair Stein formed an *ad hoc* ticket policy subcommittee to develop policy guidance for the Commission to issue regarding future use of City tickets. Commissioner Kong and Jackson agreed to serve as members of the subcommittee.

Commissioners discussed the desire for the staff work on the ticket matters to continue, and to bring them forward together if that is beneficial.

Commissioner Smith moved and Commissioner Crowfoot seconded to suspend this item for future consideration.

The motion passed 6-0.

There were seven public speakers.

8. In the Matter of the Libby Schaaf; Case No. 16-08(i).

Mr. Dalju presented the staff recommendation.

Commissioner Stein moved and Commissioner Kong seconded to suspend this item for future consideration.

The motion passed 6-0.

There were two public speakers.

DISCUSSION ITEMS

9. Subcommittee Reports.

- a. **Campaign Finance Subcommittee** – Jonathan Stein (Chair), Lisa Crowfoot, and James Jackson

Commissioner Stein shared that he will attending a meeting with the Bay Area Political Equity Collaborative.



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Staff is working on a report on public financing.

- b. **Education and Outreach Subcommittee** – Krisida Nishioka (Chair), James Jackson, and Gail Kong

Commissioner Crowfoot shared that staff and commissioners tabled at the First Friday at the Oakland Museum.

- c. **Complaint Procedures Subcommittee** (*ad hoc*, created 3/26/18) – Krisida Nishioka and Jodie Smith

Commissioner Smith shared that revisions are in progress and will be available soon.

- d. **Penalty Guidelines Subcommittee** (*ad hoc*, created 3/26/18) – Lisa Crowfoot and Gail Kong

Commissioner Crowfoot shared that they hope to have recommendations for the next meeting.

There were no public speakers.

INFORMATION ITEMS

10. Commissioner Recruitment.

Executive Director Barazoto mentioned the need to create an *ad hoc* Recruitment Subcommittee sometime soon. Chair Stein postponed creation of the subcommittee.

There were no public speakers.

11. Disclosure Program.

Commissioners took the Disclosure report under advisement.

There were no public speakers.

12. Education and Engagement Program.

Commissioners took the Education and Engagement report under advisement.

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There were no public speakers.

13. Enforcement Program.

Commissioners took the Enforcement report under advisement.

There were no public speakers.

14. Executive Director's Report.

Commissioners took the Executive Director's report under advisement.

There were no public speakers.

The meeting adjourned at 11:48 p.m.

Public Ethics Commission

ENFORCEMENT PENALTY GUIDELINES

The Public Ethics Commission (PEC) is authorized by the City Charter to impose penalties, remedies, and fines as provided for by local ordinances that are within the PEC's jurisdiction. In accordance with the City Charter, this document outlines principles to guide the PEC and its staff in determining an appropriate penalty in any given case. This policy serves as a guide and does not limit the PEC or its staff from using discretion to deviate from the norm in cases in which atypical or egregious circumstances exist. The guidelines include general principles, factors to consider in determining a penalty, and a tiered approach to penalties based on the level of the violation, which takes into account the overall principles and specific factors.

Guiding Principles for Enforcement

The overarching goal of the PEC's enforcement activity is to obtain compliance with ethics rules and provide timely, fair and consistent enforcement that is proportional to the seriousness of the violation. The following principles guide the PEC's compliance activities as part of an effective enforcement program:

- 1. Timeliness** – Compliance should be timely, if possible, to provide the public with needed ethics disclosures, and to mitigate harm that occurred from the violations. Enforcement resolutions should be viewed through this lens to craft a range of penalties and enforcement actions that drive timely compliance and mitigate future harm. For campaign violations, this can mean swift resolution and correction of violations, including before an election. Timely public information is crucial in these cases, as the value of required pre-election disclosure declines significantly after the election. For all violations, timeliness brings accountability. Public confidence in government and the deterrence effect of enforcement is reduced when enforcement is delayed.
- 2. Fairness** – The core of the PEC's work is fairness to ensure that enforcement actions are even-handed and consistent, as well as to ensure due process for those accused of violating the law. An ethics commission frequently investigates and administratively prosecutes public officials, and it is essential that politics and rivalries not become part of these actions. The PEC shall track penalty amounts over time and articulate in each enforcement action its consistency with previous actions. This allows the public, respondents, and future commissioners to see the articulated rationale for the decision and the reasons for any variation. Additionally, effective enforcement of violations leads to fairness in government, as timely enforcement of government ethics rules also shows respect and fairness to those who follow the rules.
- 3. Focus on Serious Violations** – The focus of the PEC's work – both in terms of resources spent as well as the level of penalty imposed – should reflect the seriousness of each violation so that penalties urge compliance to the extent necessary while preserving PEC resources for major violations that may occur. Minor violations should not be ignored, but proportionality in penalties and an ability to take on more significant cases is important to creating a culture of compliance.

Specific Factors to Consider in Determining a Penalty

The PEC will consider all relevant mitigating and aggravating circumstances surrounding the case when deciding on a penalty, including, but not limited to, the following factors:

1. The seriousness of the violation;
2. The presence or absence of any intention to conceal, deceive or mislead;
3. Whether the violation was deliberate, negligent or inadvertent;
4. Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations;
5. Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure; and
6. The degree to which the respondent cooperated with the PEC's investigation and demonstrated a willingness to remedy any violations.

Penalty Options Based on Levels

To obtain compliance with the law and provide timely and fair enforcement that is proportional to the seriousness of the offense, the PEC institutes a three-tiered approach that is similar to the approach used by the California Fair Political Practices Commission. This approach utilizes warning letters, streamlined stipulations, and more severe penalties based on the level of public harm and the articulated aggravating and mitigating circumstances. This approach aims to provide consistency across similar violations and an expedited way to handle cases according to the level of seriousness so that staff resources are allocated according to the level and significance of the violation.

1. **Warning Letter:** A warning letter is an enforcement option for any minor violations without any aggravating circumstances. It is a public acknowledgement by the PEC via letter to the respondent that explains the allegation and allows the PEC to create a record of a potential or proven low-level violation. This allows for respondents to be educated about the rules and provides the PEC with a historical list of prior violations for future consideration in enforcement cases. A warning letter may be used to address an offense where the evidence demonstrates one or all of the following to an extent that a monetary penalty is not justified or in the interest of justice. To determine whether a case qualifies for a warning letter, the PEC will consider all relevant circumstances surrounding the case, including, but not limited to, the following:
 - a. Whether there was any intent to commit the violation;
 - b. Whether there are significant mitigating factors;
 - c. Whether the respondent lacked sophistication regarding the relevant law;
 - d. Whether the violation caused an insignificant harm to the public (such as failing to file statements with little or nothing to report);
 - e. Whether the respondent corrected the public harm caused by the violation prior to any actions by the PEC; and

f. Whether the action that caused the violation was a ministerial act.

2. Streamline Stipulation: The streamlined stipulation program takes common violations, such as the non-filing of a campaign statement, and provides a scaled-down stipulation document and set penalties. These low-level common cases can be quickly handled with a fine commensurate to the violation, which helps preserve staff time to focus on more serious cases. Under Oakland ethics laws, a streamlined stipulation is an option to resolve the following types of cases:

- a. Form 700 Non-Filer (GEA § 2.25.040);
- b. Form 700 Non-Reporter (GEA § 2.25.040);
- c. Gift Restrictions (GEA § 2.25.060C);
- d. Form 301 Non-Filer (CRA § 3.12.190);
- e. Campaign Statement/Report Non-Filer and Non-Reporter (CRA § 3.12.340);
- f. Lobbyist Registration Non-Filer (LRA § 3.20.040); and
- g. Lobbyist Report Non-Filer and Non-Reporter (LRA § 3.20.110).

To determine whether a case qualifies for the streamlined stipulation program, the PEC will use similar factors to those used to determine if a case qualifies for a warning letter, as outlined above.

The streamlined stipulation program takes into account that the articulated evidence demonstrates a greater degree of public harm than a case that qualifies for a warning letter and is therefore worthy of a mid-level penalty. Streamlined stipulations will be offered based on a tiered penalty structure. Additionally, the stipulation documents for streamlined stipulations will be standardized and shortened from higher-level penalty ranges to promote efficiency.

The penalty tiers for streamlined stipulations are as follows:

- a. Form 700 Non-Filer (GEA § 2.25.040):

Tier	Penalty per Form 700 not timely filed ¹
1 – Compliance in response to first PEC contact.	\$200
2 – Compliance prior to issuance of a probable cause report.	\$400
3 – Compliance prior to administrative hearing.	\$800
4 – Compliance prior to adoption of a Commission decision.	\$1,000

¹ No streamlined program penalty can exceed the statutory limit.

b. Form 700 Non-Reporter (GEA § 2.25.040):

Tier	Penalty per Form 700 that did not include all qualifying economic interests
1 – Compliance in response to first PEC contact.	\$100
2 – Compliance prior to issuance of a probable cause report.	\$200
3 – Compliance prior to administrative hearing.	\$400
4 – Compliance prior to adoption of a Commission decision.	\$800

c. Gift Restrictions (GEA § 2.25.060C):

Tier	Penalty
1 – Compliance in response to first PEC contact.	\$200
2 – Compliance prior to issuance of a probable cause report.	\$400
3 – Compliance prior to administrative hearing.	\$800
4 – Compliance prior to adoption of a Commission decision.	\$1,000

d. Form 301 Non-Filer (CRA § 3.12.190):

Tier	Penalty
1 – Compliance in response to first PEC contact.	\$200, plus 2% of contributions received over contribution limit prior to filing Form 301.
2 – Compliance prior to issuance of a probable cause report.	\$400, plus 2% of contributions received over contribution limit prior to filing Form 301.
3 – Compliance prior to administrative hearing.	\$800, plus 2% of contributions received over contribution limit prior to filing Form 301.
4 – Compliance prior to adoption of a Commission decision.	\$1,000, plus 2% of contributions received over contribution limit prior to filing Form 301.

e. Campaign Statement/Report Non-Filer and Non-Reporter (CRA § 3.12.340):

Tier	Penalty per statement/report not timely filed or not including all required disclosure²
1 – Compliance in response to first PEC contact.	\$200, plus 1% of all financial activity not timely reported.
2 – Compliance prior to issuance of a probable cause report.	\$400, plus 1% of all financial activity not timely reported.
3 – Compliance prior to administrative hearing.	\$800, plus 1% of all financial activity not timely reported.
4 – Compliance prior to adoption of a Commission decision.	\$1,000, plus 1% of all financial activity not timely reported.

f. Lobbyist Registration Non-Filer (LRA § 3.20.040):

Tier	Penalty
1 – Compliance in response to first PEC contact.	\$200
2 – Compliance prior to issuance of a probable cause report.	\$400
3 – Compliance prior to administrative hearing.	\$800
4 – Compliance prior to adoption of a Commission decision.	\$1,000

g. Lobbyist Report Non-Filer and Non-Reporter (LRA § 3.20.110):

Tier	Penalty
1 – Compliance in response to first PEC contact.	\$200, plus 1% of all financial activity not timely reported.
2 – Compliance prior to issuance of a probable cause report.	\$400, plus 1% of all financial activity not timely reported.
3 – Compliance prior to administrative hearing.	\$800, plus 1% of all financial activity not timely reported.
4 – Compliance prior to adoption of a Commission decision.	\$1,000, plus 1% of all financial activity not timely reported.

² “Statement” refers to statements pursuant to Sections 84200 and 84200.5 of the California Political Reform Act. “Reports” refers to reports pursuant to Sections 84202.5, 84203, 84203.5, 84204, 84213, and 84511 of the California Political Reform Act.

- 3. Mainline Stipulation.** For more serious violations, the PEC will start with the following “base-level” fine amount and then adjust the fine amount based on mitigating and aggravating factors of the individual case, which will be articulated in the stipulation.

Mainline penalty amounts are as follows:

Violation	Streamline Stipulation Available?	Base-Level Per Violation	Statutory Limit Per Violation
Form 700 Non-Filer and Non-Reporter. (GEA § 2.25.040.)	Yes.	\$1,000.	\$5,000 or up to three times the amount not timely reported.
Conflicts of Interest and Personal Gain Provisions. (GEA § 2.25.040.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Revolving Door Provisions. (GEA § 2.25.050.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Misuse of City Resources Provisions. (GEA § 2.25.060A.)	No.	\$2,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Prohibitions Related to Political Activity and Solicitation of Contributions. (GEA § 2.25.060B.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Gift Restrictions. (GEA § 2.25.060C.)	Yes.	\$1,000 plus forfeiture of unlawful gift.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Contracting Prohibition. (GEA § 2.25.060D.)	No.	\$2,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Bribery/Payment for Position. (GEA § 2.25.070A-B.)	No.	\$5,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Nepotism/Influencing Contract with Former Employer. (GEA § 2.25.070C-D.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Non-Interference in Administrative Affairs Provision. (GEA § 2.25.070E.)	No.	\$1,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Contribution Limits. (CRA §§ 3.12.050 -3.12.080.)	No.	Amount of unlawful contribution, plus forfeiture of unlawful contribution.	Three times the amount of the unlawful contribution.

One Bank Account Rule. (CRA § 3.12.110.)	No.	\$1,000.	Three times the amount of the unlawful expenditure.
Fundraising Notice Requirement. (CRA § 3.12.140P.)	No.	\$1,000.	Three times the amount of the unlawful expenditure.
Contractor Contribution Prohibition. (CRA § 3.12.140.)	No.	\$2,000.	Three times the amount of the unlawful contribution.
Officeholder Fund Requirements. (CRA § 3.12.150.)	No.	\$2,000.	Three times the amount of the unlawful expenditure.
Form 301 Requirement. (CRA § 3.12.190.)	Yes.	\$1,000.	Three times the amount of unlawful contribution or expenditure.
Independent Expenditure Advertisement Disclosure Requirement. (CRA § 3.12.230.)	No.	\$1,000.	Three times the amount of the unlawful expenditure.
Campaign Statement/Report Non-Filer and Non-Reporter. (CRA § 3.12.340.)	Yes.	\$1,000.	Three times the amount not properly reported, or \$2,000, whichever is greater.
Public Finance Program Requirements. (LPFA § 3.13.010.)	No.	\$1,000.	\$1,000 and repayment of funds.
Lobbyist Registration Non-Filer. (LRA § 3.20.040.)	Yes.	\$1,000.	\$5,000.
Lobbyist Report Non-Filer and Non-Reporter. (LRA § 3.20.110.)	Yes.	\$1,000.	\$5,000 or up to three times the amount the not timely reported, whichever is greater.

Application of these Guidelines

While most enforcement matters will likely fall within the penalty structure outlined in this guideline, this document was created merely to assist the PEC in determining an appropriate fine in certain types of cases; it does not limit the PEC or its staff from agreeing to a settlement or imposing a penalty or fine that deviates from this guideline or from the PEC's past practice. Additionally, this guideline is not a comprehensive list of violations for which the PEC has jurisdiction to investigate and impose a fine or penalty, and exclusion of a type of violation from this guideline does not in any way limit the PEC or its staff from investigating and imposing a fine or penalty on any person who commits such a violation.

DRAFT**Public Ethics Commission****ENFORCEMENT PENALTY GUIDELINES GUIDELINE**

The Public Ethics Commission (PEC) is authorized by the ~~City~~ Charter of the City of Oakland (City Charter) to impose penalties, remedies, and fines as provided for by local ordinances that are within the PEC's jurisdiction. ~~In accordance with the City Charter, this document outlines principles to guide the PEC and its staff in determining an appropriate penalty in any given case. This policy serves as a guide and does not limit the PEC or its staff from using discretion to deviate from the norm in cases in which atypical or egregious circumstances exist. The guidelines include general principles, including the Government Ethics Act, Oakland Campaign Reform Act and Lobbyist Registration Act. This Guideline includes general principles and~~ factors to consider in determining a penalty, and a tiered approach to penalties based on the level of the violation, ~~which takes into account the overall principles and specific factors.~~

This Guideline is advisory only, and does not limit the PEC from using discretion to deviate from the guidance in cases in which atypical or egregious circumstances exist.

The penalties set forth in this Guideline are separate and apart from any late filing fees that may be owed by a respondent.

Guiding Principles for Enforcement

The overarching goal of the PEC's enforcement activity is to obtain compliance with ~~ethics rules~~ regulations under its responsibility, and provide timely, fair and consistent enforcement that is proportional to the seriousness of the violation. The following principles guide the PEC's compliance activities as part of an effective enforcement program:

1. **Timeliness** – For all violations, timeliness brings accountability. Public confidence in government and the deterrence effect of enforcement is reduced when enforcement is delayed.
~~1.~~ Compliance should be timely, ~~if possible~~, to provide the public with ~~needed~~ ethics required disclosures, and to mitigate harm ~~that occurred from the violations caused by a violation(s).~~ Enforcement resolutions should be viewed through this lens to craft a range of penalties and enforcement actions that drive timely compliance and mitigate ~~future~~ harm. For campaign violations, this ~~can~~ should mean swift resolution and correction of violations, ~~including especially~~ before an election. Timely public ~~information disclosure~~ is crucial in these cases, as the value of required pre-election disclosure declines significantly after the election. ~~For all violations, timeliness brings accountability. Public confidence in government and the deterrence effect of enforcement is reduced when enforcement is delayed.~~ Similarly, PEC enforcement of violations should also be pursued in a diligent and timely manner as allowed by PEC staffing/priorities.
2. **Fairness** – The core of the PEC's work is fairness to ensure that enforcement actions are even-handed and consistent, as well as to ensure due process for those accused of violating the law. ~~An ethics commission~~ The PEC frequently investigates and administratively prosecutes public officials, and it is essential that politics and rivalries not become part of ~~these actions.~~ such

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investigations. The PEC shall track penalty amounts over time and articulate in each enforcement action its consistency with previous actions. This allows the public, respondents, and future ~~commissioners~~PEC Commissioners to see the articulated rationale for the decision and the reasons for any variation. Additionally, effective enforcement of violations leads to fairness in government, as timely enforcement of government ethics rules also shows respect and fairness to those who follow the rules.

3. Focus on Serious and Repeated Violations – The focus of the PEC’s work – both in terms of resources spent as well as the level of penalty imposed – should reflect the seriousness of each violation so that penalties urge compliance ~~to the extent necessary,~~ while preserving PEC resources for major violations that may occur. Minor violations ~~should~~will not be ignored, but proportionality in penalties and an ability to take on more significant cases is important to creating a culture of compliance. Violations shall not be considered minor where the respondent has previously been part of a regulated community under the PEC’s authority, or where a pattern of violations exist.

4. Education and Support – As a part of its responsibilities, the PEC provides the following, among other services, for the purpose of educating and supporting the regulated community: voluntary and mandatory training sessions; published materials and guidebooks explaining regulations and requirements; on-line access to regulations, forms, guidebooks and advice; access to staff members in person, via email and by phone for guidance and assistance; proactive monitoring, communication and reminders regarding filing deadlines; electronic filing platform for most filing requirements. These services are intended to ensure that the regulated community is advised of, and aware of, filing and reporting requirements and to ensure full and timely compliance with various regulatory requirements.

~~3.~~

Specific Factors to Consider in Determining a Penalty

The PEC will consider all relevant mitigating and aggravating circumstances surrounding ~~the case a~~violation when deciding on a penalty, including, but not limited to, the following factors:

1. The seriousness of the violation;
2. ~~The~~ presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violation was isolated or part of a pattern ~~and,~~ whether the ~~violation~~respondent has a prior record of violations and/or demonstrated knowledge of the subject filing requirements;
5. Whether the ~~violation,~~ respondent ~~upon learning of a reporting violation,~~ voluntarily and quickly filed ~~amendments~~complete documents necessary to provide full disclosure; and cure the violation (either independently or after contact from the PEC);
6. The degree to which the respondent cooperated with the PEC’s ~~investigation and enforcement~~ activity in a timely manner;
7. Whether the respondent demonstrated a willingness to remedy any violations; and

DRAFT6.8. The impact of the violation and/or the public harm caused by the violation.**Penalty Options Based on Levels**

To obtain compliance with the law and provide timely and fair enforcement that is proportional to the seriousness of the offense, the PEC institutes a three-tiered approach that ~~is similar to the approach used by the California Fair Political Practices Commission. This approach~~ utilizes warning letters, streamlined stipulations, and more severe penalties based on the level of public harm and the articulated aggravating and mitigating circumstances. This approach aims to provide consistency across similar violations and an expedited way to handle cases according to the level of seriousness so that staff resources are allocated according to the level and significance of the violation.

To determine whether an enforcement action qualifies for a warning letter or streamline stipulation, the PEC will consider all relevant circumstances, including, but not limited to, the following:

- Whether there was any intent to commit the violation (ignorance of regulation is not a defense);
- Whether there are significant mitigating or aggravating factors;
- Whether the respondent lacked sophistication regarding the relevant regulation;
- The significance of the harm to the public caused by the violation;
- Whether the respondent has any prior violations;
- Whether respondent has demonstrated knowledge of the relevant regulation and/or filing obligation.
- Whether the action that caused the violation was a ministerial act; and
- Whether the respondent quickly cured the violation in advance of, or in response to, any PEC enforcement action or contact.

1. **Warning Letter:** A warning letter is an enforcement option for any minor violations without any aggravating circumstances. It is a public acknowledgement by the PEC via letter to the respondent that explains the allegation and allows the PEC to create a record of a potential or proven low-level violation. This allows for respondents to be educated about the rules and provides the PEC with a historical list of prior violations for future consideration in enforcement cases. A warning letter may be used to address an offense a violation where the evidence demonstrates ~~one or all of the following to an extent~~ that a monetary penalty is not justified, or in the interest of justice. ~~To determine whether a case qualifies for a warning letter, the PEC will consider all relevant circumstances surrounding the case, including, but not limited to, the following:~~

~~a. Whether there was any intent to commit the violation;~~

~~b. Whether there are significant mitigating factors;~~

~~Whether~~

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- ~~e.—A warning letter will not be available where the respondent lacked sophistication regarding the relevant law;~~
- ~~d.—Whether the violation caused an insignificant harm to the public (such as failing to file statements with little or nothing to report);~~
- ~~e.—Whether the respondent corrected the public harm caused by the violation has had prior to any actions by the PEC; violations and/or has demonstrated knowledge of the subject filing requirements.~~
- ~~f.—Whether the action that caused the violation was a ministerial act.~~

2. Streamline Stipulation: The streamlined stipulation program takes common violations, such as the non-filing of a campaign statement, and provides a scaled-down stipulation document and set penalties. These low-level common cases can be quickly handled with a ~~fine~~penalty commensurate to the violation, which helps preserve staff time to focus on more serious cases. ~~Under Oakland ethics laws, a~~ The streamlined stipulation program is an option (but is not required) to resolve the following types of eases enforcement actions:

- ~~a.—Form 700 Non-Filer (GEA § 2.25.040);~~
- ~~b.a. Form 700 and~~ Non-Reporter (GEA § 2.25.040);
- ~~e.b.~~ Gift Restrictions (GEA § 2.25.060C);
- ~~d.c.~~ Form 301 Non-Filer (CRA § 3.12.190);
- ~~e.d.~~ Campaign Statement/Report Non-Filer and Non-Reporter (CRA § 3.12.~~340~~240);
- ~~f.—Lobbyist Registration Non-Filer (LRA § 3.20.040); and~~
- ~~g.e.~~ Lobbyist/Report Non-Filer and Non-Reporter (LRA § §§ 3.20.040 and 3.20.110).

~~To determine whether a case qualifies for the streamlined stipulation program, the PEC will use similar factors to those used to determine if a case qualifies for a warning letter, as outlined above.~~

The streamlined stipulation program takes into account that the articulated evidence demonstrates a greater degree of public harm than a case that qualifies for a warning letter and is therefore worthy of a mid-level penalty. Streamlined stipulations will be offered based on a tiered penalty structure. Additionally, the stipulation documents for streamlined stipulations will behave been standardized and shortened from higher-level penalty ranges to promote efficiency.

The penalty tiers ~~for applying to~~ streamlined stipulations are as follows set forth below and are contingent upon the following conditions:

- ~~a.—Form 700 Non-Filer (GEA § 2.25.040):~~

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Tier	Penalty per Form 700 not timely filed[†]
1—Compliance in response to first PEC contact.	\$200
2—Compliance prior to issuance of a probable cause report.	\$400
3—Compliance prior to administrative hearing.	\$800
4—Compliance prior to adoption of a Commission decision.	\$1,000

b. Form 700 Non Reporter (GEA § 2.25.040):

Tier	Penalty per Form 700 that did not include all qualifying economic interests
1—Compliance in response to first PEC contact.	\$100
2—Compliance prior to issuance of a probable cause report.	\$200
3—Compliance prior to administrative hearing.	\$400
4—Compliance prior to adoption of a Commission decision.	\$800

c. Gift Restrictions (GEA § 2.25.060C):

Tier	Penalty
1—Compliance in response to first PEC contact.	\$200
2—Compliance prior to issuance of a probable cause report.	\$400
3—Compliance prior to administrative hearing.	\$800
4—Compliance prior to adoption of a Commission decision.	\$1,000

d. Form 301 Non Filer (CRA § 3.12.190):

Tier	Penalty
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[†]No streamlined program penalty can exceed the statutory limit.

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1—Compliance in response to first PEC contact.	\$200, plus 2% of contributions received over contribution limit prior to filing Form 301.
2—Compliance prior to issuance of a probable cause report.	\$400, plus 2% of contributions received over contribution limit prior to filing Form 301.
3—Compliance prior to administrative hearing.	\$800, plus 2% of contributions received over contribution limit prior to filing Form 301.
4—Compliance prior to adoption of a Commission decision.	\$1,000, plus 2% of contributions received over contribution limit prior to filing Form 301.

~~e. Campaign Statement/Report Non-Filer and Non-Reporter (CRA § 3.12.340):~~

Tier	Penalty per statement/report not timely filed or not including all required disclosure²
1—Compliance in response to first PEC contact.	\$200, plus 1% of all financial activity not timely reported.
2—Compliance prior to issuance of a probable cause report.	\$400, plus 1% of all financial activity not timely reported.
3—Compliance prior to administrative hearing.	\$800, plus 1% of all financial activity not timely reported.
4—Compliance prior to adoption of a Commission decision.	\$1,000, plus 1% of all financial activity not timely reported.

~~f. Lobbyist Registration Non-Filer (LRA § 3.20.040):~~

Tier	Penalty
1—Compliance in response to first PEC contact.	\$200
2—Compliance prior to issuance of a probable cause report.	\$400
3—Compliance prior to administrative hearing.	\$800
4—Compliance prior to adoption of a Commission decision.	\$1,000

² “Statement” refers to statements pursuant to Sections 84200 and 84200.5 of the California Political Reform Act. “Reports” refers to reports pursuant to Sections 84202.5, 84203, 84203.5, 84204, 84213, and 84511 of the California Political Reform Act.

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~~g. Lobbyist Report Non-Filer and Non-Reporter (LRA § 3.20.110):~~

Tier	Penalty
1—Compliance in response to first PEC contact.	\$200, plus 1% of all financial activity not timely reported.
2—Compliance prior to issuance of a probable cause report.	\$400, plus 1% of all financial activity not timely reported.
3—Compliance prior to administrative hearing.	\$800, plus 1% of all financial activity not timely reported.
4—Compliance prior to adoption of a Commission decision.	\$1,000, plus 1% of all financial activity not timely reported.

- ~~• the respondent has filed the form or amendment that forms the basis of the violation;~~
- ~~• the respondent has agreed to the terms of the streamlined stipulation;~~
- ~~• the respondent pays any applicable late filing fines; and~~
- ~~• the penalties are to be applied on a per-violation basis.~~

~~3. **Mainline Stipulation.** For more serious violations, the PEC will start with the following “base-level” fine amount and then adjust the fine amount based on mitigating and aggravating factors of the individual case, which will be articulated in the stipulation.~~

Mainline penalty amounts are as follows:

Violation	Streamline Stipulation Available? <u>Compliance prior to or in response to first PEC contact</u>	Base Level Per Violation <u>Compliance prior to publication of PEC investigation report</u>	Statutory Limit Per Violation
Form 700 Non-Filer and Non-Reporter: (GEA § 2.25.040-);	Yes, <u>\$400</u>	<u>\$1,000</u>	\$5,000 or up to three times the amount not timely reported.
Conflicts of Interest and Personal Gain Provisions: (GEA § 2.25.040.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Revolving Door Provisions: (GEA § 2.25.050.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Misuse of City Resources Provisions: (GEA § 2.25.060A.)	No.	\$2,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.

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Prohibitions Related to Political Activity and Solicitation of Contributions. (GEA § 2.25.060B.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Gift Restrictions. (GEA § 2.25.060C.)	Yes. \$400	\$1,000 plus forfeiture of unlawful gift.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Contracting Prohibition. (GEA § 2.25.060D.)	No.	\$2,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Bribery/Payment for Position. (GEA § 2.25.070A-B.)	No.	\$5,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Nepotism/Influencing Contract with Former Employer. (GEA § 2.25.070C-D.)	No.	\$3,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Non-Interference in Administrative Affairs Provision. (GEA § 2.25.070E.)	No.	\$1,000.	\$5,000 or up to three times the unlawful amount, whichever is greater.
Contribution Limits. Form 301 Non-Filer (CRA §§ 3.12.050-3.12.080.) 190	No.	Amount of unlawful contribution, plus forfeiture of unlawful contribution. \$400, plus 2% of contributions received over limit prior to filing form	Three times the amount of the unlawful contribution. \$1,000 plus 2% of contributions received over limit prior to filing form
One Bank Account Rule. (CRA § 3.12.110.)	No.	\$1,000.	Three times the amount of the unlawful expenditure.
Fundraising Notice Requirement. (CRA § 3.12.140P.)	No.	\$1,000.	Three times the amount of the unlawful expenditure.
Contractor Contribution Prohibition. (CRA § 3.12.140.)	No.	\$2,000.	Three times the amount of the unlawful contribution.
Officeholder Fund Requirements. (CRA § 3.12.150.)	No.	\$2,000.	Three times the amount of the unlawful expenditure.
Form 301 Requirement. (CRA § 3.12.190.)	Yes.	\$1,000.	Three times the amount of unlawful contribution or expenditure.
Independent Expenditure Advertisement Disclosure Requirement. (CRA § 3.12.230.)	No.	\$1,000.	Three times the amount of the unlawful expenditure.

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Campaign Statement/Report Non-Filer and Non-Reporter: (CRA § 3.12.340- 2)	Yes.	\$1,000-\$400, plus 1% of all financial activity not timely reported	Three times the amount \$1,000, plus 1% of all financial activity not properly timely reported, or \$2,000, whichever is greater.
Public Finance Program Requirements. (LPFA § 3.13.010.)	No.	\$1,000.	\$1,000 and repayment of funds.
Lobbyist Registration Non-Filer. (LRA § 3.20.040.)	Yes.	\$1,000.	\$5,000.
Lobbyist <u>Registration</u> /Report Non-Filer and Non-Reporter: (LRA §§ <u>3.20.040</u> and <u>3.20.110</u> - 2):	Yes. <u>\$400</u>	\$1,000. <u>\$800</u>	\$5,000 or up to three times the amount the not timely reported, whichever is greater.

3. Mainline Penalty. For more serious violations and violations that do not qualify for a warning letter or the Streamlined Stipulation Program, the PEC will start with the following “base-level” penalty amount and then adjust the penalty amount based on mitigating and aggravating factors of the enforcement action, which will be articulated in any decision to impose a monetary penalty.

<u>Violation</u>	<u>Base-Level Per Violation</u>	<u>Statutory Limit Per Violation</u>
<u>Form 700 Non-Filer and Non-Reporter. (GEA § 2.25.040.)</u>	<u>\$1,000.</u>	<u>\$5,000 or three times the amount not timely reported, whichever is greater.</u>
<u>Conflicts of Interest and Personal Gain Provisions. (GEA § 2.25.040.)</u>	<u>\$3,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Revolving Door Provisions. (GEA § 2.25.050.)</u>	<u>\$3,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Misuse of City Resources Provisions. (GEA § 2.25.060A.)</u>	<u>\$2,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Prohibitions Related to Political Activity and Solicitation of Contributions. (GEA § 2.25.060B.)</u>	<u>\$3,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Gift Restrictions. (GEA § 2.25.060C.)</u>	<u>\$1,000 plus unlawful amount received.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Contracting Prohibition. (GEA § 2.25.060D.)</u>	<u>\$2,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>

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<u>Bribery/Payment for Position. (GEA § 2.25.070A-B.)</u>	<u>\$5,000, or three times the unlawful amount, whichever is greater</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Nepotism/Influencing Contract with Former Employer. (GEA § 2.25.070C-D.)</u>	<u>\$3,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Non-Interference in Administrative Affairs Provision. (GEA § 2.25.070E.)</u>	<u>\$1,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Contribution Limits. (CRA §§ 3.12.050 -3.12.080.) and Contractor Contribution Prohibition. (CRA § 3.12.140.)</u>	<u>Amount of unlawful contribution, plus forfeiture of unlawful contribution.</u>	<u>\$5,000 or three times the amount of the unlawful contribution, whichever is greater.</u>
<u>One Bank Account Rule. (CRA § 3.12.110.)</u>	<u>\$1,000.</u>	<u>\$5,000 or three times the unlawful amount, whichever is greater.</u>
<u>Fundraising Notice Requirement. (CRA § 3.12.140P.)</u>	<u>\$1,000.</u>	<u>\$5,000 or three times the unlawful expenditure, whichever is greater.</u>
<u>Officeholder Fund Requirements. (CRA § 3.12.150.)</u>	<u>\$2,000.</u>	<u>\$5,000 or three times the unlawful expenditure, whichever is greater.</u>
<u>Form 301 Requirement. (CRA § 3.12.190.)</u>	<u>\$1,000, plus 2% of contributions received over contribution limit prior to filing Form 301.</u>	<u>\$5,000 or three times the unlawful contribution or expenditure, whichever is greater.</u>
<u>Independent Expenditure Advertisement Disclosure Requirement. (CRA § 3.12.230.)</u>	<u>\$1,000.</u>	<u>\$5,000 or three times the unlawful expenditure, whichever is greater.</u>
<u>Contribution and Expenditure Restrictions. (CRA §§ 3.12.065 and 3.12.130.)</u>	<u>\$1,000</u>	<u>\$5,000 or three times the unlawful contribution or expenditure, whichever is greater.</u>
<u>Campaign Statement/Report Non-Filer and Non-Reporter. (CRA § 3.12.340.)</u>	<u>\$1,000, plus 1% of the all financial activity not timely reported.</u>	<u>\$5,000 or three times the amount not properly reported, whichever is greater.</u>
<u>Public Finance Program Requirements. (LPFA § 3.13.010.)</u>	<u>\$1,000.</u>	<u>\$1,000 and repayment of public financing unlawfully received or expended.</u>
<u>Lobbyist Registration Non-Filer. (LRA § 3.20.040.)</u>	<u>\$750.</u>	<u>\$1,000.</u>
<u>Lobbyist Report Non-Filer and Non-Reporter. (LRA § 3.20.110.)</u>	<u>\$750.</u>	<u>\$1,000.</u>

Application of ~~these Guidelines~~ this Guideline

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While most enforcement matters will likely fall within the penalty structure outlined in this guideline, this document was created merely to assist the PEC in determining an appropriate fine in certain types of cases; it does not limit the PEC or its staff from agreeing to a settlement or imposing a penalty or fine that deviates from this guideline or from the PEC's past practice. Additionally, this guideline is not a comprehensive list of violations for which the PEC has jurisdiction to investigate and impose a fine or penalty, and exclusion of a type of violation from this guideline does not in any way limit the PEC or its staff from investigating and imposing a fine or penalty on any person who commits such a violation.

DRAFT**Public Ethics Commission****ENFORCEMENT PENALTY GUIDELINE**

The Public Ethics Commission (PEC) is authorized by the Charter of the City of Oakland (City Charter) to impose penalties, remedies, and fines as provided for by local ordinances that are within the PEC's jurisdiction, including the Government Ethics Act, Oakland Campaign Reform Act and Lobbyist Registration Act. This Guideline includes general principles and factors to consider in determining a penalty, and a tiered approach to penalties based on the level of the violation. This Guideline is advisory only, and does not limit the PEC from using discretion to deviate from the guidance in cases in which atypical or egregious circumstances exist.

The penalties set forth in this Guideline are separate and apart from any late filing fees that may be owed by a respondent.

Guiding Principles for Enforcement

The overarching goal of the PEC's enforcement activity is to obtain compliance with regulations under its responsibility, and provide timely, fair and consistent enforcement that is proportional to the seriousness of the violation. The following principles guide the PEC's compliance activities as part of an effective enforcement program:

- 1. Timeliness** – For all violations, timeliness brings accountability. Public confidence in government and the deterrence effect of enforcement is reduced when enforcement is delayed. Compliance should be timely to provide the public with required disclosures, and to mitigate harm caused by a violation(s). Enforcement resolutions should be viewed through this lens to craft a range of penalties and enforcement actions that drive timely compliance and mitigate harm. For campaign violations, this should mean swift resolution and correction of violations, especially before an election. Timely public disclosure is crucial in these cases, as the value of required pre-election disclosure declines significantly after the election. Similarly, PEC enforcement of violations should also be pursued in a diligent and timely manner as allowed by PEC staffing/priorities.
- 2. Fairness** – The core of the PEC's work is fairness to ensure that enforcement actions are even-handed and consistent, as well as to ensure due process for those accused of violating the law. The PEC frequently investigates and administratively prosecutes public officials, and it is essential that politics and rivalries not become part of such investigations. The PEC shall track penalty amounts over time and articulate in each enforcement action its consistency with previous actions. This allows the public, respondents, and future PEC Commissioners to see the articulated rationale for the decision and the reasons for any variation. Additionally, effective enforcement of violations leads to fairness in government, as timely enforcement of government ethics rules also shows respect and fairness to those who follow the rules.
- 3. Focus on Serious and Repeated Violations** – The focus of the PEC's work – both in terms of resources spent as well as the level of penalty imposed – should reflect the seriousness of each

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violation so that penalties urge compliance, while preserving PEC resources for major violations that may occur. Minor violations will not be ignored, but proportionality in penalties and an ability to take on more significant cases is important to creating a culture of compliance. Violations shall not be considered minor where the respondent has previously been part of a regulated community under the PEC's authority, or where a pattern of violations exist.

- 4. Education and Support** – As a part of its responsibilities, the PEC provides the following, among other services, for the purpose of educating and supporting the regulated community: voluntary and mandatory training sessions; published materials and guidebooks explaining regulations and requirements; on-line access to regulations, forms, guidebooks and advice; access to staff members in person, via email and by phone for guidance and assistance; proactive monitoring, communication and reminders regarding filing deadlines; electronic filing platform for most filing requirements. These services are intended to ensure that the regulated community is advised of, and aware of, filing and reporting requirements and to ensure full and timely compliance with various regulatory requirements.

Specific Factors to Consider in Determining a Penalty

The PEC will consider all relevant mitigating and aggravating circumstances surrounding a violation when deciding on a penalty, including, but not limited to, the following factors:

1. The seriousness of the violation;
2. The presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violation was isolated or part of a pattern, whether the respondent has a prior record of violations and/or demonstrated knowledge of the subject filing requirements;
5. Whether the respondent voluntarily and quickly filed complete documents necessary to cure the violation (either independently or after contact from the PEC);
6. The degree to which the respondent cooperated with the PEC's enforcement activity in a timely manner;
7. Whether the respondent demonstrated a willingness to remedy any violations; and
8. The impact of the violation and/or the public harm caused by the violation.

Penalty Options Based on Levels

To obtain compliance with the law and provide timely and fair enforcement that is proportional to the seriousness of the offense, the PEC institutes a three-tiered approach that utilizes warning letters, streamlined stipulations, and more severe penalties based on the level of public harm and the articulated aggravating and mitigating circumstances. This approach aims to provide consistency across similar violations and an expedited way to handle cases according to the level of seriousness so that staff resources are allocated according to the level and significance of the violation.

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To determine whether an enforcement action qualifies for a warning letter or streamline stipulation, the PEC will consider all relevant circumstances, including, but not limited to, the following:

- Whether there was any intent to commit the violation (ignorance of regulation is not a defense);
- Whether there are significant mitigating or aggravating factors;
- Whether the respondent lacked sophistication regarding the relevant regulation;
- The significance of the harm to the public caused by the violation;
- Whether the respondent has any prior violations;
- Whether respondent has demonstrated knowledge of the relevant regulation and/or filing obligation.
- Whether the action that caused the violation was a ministerial act; and
- Whether the respondent quickly cured the violation in advance of, or in response to, any PEC enforcement action or contact.

1. **Warning Letter:** A warning letter is an enforcement option for any minor violations without any aggravating circumstances. It is a public acknowledgement by the PEC via letter to the respondent that explains the allegation and allows the PEC to create a record of a potential or proven low-level violation. This allows for respondents to be educated about the rules and provides the PEC with a historical list of prior violations for future consideration in enforcement cases. A warning letter may be used to address a violation where the evidence demonstrates that a monetary penalty is not justified, or in the interest of justice.

A warning letter will not be available where the respondent has had prior violations and/or has demonstrated knowledge of the subject filing requirements.

2. **Streamline Stipulation:** The streamlined stipulation program takes common violations, such as the non-filing of a campaign statement, and provides a scaled-down stipulation document and set penalties. These low-level common cases can be quickly handled with a penalty commensurate to the violation, which helps preserve staff time to focus on more serious cases. The streamlined stipulation program is an option (but is not required) to resolve the following types of enforcement actions:

- a. Form 700 Non-Filer and Non-Reporter (GEA § 2.25.040);
- b. Gift Restrictions (GEA § 2.25.060C);
- c. Form 301 Non-Filer (CRA § 3.12.190);
- d. Campaign Statement/Report Non-Filer and Non-Reporter (CRA § 3.12.240);
- e. Lobbyist Registration/Report Non-Filer and Non-Reporter (LRA §§ 3.20.040 and 3.20.110).

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The streamlined stipulation program takes into account that the articulated evidence demonstrates a greater degree of public harm than a case that qualifies for a warning letter and is therefore worthy of a mid-level penalty. Streamlined stipulations will be offered based on a tiered penalty structure. Additionally, the stipulation documents for streamlined stipulations have been standardized and shortened from higher-level penalty ranges to promote efficiency.

The penalty tiers applying to streamlined stipulations are set forth below and are contingent upon the following conditions:

- the respondent has filed the form or amendment that forms the basis of the violation;
- the respondent has agreed to the terms of the streamlined stipulation;
- the respondent pays any applicable late filing fines; and
- the penalties are to be applied on a per-violation basis.

Violation	Compliance prior to or in response to first PEC contact	Compliance prior to publication of PEC investigation report
<u>Form 700 Non-Filer and Non-Reporter (GEA § 2.25.040):</u>	<u>\$400</u>	<u>\$1,000</u>
<u>Gift Restrictions (GEA § 2.25.060C</u>	<u>\$400</u>	<u>\$1,000</u>
<u>Form 301 Non-Filer (CRA § 3.12.190</u>	<u>\$400, plus 2% of contributions received over limit prior to filing form</u>	<u>\$1,000 plus 2% of contributions received over limit prior to filing form</u>
<u>Campaign Statement/Report Non-Filer and Non-Reporter (CRA § 3.12.340)</u>	<u>\$400, plus 1% of all financial activity not timely reported</u>	<u>\$1,000, plus 1% of all financial activity not timely reported</u>
<u>Lobbyist Registration/Report Non-Filer and Non-Reporter (LRA §§ 3.20.040 and 3.20.110):</u>	<u>\$400</u>	<u>\$800</u>

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- 3. Mainline Penalty.** For more serious violations and violations that do not qualify for a warning letter or the Streamlined Stipulation Program, the PEC will start with the following “base-level” penalty amount and then adjust the penalty amount based on mitigating and aggravating factors of the enforcement action, which will be articulated in any decision to impose a monetary penalty.

Violation	Base-Level Per Violation	Statutory Limit Per Violation
Form 700 Non-Filer and Non-Reporter. (GEA § 2.25.040.)	\$1,000.	\$5,000 or three times the amount not timely reported, whichever is greater.
Conflicts of Interest and Personal Gain Provisions. (GEA § 2.25.040.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Revolving Door Provisions. (GEA § 2.25.050.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Misuse of City Resources Provisions. (GEA § 2.25.060A.)	\$2,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Prohibitions Related to Political Activity and Solicitation of Contributions. (GEA § 2.25.060B.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Gift Restrictions. (GEA § 2.25.060C.)	\$1,000 plus unlawful amount received.	\$5,000 or three times the unlawful amount, whichever is greater.
Contracting Prohibition. (GEA § 2.25.060D.)	\$2,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Bribery/Payment for Position. (GEA § 2.25.070A-B.)	\$5,000, or three times the unlawful amount, whichever is greater	\$5,000 or three times the unlawful amount, whichever is greater.
Nepotism/Influencing Contract with Former Employer. (GEA § 2.25.070C-D.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Non-Interference in Administrative Affairs Provision. (GEA § 2.25.070E.)	\$1,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Contribution Limits. (CRA §§ 3.12.050 -3.12.080.) and Contractor Contribution Prohibition. (CRA § 3.12.140.)	Amount of unlawful contribution, plus forfeiture of unlawful contribution.	\$5,000 or three times the amount of the unlawful contribution, whichever is greater.
One Bank Account Rule. (CRA § 3.12.110.)	\$1,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Fundraising Notice Requirement. (CRA § 3.12.140P.)	\$1,000.	\$5,000 or three times the unlawful expenditure, whichever is greater.
Officeholder Fund Requirements. (CRA § 3.12.150.)	\$2,000.	\$5,000 or three times the unlawful expenditure, whichever is greater.

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Form 301 Requirement. (CRA § 3.12.190.)	\$1,000, plus 2% of contributions received over contribution limit prior to filing Form 301.	\$5,000 or three times the unlawful contribution or expenditure, whichever is greater.
Independent Expenditure Advertisement Disclosure Requirement. (CRA § 3.12.230.)	\$1,000.	\$5,000 or three times the unlawful expenditure, whichever is greater.
Contribution and Expenditure Restrictions. (CRA §§ 3.12.065 and 3.12.130.)	\$1,000	\$5,000 or three times the unlawful contribution or expenditure, whichever is greater.
Campaign Statement/Report Non-Filer and Non-Reporter. (CRA § 3.12.340.)	\$1,000, plus 1% of the all financial activity not timely reported.	\$5,000 or three times the amount not properly reported, whichever is greater.
Public Finance Program Requirements. (LPFA § 3.13.010.)	\$1,000.	\$1,000 and repayment of public financing unlawfully received or expended.
Lobbyist Registration Non-Filer. (LRA § 3.20.040.)	\$750.	\$1,000.
Lobbyist Report Non-Filer and Non-Reporter. (LRA § 3.20.110.)	\$750.	\$1,000.

Application of this Guideline

While most enforcement matters will likely fall within the penalty structure outlined in this guideline, this document was created merely to assist the PEC in determining an appropriate fine in certain types of cases; it does not limit the PEC or its staff from agreeing to a settlement or imposing a penalty or fine that deviates from this guideline or from the PEC's past practice. Additionally, this guideline is not a comprehensive list of violations for which the PEC has jurisdiction to investigate and impose a fine or penalty, and exclusion of a type of violation from this guideline does not in any way limit the PEC or its staff from investigating and imposing a fine or penalty on any person who commits such a violation.

CITY OF OAKLAND
Public Ethics Commission

Jonathan Stein (Chair)
Jodie Smith (Vice-Chair)
Lisa Crowfoot
James Jackson
Gail Kong
Krisida Nishioka



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: September 21, 2018
RE: 2019 Regular Meeting Schedule

Below is a proposed schedule for regular Commission meetings in 2019. Unless otherwise specified, meetings occur on the first Monday of each month.

2019 REGULAR MEETING SCHEDULE		
DATE	TIME	ROOM
January 7, 2019	6:30 PM	Hearing Room 1
February 4, 2019	6:30 PM	Hearing Room 1
March 4, 2019	6:30 PM	Hearing Room 1
April 1, 2019	6:30 PM	Hearing Room 1
May 6, 2019	6:30 PM	Hearing Room 1
June 3, 2019	6:30 PM	Hearing Room 1
July 1, 2019	6:30 PM	Hearing Room 1
<i>August Recess</i>		
September 3, 2019 (1 st Tuesday) ¹ Special Meeting	6:30 PM	Hearing Room 1
October 7, 2019	6:30 PM	Hearing Room 1
November 4, 2019	6:30 PM	Hearing Room 1
December 2, 2019	6:30 PM	Hearing Room 1

¹ Monday, September 2nd, 2019 is a holiday.

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Whitney Barazoto, Executive Director

Public Ethics Commission
Commissioner Vacancy Announcement
August 31, 2018

The City of Oakland Public Ethics Commission (PEC) is now accepting applications to fill one PEC-appointed Commissioner position, to begin in January 2019, as part of its seven-member volunteer citizen board. Applications are due on or before **Friday, October 19, 2018.**

Background

The Public Ethics Commission is a seven-member board of volunteers dedicated to the City Charter goal of ensuring ***fairness, openness, honesty, and integrity*** in City government. Guided by duties and authority set out by City ordinance, the Commission works to achieve its goals through a three-pronged approach that focuses on prevention, enforcement, and collaboration. Specifically, the following local laws are the foundation of the Commission's responsibilities in three general areas – campaign finance, ethics, and transparency:

- Oakland Government Ethics Act
- Oakland Campaign Reform Act
- Conflict of Interest Code
- Sunshine Ordinance
- Limited Public Financing Act
- Lobbyist Registration Act
- Oakland's False Endorsement in Campaign Literature Act

Commission Members

Each member of the Commission must be an Oakland resident who is registered to vote in Oakland. Three Commissioners are appointed respectively by the Mayor, City Attorney, and City Auditor. The remaining four are appointed by the full Commission on a rotating schedule. Once appointed, a Commissioner is expected to participate in monthly meetings and occasional subcommittee meetings to provide guidance to staff in the conduct of the Commission's business, make final decisions on enforcement matters, and serve as an adjudicative body/hearing officer (neutral judge) in cases that require an administrative hearing.

Commissioners are appointed for a term of 3 years, and during his or her tenure a Commissioner may not do any of the following:

1. Have an employment or contractual relationship with the City during the member's tenure and for one year after the date of separation;
2. Be a registered Oakland lobbyist or be required to register as an Oakland lobbyist, or be employed by or receive gifts or other compensation from a registered Oakland lobbyist during the member's tenure and for one year after the date of separation;
3. Seek election to any other public office in a jurisdiction that intersects with the geographic boundaries of Oakland, or participate in or contribute to an Oakland municipal campaign;
4. Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.

Commissioners receive no compensation and may serve no more than two consecutive three-year terms.

Selection Process

Following the application deadline, a subcommittee of three Commissioners will review applications and conduct oral interviews of candidates in early to mid-November. The subcommittee will select the top several candidates who will be introduced and briefly interviewed by the full Commission at the Commission's **December 3, 2018**, evening meeting. The term begins **January 22, 2019**, and expires **January 21, 2022**.

Desired Skills and Abilities

Commissioners should represent a variety of backgrounds and professions so that the Commission, as a whole, provides a well-rounded perspective on Oakland City government, law, community building and engagement, leadership, program administration, enforcement, and policies related to campaign finance, ethics and transparency. Specifically, a Commissioner should be able to do the following:

- Read, analyze, and understand written information and make decisions based on the information
- Listen to public input, assess community needs, and make decisions about how to best accomplish the Commission's goals
- Understand the context in which the Commission operates within City government and the broader community
- Communicate orally during a public, televised meeting
- Collaborate effectively with other Commissioners, the public, City officials, and staff
- Interpret rules, laws and policies and objectively apply a rule to a particular set of facts
- Identify personal conflicts of interest or other factors that could lead to actual or perceived improper influence
- Serve with fairness, openness, honesty, and integrity
- Complete a *Form 700 – Statement of Economic Interests* annually, disclosing information such as one's financial interests in investments, property, income, and gifts (to view a copy of a Form 700, contact Commission staff or visit www.fppc.ca.gov)
- Adhere to all Commission-related laws and policies, including but not limited to the Oakland City Charter, Oakland Government Ethics Act, Oakland Sunshine Ordinance, Commission Complaint Procedures, and Commission Operations Policies (by-laws).
- Must attend at least one Public Ethics meeting before appointment. The next meetings are September 11, October 1, and November 5, 2018, at 6:30 p.m. at City Hall.

For More PEC Information

For more about the Public Ethics Commission, visit us online at www.oaklandnet.com/pec. We also suggest you attend a City Council meeting in person or watch one on local television (Channel 10). For more information about the Commission or this position, contact Whitney Barazoto at wbarazoto@oaklandca.gov or (510) 238-6620.

City of Oakland
PUBLIC ETHICS COMMISSION
Commissioner Application



Name: _____

Mailing Address: _____

Daytime Phone: _____ Evening Phone: _____

Email: _____ City Council District: _____

Are you an Oakland resident? Yes No Years of Residency in Oakland: _____

List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served:

Please answer yes or no to *all* the following questions:

1. Are you currently employed by the City or have any direct and substantial financial interest in any work, business, or official action by the City? Yes No
2. Are you currently or planning to seek election to any other public office, participate in, or contribute to an Oakland municipal campaign? Yes No
3. Are you currently or planning to endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election? Yes No
4. Are you an Oakland lobbyist or required to register as a lobbyist, or do you receive gifts or compensation from an Oakland lobbyist? Yes No
5. Have you attended a Public Ethics Commission meeting? Yes No If yes, when? _____
6. How did you hear about this vacancy? _____

List the names, addresses and telephone numbers of two references:

1. Name: _____

Address: _____

Phone: _____ Email: _____

2. Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I certify that all of the information included in this application and supporting materials is true to the best of my knowledge. I also understand that this application packet is a public record, subject to public inspection, and that if I proceed to the final interview with the Commission, the packet will be distributed publicly as part of the selection process.

Signature: _____ Date: _____

See Supplemental Questions on next page →

Supplemental Questions

On a separate page, please answer the following four questions:

- 1. Why do you want to serve on the Public Ethics Commission?**
- 2. What skills and experience will you bring to the Commission?** (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner.)
- 3. What issues, projects, or goals would you like to pursue while serving on the Commission?**
- 4. What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?**
- 5. What else would you like the subcommittee to know as your application is considered?**

Applications are due by 5:00 p.m. on **Friday, October 19, 2018**, and must include the following materials:

1. Signed Application
2. Answers to the Supplemental Questions
3. Your resume

Applications may be submitted by mail, email or fax to PEC staff:

Public Ethics Commission
Attn: Whitney Barazoto
1 Frank Ogawa Plaza, Room 104
Oakland, CA 94612
ethicscommission@oaklandca.gov
Fax: (510) 238-3315

For questions, please call (510) 238-3593.
Web: www.oaklandnet.com/pec

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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Lead Analyst
Whitney Barazoto, Executive Director
DATE: September 21, 2018
RE: Disclosure Program

This memorandum provides an update of the Public Ethics Commission's (PEC or Commission) Disclosure program activities. Commission staff activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting other general PEC data and outreach efforts.

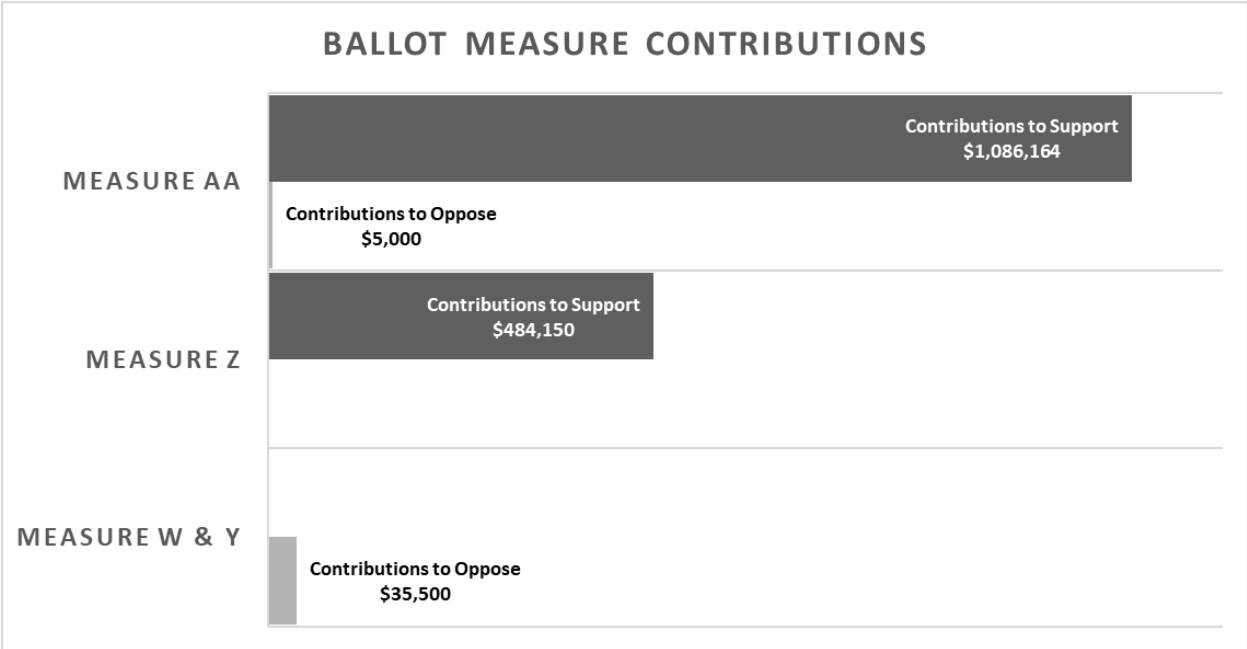
Filing Officer

Campaign disclosure – The first pre-election filing deadline for the November election falls on September 27. All candidates on the November ballot must file. Candidates raising or spending \$2,000 or more file their campaign statements on FPPC Form 460. Candidates intending to keep their campaign under \$2,000 must file FPPC Form 470. Ballot measure committees and other recipient committees with fundraising or spending activity connected with the November ballot must also file for the pre-election deadline.

As reported previously, August 8 started the 90-day period leading up to the election when late contribution reports (FPPC Form 497) and late independent expenditure reports (FPPC Form 496) must be filed within 24-hours for contributions or independent expenditures of \$1,000 or more. After the September 27 deadline, staff will screen campaign statements for untimely and unreported late contributions and independent expenditures and assess late fees as required.

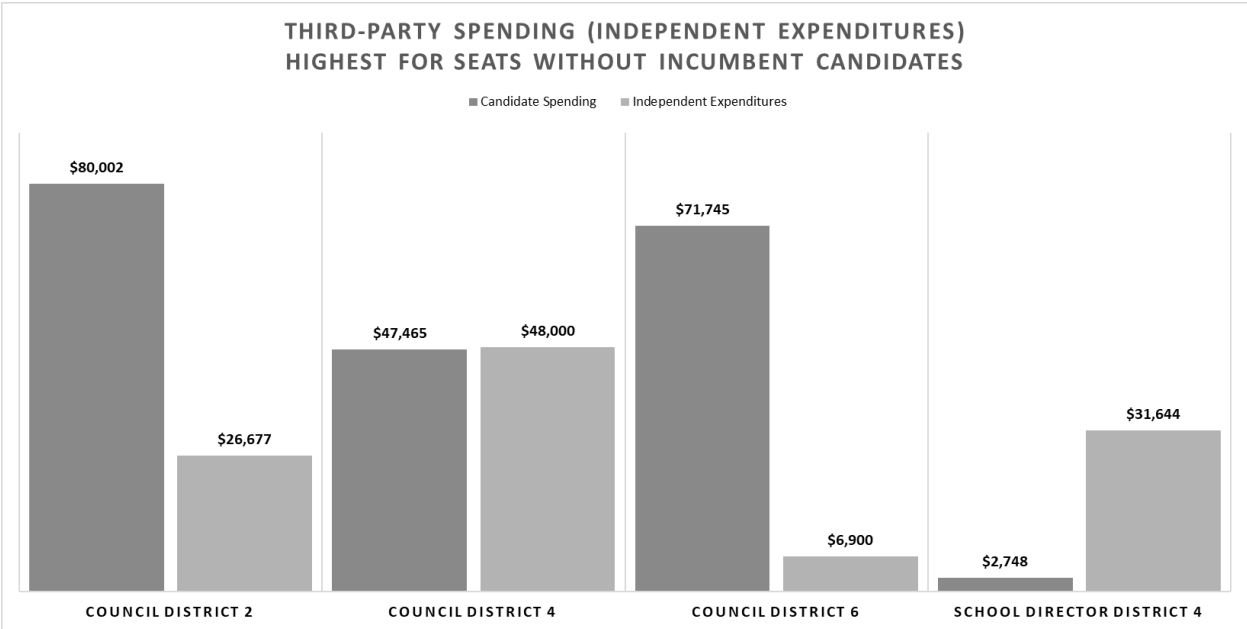
To date, over \$3 million in contributions connected with the November Oakland election have been reported by committees filing in Oakland. Just under half (\$1,488,103) were contributions reported by candidates. Since August 8, candidates have reported \$50,870 in late contributions.

Two new ballot measure committees registered in September, one formed to oppose Measure AA – Oakland Children's Initiative and one formed to oppose both Measure W – Vacant Property Parcel Tax and Measure Y – Just Cause Eviction Amendments. The five committees formed for November ballot measures reported \$1,610,814 in contributions, with \$165,500 in late contributions reported since August 8.



SOURCE: FORM 460 AND FORM 497 THROUGH 9/18/18.

In September, third parties (entities that are not candidate-controlled or ballot measure committees) reported spending \$113,221 in independent expenditures to influence election results in Oakland. The largest independent expenditures were to support candidates running for the District 4 City Council seat and District 4 Oakland Unified School Board seat, the two races without incumbent candidates running for re-election.



SOURCE: FORM 460, FORM 497, AND FORM 496 THROUGH 9/18/18.

Tight deadlines for late contribution and independent expenditure reports in addition to the upcoming pre-election deadlines resulted in increased staff time spent fielding requests for technical assistance with filings. First-time filers and candidates without professional support sometimes require a significant amount of support to navigate both campaign rules and the NetFile filing software. In addition to routine queries, staff also provided one-on-one assistance for three filers needing assistance to amend statements.

Illuminating Disclosure Data

Open Disclosure – The www.OpenDisclosure.io campaign finance app is live and newly updated every 24-hours with data for the 2018 election. A press release was issued to announce the official Open Disclosure launch with an event hosted by the Commission and OpenOakland on Tuesday, September 25, 6 p.m. in City Hall Hearing Room 4. Due to the postponement of the demonstration scheduled at the September Commission meeting, team volunteers will also demonstrate the app at the October Commission meeting. The team is calendaring events to promote the site. Please contact Commission staff or the Open Disclosure team if you would like a demonstration at an upcoming election event or community meeting. Open Disclosure is a project of OpenOakland volunteers in partnership with the Public Ethics Commission. OpenOakland is part of Code for America, a national network of community organizers and technologists seeking to put technology to work for the benefit of their local communities.

Online Engagement and General Outreach

Social Media – Communications in September focused on promoting Open Disclosure, filing deadlines, recruitment for upcoming Commission vacancies, and promoting the latest PEC newsletter.

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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: September 21, 2018
RE: Education and Outreach Update

This memorandum provides an update of the Public Ethics Commission's (PEC or Commission) education and outreach efforts as staff provides education and advice to candidates running for local office (and their campaign treasurers), City staff and officials, lobbyists, and others regulated by PEC laws. This past month, Commission education/outreach program staff has been working on a variety of activities that include the following:

Limited Public Financing Program

September 19 was the LPF Phase II deadline whereby participating candidates were required to file their LPF application for public financing (LPF Form 2) with all accompanying documentation as well as their initial claim for reimbursement (LPF Form 3). To be eligible for public funds, participating candidates must prove that they have met both the 5% contribution and expenditure thresholds and all other program requirements.

As of September 19, 11 of the 12 candidates that opted-in to the LPF program submitted LPF Forms 2 and 3. Staff is currently processing all applications and reviewing submitted documentation to verify that all program requirements have been met. Once staff has completed review of submitted documents, staff will re-assess available funding based on the number of participants that met program requirements and remain eligible to move forward.

Staff will continue to work closely with participants to verify documentation and process reimbursement claims.

Ethics Education

Staff continues to make presentations at the City's monthly New Employee Orientations (NEO) providing new employees with an introduction to the PEC and overview of the Government Ethics Act. On September 19, staff trained 20 new employees on GEA provisions.

Advice and Assistance

Commission staff continues to receive and track various advice requests received by phone and email. As of the date of this memorandum, staff has responded to roughly 295 requests for information and advice in 2018 (compared with 251 total in 2017), primarily in regards to provisions of the Oakland Campaign Reform, Government Ethics, and Limited Public Financing Acts such as gift restrictions, LPF program requirements, contribution history of candidates, and general questions about campaign rules and NetFile. Staff received several calls from candidates and consultants about rules related to candidate spending in races when the expenditure ceiling is lifted.

CITY OF OAKLAND

Public Ethics Commission



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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Milad Dalju, Chief of Enforcement
DATE: September 21, 2018
RE: Enforcement Program Update

Summary of Cases

As of September 21, 2018, the Commission has 39 open enforcement cases, each in various stages: 28 are being investigated, nine are being mediated, and two are set for an administrative hearing.

Since the last Enforcement Program Update on August 31, 2018, the following status changes occurred:

1. *In the Matter of Lynette Gibson McElhaney*; Case No. 15-07: At the September 11 meeting, the Commission reviewed an administrative law judge's proposed decision and adopted the proposed decision and a \$2,550 penalty.
2. *In the Matter of Lynette Gibson McElhaney*; Case No. 16-08(c); At the September 11 meeting, the Commission reviewed an investigation summary and decided to suspend the vote on the matter pending further development of a final resolution.
3. *In the Matter of Libby Schaaf*; Case No. 16-08(i); At the September 11 meeting, the Commission reviewed an investigation summary and decided to suspend the vote on the matter pending further development of a final resolution.
4. Complaint No. 18-24: Commission Staff received a formal complaint, conducted a preliminary review of the allegations, and initiated its mediation program pursuant to the Oakland Sunshine Ordinance.
5. Complaint No. 18-25: Commission Staff received a formal complaint, conducted a preliminary review of the allegations, and initiated its mediation program pursuant to the Oakland Sunshine Ordinance.
6. Complaint No. 18-26: Commission Staff received a formal complaint and is conducting a preliminary review of the allegations.

7. Complaint No. 18-27: Commission Staff received a formal complaint and is conducting a preliminary review of the allegations.

Current Enforcement Priorities

Commission Staff continues to prioritize cases based on the following priority factors: 1) the extent of Commission authority to issue penalties, 2) the impact of a Commission decision, 3) public interest, timing, and relevancy, and 4) Commission resources.

CITY OF OAKLAND

Public Ethics Commission

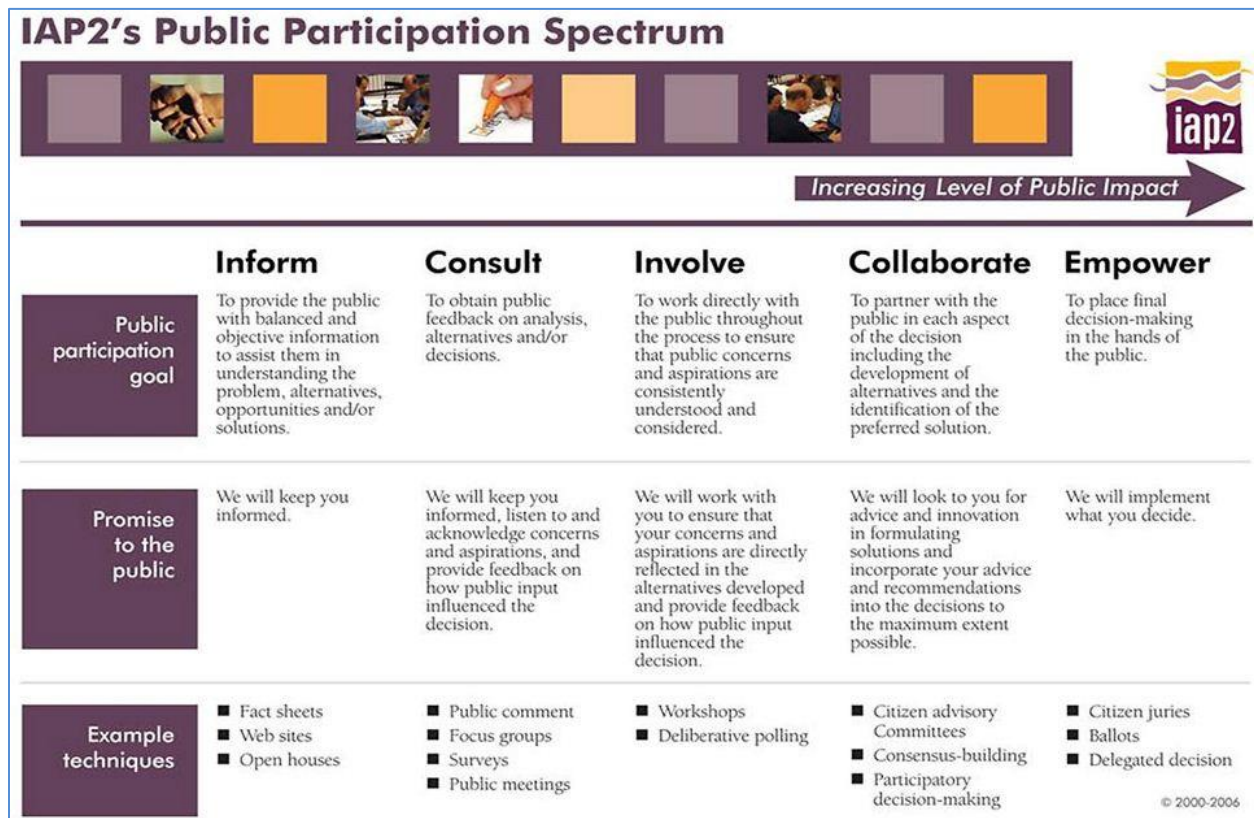
Jonathan Stein, Chair
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TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: September 21, 2018
 RE: Executive Director's Report

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities since the agenda posting for the Commission's last regular meeting that are not otherwise covered by staff program reports. The attached overview of Commission Programs and Priorities includes the main goals for 2018-19 for each program area.

September 5-7, the Executive Director attended a conference of the International Association for Public Participation (IAP2), a national professional association that leads, advances, and advocates for best practices in public participation. Below is IAP2's organizational philosophy on public participation:



A few thoughts from the Director's experience at the IAP2 conference:

Throughout the conference, it was clear that public participation is still a relatively young and growing field, and that state and local governments are increasingly evolving to better meet the needs of their communities and, more importantly, to better incorporate their communities into the process of making decisions that affect those communities. The conference provided examples of public engagement that were similar to techniques implemented by the Commission and other Oakland agencies in reaching out to communities, soliciting input, and involving people in the governing process. Oakland is not unique in both desiring community input and experimenting with new methods of incorporating residents meaningfully into the process to achieve better outcomes for all. What also struck me was how often public trust came up as one of the reasons for doing public engagement, and yet, how few government ethics organizations were in the room (none!).

As part of our campaign finance project research, I recently had the opportunity to converse with leading scholar and practitioner Matt Leighninger, Vice-President at the nonprofit Public Agenda, which aims to elevate a diversity of voices, forge common ground, and improve dialogue and collaboration among leaders and communities. He shared the different kinds of public engagement, such as "thin" engagement that includes members of the public speaking at a public meeting or completing an online survey where individuals briefly touch a particular project or issue, compared to "thick" engagement such as issue-specific working groups, ongoing community meetings, and local boards and commissions where people are involved more deeply in the work.

These and other events that have occurred in the past few months, including a speaking engagement with the Urban Habitat's Boards and Commissions Leadership Institute, have affirmed our Commission's commitment to outreach in the community, from informing folks about PEC activities to inviting input into our process to engaging proactively with residents on specific projects such as our Campaign Finance project to reshape our candidate campaign process.

In addition, these experiences also reiterated the important role of Oakland's boards and commissions and the impact they have on our community, and how our Commission might help support these entities to ensure ethical, transparent, and effective engagement that involves and empowers communities and builds public trust. Commission staff has provided some support to staff liaisons to these boards in the past, and the Commission may wish to consider whether to incorporate more work in this area in 2019. In the meantime, Commissioners may wish to visit other City board and commission meetings over the next few months to observe them in action and determine whether this is an important area for future PEC work.

Attachment: Commission Programs and Priorities

PUBLIC ETHICS COMMISSION

Programs and Priorities 2018-19

Program	Goal	Desired Outcome	Key Projects for 2018-19
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ol style="list-style-type: none"> 1. Adoption of PEC-drafted City Ticket Distribution policy and process changes 2. Campaign Finance/Public Financing Act Project to expand participation in the campaign process 3. Partner with OpenOakland on small projects
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ol style="list-style-type: none"> 1. Online ethics training for Form 700 filers – ensure training delivered to a) staff/officials (1000), b) board/commission members, and c) consultants 2. Candidate education – 2018 Election (online, binder, in-person orientation, April FPPC training, etc.) ✓ 3. Public Financing for candidates 2018 (outreach, training/assistance, maximize use of funds, etc.) 4. Ongoing: advice calls, in-person trainings, ethics orientation for new employees (12), supervisor academy (3-4), and PEC newsletter (2) 5. Education materials for people doing business with the City 6. Web-based ethics materials, html Ethics Training ✓
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ol style="list-style-type: none"> 1. Outreach to client groups: <ul style="list-style-type: none"> -2018 Candidates ✓ -Public financing program ✓ -people doing business with the City 2. Sustain/enhance general PEC social media outreach 3. PEC Roadshow – focus on CF project outreach (Commissioners) 4. PEC website upgrade ✓ 5. Establish Communications Plan ✓
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ol style="list-style-type: none"> 1. Ongoing: Campaign Filing Officer, E-filing System Management 2. Campaign Reporting Compliance and Referral program 3. Open Disclosure 2018 – campaign data visualization project ✓ 4. Lobbyist Registration – solidify filing officer process ✓, create e-filing system 5. Form 803 Behested Payments – implement e-filing process, create online open data format for public accessibility 6. Initiate/develop project plan to establish comprehensive contractor database
Detect/ Deter	PEC staff proactively detects potential violations and efficiently investigates	Public servants, candidates, lobbyists, and City contractors	<ol style="list-style-type: none"> 1. Proactive investigations focusing on ethics violations 2. Share prelim review/intake among enforcement team

	complaints of non-compliance with laws within the PEC's jurisdiction.	are motivated to comply with the laws within the PEC's jurisdiction.	<ol style="list-style-type: none"> 3. Collaboration with other government law enforcement agencies 4. Track investigation steps (commencement/completion) 5. Establish process for phone/text subpoenas
Prosecute	Enforcement is swift, fair, consistent, and effective.	Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.	<ol style="list-style-type: none"> 1. Address complaints against the PEC v 2. Create manual for Sunshine Complaint Mediation, recruit law clerk v 3. Amend Complaint Procedures 4. Update Penalty Guidelines 5. Resolve all 2014 cases 6. Ensure completion of all case data
Administration/ Management	PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.	PEC staff model a culture of accountability, transparency, innovation, and performance management.	<ol style="list-style-type: none"> 1. Publish performance goals and data on PEC website – dashboards 2. Review data to adjust activities throughout the year 3. Ongoing: professional development and staff reviews v 4. Staff to create position manuals to establish long-term continuity