

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Monday, February 4, 2019
Hearing Room 1
6:30 p.m.



Commissioners: Jodie Smith (Chair), James E.T. Jackson (Vice-Chair), Jill Butler, Lisa Crowfoot, Gail Kong, and Nayeli Maxson

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Jelani Killings, Education Analyst; Simon Russell – Investigator/Acting Enforcement Chief

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.**

ACTION ITEMS

- 4. Approval of Commission Meeting Draft Minutes.**
 - a. January 7, 2019 Regular Meeting Minutes ([Attachment 1 – Minutes](#))
- 5. Mediation Request Form.** Commission staff presents a new Mediation Request Form for Commission review. This request form will replace the use of the PEC Complaint Form for mediations. Participation in mediation is a required step before submitting a complaint to the Commission regarding a denial of a public records request. ([Attachment 2 – Mediation Form](#); [Attachment 3 – Oakland Sunshine Ordinance](#))
- 6. Ethics Resource Guide.** Commissioners will review a new Government Ethics Act Guide that provides an overview of the City's local ethics laws. ([Attachment 4 – Draft Government Ethics Act Guide](#))

DISCUSSION ITEMS

- 7. Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission's last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission's work. Current or recent subcommittees include the following:
 - a. **Campaign Finance Subcommittee** –Lisa Crowfoot, and James Jackson
 - b. **Education and Outreach Subcommittee** –James Jackson, and Gail Kong
 - c. **Complaint Procedures Subcommittee** (*ad hoc*, created 3/26/18) –Jodie Smith
 - d. **Ticket Policy Guidance Subcommittee** (*ad hoc*, created 9/11/18) – James Jackson and Gail Kong



INFORMATION ITEMS

- 8. Oakland Campaign Reform Act Contribution Limit and Expenditure Ceiling Annual Adjustment for 2019.** Commission staff calculated an adjustment to Oakland's campaign contribution limits and expenditure ceiling amounts according to the increase in the Consumer Price Index as required annually by the Oakland Campaign Reform Act. Staff provides a copy of the adjustment to the Commission and formally publishes the updated limits for the public. ([Attachment 5 – Memorandum](#))
- 9. Disclosure Program.** Lead Analyst Suzanne Doran provides a report of recent disclosure and data illumination activities. ([Attachment 6 – Disclosure Report](#))
- 10. Education and Engagement Program.** Commissioners will review Ethics Analyst Jelani Killings' report on the Commission's education and outreach activities. ([Attachment 7 – Education Report](#))
- 11. Enforcement Program.** Acting Enforcement Chief Simon Russell reports on the Commission's enforcement work since the last regular Commission meeting. ([Attachment 8 – Enforcement Report](#))
- 12. Executive Director's Report.** Executive Director Whitney Barazoto reports on overall projects, priorities, and significant activities since the Commission's last meeting. ([Attachment 9 – 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.oaklandca.gov/pec.



1/25/2019

Approved for Distribution

Date



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CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
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Monday, January 7, 2019
Hearing Room 1
6:30 p.m.



DRAFT

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

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Jelani Killings, Education Analyst; Simon Russell – Investigator/Acting Enforcement Chief

City Attorney Staff: Trish Hynes, Deputy City Attorney

REGULAR MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:30 p.m.

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

Staff present: Whitney Barazoto, Suzanne Doran, Jelani Killings, and Simon Russell.

City Attorney Staff: Trish Hynes, Deputy City Attorney

2. Staff and Commission Announcements.

Chair Stein announced that the Fair Political Practices Commission will be holding its January meeting at Oakland City Hall in Hearing Room 1 on January 17th, 2019.

There were no public speakers.

3. Open Forum.

There was one public speaker.

CONSENT ITEMS

4. Approval of Commission Meeting Draft Minutes.

- a. December 3, 2018, Regular Meeting Minutes

Commissioner Stein moved to approve the minutes with a revision to Item 4 to better reflect the order of how the vote was taken.

Commissioner Crowfoot moved and Commissioner Jackson seconded to approve the minutes with the revisions.

The motion passed 7-0.

There were no public speakers.



ACTION ITEMS

5. Election of Officers (Chair and Vice-Chair) of the Commission.

Chair Stein nominated Commissioner Smith for Chair. Commissioner Smith accepted the nomination.

Chair Stein moved and Commissioner Nishioka seconded the nomination.

The motion passed 6-0, with Commissioner Smith abstaining.

Commissioner Smith nominated Commissioner Jackson for Vice-Chair. Commissioner Jackson accepted the nomination.

Commissioner Smith moved and Commissioner Butler seconded the nomination.

The motion passed 6-0, with Commissioner Jackson abstaining.

There were no public speakers.

6. New Commissioner Selection.

Executive Director Whitney Barazoto explained the process for the Commission's final selection of the next PEC-appointed commissioner. Each of the six finalists was asked to prepare up to four minutes of remarks describing their interest and relevant experience for becoming a commissioner.

Mark P. Cohen, Daniel Ettlinger, Kimball Lane, Nayeli Maxson, Michelle McGill, and David Roe each were given four minutes to introduce themselves to the Commission, followed by questions from Commissioners.

Commissioner Stein shared that his term is ending January 21st 2019 and that the City Auditor will need to appoint a new commissioner.

Commissioners voted by ballot to select one new member, and applicant Nayeli Maxson received the most votes.

Chair Stein moved and Commissioner Nishioka seconded to appoint Nayeli Maxson as the next PEC-appointed Commissioner.

The motion passed 7-0.

There was one public speaker.

7. Campaign Finance Compliance for the November 2018 Election – Reconsideration of Warning Letters Issued to Certain Contributors.



DRAFT

Acting Enforcement Chief Simon Russell presented a report to recommend that the Commission rescind four warning letters and instead close each matter without action.

Commissioners asked follow-up questions.

Commissioner Jackson moved and Commissioner Crowfoot seconded that the two warning letters for Scott Clifford and Mark Tran be rescinded and that the two warning letters to Katrin Wehrheim and Cassia Stepak be rescinded and replaced with advisory letters.

The motion passed 7-0

There were no public speakers.

DISCUSSION ITEMS

8. Subcommittee Reports.

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

Commissioner Stein shared that several organizations have expressed interest in working with the Commission.

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

Commissioner Nishioka thanked Jelani Killings for his work on education and outreach.

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

Commissioner Smith shared that the review has been completed and waiting for the new Enforcement Chief to bring it in front of the Commission.

d) Ticket Policy Guidance Subcommittee (*ad hoc*, created 9/11/18) – James Jackson and Gail Kong

Ms. Barazoto shared that the policy will be brought to the City Council for review.

e) Commissioner Recruitment Subcommittee (*ad hoc*, created 11/5/18) – Jonathan Stein, Lisa Crowfoot, and Krisida Nishioka

Chair Stein closed the subcommittee.

There were no public speakers.



INFORMATION ITEMS

9. Disclosure Program.

Suzanne Doran, Lead Analyst, presented the report.

There were two public speakers.

10. Education and Engagement Program.

Jelani Killings, Education Analyst, presented the report.

There were no public speakers.

11. Enforcement Program.

Mr. Russell presented the report.

There were no public speakers.

12. Executive Director's Report.

Ms. Barazoto presented the report.

There were no public speakers.

13. Commissioner Farewell.

The Commission and staff bid farewell to Commissioners Nishioka and Stein and thanked them for their service.

There were no public speakers.

The meeting adjourned at 8:22 p.m.



City of Oakland

Public Ethics Commission

Request for Mediation of Records Request

For PEC Staff Use Only

Staff Initials:

Request #:

The California Public Records Act and Oakland Sunshine Ordinance provide the right for the people to inspect and obtain copies of public records, unless the records are exempt from disclosure. Any person whose request to inspect or copy public records has been denied by any local body, agency, or department may request mediation of his or her request through the Public Ethics Commission. A complaint cannot be filed with the Public Ethics Commission alleging the failure to permit the timely inspection or copying of a public record unless the requestor has first requested and participated in mediation.

The mediator will attempt to resolve the dispute to the mutual satisfaction of both parties. The mediator's recommendations are not binding on any party. All statements made during mediation cannot be used or considered for any purpose in any subsequent or related proceeding.

If you would like to submit a request for mediation, please complete this form. This form becomes a public record available for inspection and copying by the public, along with any documents submitted with this form. A copy of this request also will be provided to the persons identified in the allegations below. For more information about the Public Ethics Commission's mediation process, see the [Oakland Sunshine Ordinance \(Oakland Municipal Code Chapter 2.20\)](#).

Contact Information of Person Making Request

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Email: _____ Phone: _____

Description of Request. Please complete the lines below and/or provide an attachment with the following details:

- **What records are you seeking?** Please include your RecordTrac request number, if known.

- **From whom are you seeking the records?** Please include any known title, department, phone number, email address, etc.

- **Why are you seeking mediation?** Please describe the problem(s) you have encountered, and the outcome you are seeking.

- **Additional information or documentation that might aid in the mediation.** Please include copies of such documentation and list them here.

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on _____ at _____
(Date) (City, State)

(Signature)

Request Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov
Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104
Oakland, CA 94612
Phone: (510) 238-3593
Fax: (510) 238-3315

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Oakland Sunshine Ordinance

Chapter 2.20 - PUBLIC MEETINGS AND PUBLIC RECORDS

Sections:

Article I. - In General

2.20.010 - Findings and purpose.

The Oakland City Council finds and declares:

- A. A government's duty is to serve the public and in reaching its decisions to accommodate those who wish to obtain information about or participate in the process.
- B. Commissions, boards, councils, advisory bodies and other agencies of the city exist to conduct the people's business. This chapter is intended to assure that their deliberations and that the city's operations are open to the public.
- C. This chapter is intended in part to clarify and supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the city of Oakland can be fully informed and thereby retain control over the instruments of local government in their city.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.1, 1997)

2.20.020 - Citation.

This chapter may be cited as the Oakland Sunshine Ordinance.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.2, 1997)

Article II. - Public Access to Meetings

2.20.030 - Definitions.

Words or phrases in this chapter shall be defined pursuant to the Ralph M. Brown Act, Government Code Section 54950 et seq. and the Public Records Act, Government Section 6250 et seq., unless otherwise specified as follows:

- A. "Agenda" means the agenda of a local body which has scheduled the meeting. The agenda shall meet the requirements of Government Code Section 54954.2, except that the timing requirements of this chapter shall control. For closed sessions, the agenda shall meet the requirements set forth in Government Code Section 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda-related material. A description of an item on the agenda is adequate if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.
- B. "Agenda-related materials" means the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the

subject matter of any agenda item. Notwithstanding the foregoing, agenda related materials shall not include:

1. The written text or visual aids for any oral presentation so long as such text or aids are not substituted for, or submitted in lieu of, a written report that would otherwise be required to meet the filing deadlines of this chapter; and
 2. Written amendments or recommendations from a member of a local body pertaining to an item contained in agenda related materials previously filed pursuant to Section 2.20.070 or Section 2.20.080
- C. "Agenda subscriber" means any person or organization who requests in writing, on an annual basis, the receipt of an agenda or agenda-related materials as specified in Section 2.20.090 of this chapter.
- D. "City" means the city of Oakland.
- E. "Local body" means:
1. The Oakland City Council, the Oakland Redevelopment Agency, and the Board of Port Commissioners;
 2. Any board, commission, task force or committee which is established by City Charter, chapter or by motion or resolution of the City Council, the Oakland Redevelopment Agency or the Board of Port Commissioners;
 3. Any advisory board, commission or task force created and appointed by the Mayor and which exists for longer than a twelve (12) month period; and,
 4. Any standing committee of any body specified in subsections (E)(1)(2) or (3).

"Local body" shall not mean any congregation or gathering which consists solely of employees of the city of Oakland, the Oakland Redevelopment Agency, or the Port of Oakland.

- F. "Meeting" shall mean any congregation of a majority of the members of a local body at the same time and location, including teleconference location as permitted by Government Code Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the local body.
1. A majority of the members of a local body shall not, outside a meeting defined in this subsection F., use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the local body.
 2. Subsection F.1. shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting defined in this subsection F. with members of a local body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the local body the comments or position of any other member or members of the local body.
 3. Nothing in this subsection F. shall impose the requirements of this chapter upon any of the following:
 - a. Individual contacts or conversations between a member of a local body and any other person that do not violate subsections F.1. and 2.;
 - b. The attendance of a majority of the members of a local body a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the local body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which

the organizers have required other participants or registrants to pay fees or charges as a condition of attendance;

- c. The attendance of a majority of the members of a local body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency;
- d. The attendance of a majority of the members of a local body at an open and noticed meeting of another local body of the local agency or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency;
- e. The attendance of a majority of the members of a local body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the local body of the local agency; or
- f. The attendance of a majority of the members of a local body at an open and noticed meeting of a standing committee of that body, provided that the members of the local body who are not members of the standing committee attend only as observers.

"Meeting" shall also mean a meal or social gathering of a majority of the members of a local body immediately before, during or after a meeting of a local body.

- G. "Notice" means the posting of an agenda in a location that is freely accessible to the public twenty-four (24) hours a day and as additionally specified in Section 2.20.070 and 2.20.080
- H. "On-line" means accessible by computer without charge to the user.
- I. "Software or hardware impairment" means the city is unable to utilize computer software, hardware and/or network services to produce agendas, agenda related material or to post agendas on-line due to inoperability of software or hardware caused by the introduction of a malicious program (including, but not limited to, a computer virus), electrical outage affecting the city's computer network, or unanticipated system or equipment failure. "Software or hardware impairment" may also include situations when the city is unable to access the internet due to required or necessary maintenance or the installation of system upgrades that necessitate deactivating the system network; however, the city shall make reasonable efforts to avoid a delay in the preparation, distribution, or posting of agendas and agenda related material as a result of required or necessary maintenance or installation of system upgrades.
- J. "Standing committee" means any number of members of a local body which totals less than a quorum and which has a continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution or formal action of the local body.

(Ord. No. 12909, § 3, 1-6-2009; Ord. 12668 § 3, 2005; Ord. 12483 (part), 2003; Ord. 11957 § 00.3, 1997)

2.20.040 - Conduct of meetings for additional bodies covered by the chapter.

- A. To the extent not inconsistent with state or federal law, a local body shall require, as a condition of any express delegation of power to any public agency, including joint powers authorities, or other person(s), whether such delegation of power is achieved by legislative act, contract, lease or other agreement, that any meeting by such a public agency or other person(s) at which an item concerning or subject to the delegated power is discussed or considered, shall be conducted pursuant to the Ralph M. Brown Act (Government Code Section 54950 et seq.).

- B. To the extent not inconsistent with state or federal law, a private entity that owns, operates or manages any property in which the city, Redevelopment Agency, or the Port Department has or will have an ownership interest, including a mortgage, and on which property the private entity performs a governmental function or service, shall conduct any meeting of its governing board at which an item relating to the administration of the property or the public function or service is discussed or considered subject to the following conditions:
1. Such meetings need not be formally noticed, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the meeting be made available upon request;
 2. Such meetings need not be conducted in any particular location to accommodate spectators, although spectators shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy;
 3. Such business meetings need not provide opportunities for comment by spectators, although the governing board may, in its discretion, entertain questions or comments from spectators as may be relevant to the item considered; and,
 4. The private entity or persons may restrict the attendance of spectators only to the specific item(s) directly relating to the administration of the property or of the public function or service and, as to such specific item(s), may prohibit the attendance of spectators during the discussion or consideration of any item that would be the permitted subject of a closed session hearing under the Ralph M. Brown Act.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.4, 1997)

2.20.050 - Meetings to be open and public: Application of Brown Act.

All meetings of local bodies specified in Sections 2.20.030(E) and Section 2.20.040(A) shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.) unless greater public access is required by this chapter, in which case this chapter shall be applicable.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.5, 1997)

2.20.060 - Conduct of business: Time and place for meetings.

- A. Every local body specified in Section 2.20.030(E) shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such resolution or formal action. Whenever reasonably possible local bodies specified in Section 2.20.030(E)(1) and (2) shall conduct their regular meetings on weekday evenings.
- B. Regular and special meetings of legislative bodies specified in Section 2.20.030(E) shall be held within the city of Oakland except to do any of the following:
1. Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local body is a party;
 2. Inspect real or personal property which cannot be conveniently brought to Oakland, provided that the topic of the meeting is limited to items directly related to the real or personal property;
 3. Participate in meetings or discussions of multi-agency significance that are outside Oakland. However, any meeting or discussion held pursuant to this subsection shall take place within the jurisdiction of one of the participating agencies and be noticed by the respective local body specified in this chapter; or
 4. Meet outside the city of Oakland with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the city of Oakland, the Oakland Redevelopment Agency or the Port of Oakland, and over which issue the other federal or state agency has jurisdiction.

- C. If a regular meeting for any local body falls on a holiday, the meeting shall be held on the next scheduled regular meeting day unless otherwise noticed as a special meeting for which notice is given at least five days in advance.
- D. If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the presiding officer of the local body or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.
- E. No local body shall take any action at a meeting which occurs when a quorum of the local body becomes present at a meeting of a standing or ad hoc committee of the local body, although the committee may take action consistent with its jurisdiction and authority.

(Ord. 12483 (part), 2003; Ord. 12463 § 2, 2003; Ord. 11957 § 00.6, 1997)

2.20.070 - Notice and agenda requirements: Special meetings.

- A. Special meetings of any local body may be called at any time by the presiding officer thereof or by a majority of the members thereof. All local bodies calling a special meeting shall provide notice by:
 1. Posting a copy of the agenda in a location freely accessible to the public at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda;
 2. Filing a copy of the agenda and copies of all agenda-related material in the Office of the City Clerk at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda; and,
 3. Delivering a copy of the agenda to each member of the local body, to each local newspaper of general circulation, to each agenda subscriber, and to each media organization which has previously requested notice in writing, so that a copy of the agenda is received at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Receipt of the agenda shall be presumed upon reasonable proof that delivery was made.
- B. Local bodies specified in Section 2.20.030 (E)(1) shall, in addition to the noticing requirements of this section, post a copy of the agenda for any special meeting on-line at the local body's website at least forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the time of the meeting set forth in the agenda. Failure to timely post a copy of the agenda online because of software or hardware impairment, as defined in Section 2.20.030, shall not constitute a defect in the notice for a special meeting if the local body complies with all other posting and noticing requirements.
- C. Notwithstanding the requirements of 2.20.070(A) and (B), if a special meeting is called for a Monday, notice shall be deemed timely made if the filing, posting and distribution requirements of subsections (A) and (B) are made no later than 12:00 p.m. (noon) on the preceding Friday.
- D. No business other than that set forth in the agenda shall be considered at a special meeting. Each special meeting shall be held at the regular meeting place of the local body except that the local body may designate an alternative meeting location provided that such alternative location is specified in the agenda and that notice pursuant to this section is given at least ten days prior to the special meeting. This ten day notice requirement shall not apply if the alternative location is within the same building at which regular meetings of the local body occur.
- E. To the extent practicable, the presiding officer or the majority of members of any local body may cancel a special meeting by delivering notice of cancellation in the same manner and to the same persons as required for the notice of such meeting.
- F. Special meetings may not be noticed on the same day as a previously scheduled regular meeting that was not noticed in compliance with this chapter if the special meeting is called to consider any of the items that were included in the notice for such regular meeting.

(Ord. 12668 § 4, 2005; Ord. 12483 (part), 2003; Ord. 12463 § 3, 2003; Ord. 12106, 1999; Ord. 11957 § 00.7, 1997)

2.20.080 - Notice and agenda requirements: Regular meetings.

- A. Ten Day Advance Notice Requirement for Regular Meetings of the City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and Their Standing Committees. The City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and any of their standing committees shall provide notice before any regular meeting by:
 - 1. Posting a copy of the agenda in a location freely accessible to the public twenty-four (24) hours a day no later than ten days before the date of the meeting;
 - 2. Filing a copy of the agenda and all agenda-related material with the Office of the City Clerk and the Oakland main library no later than ten days before the date of the meeting; and,
 - 3. Posting a copy of the agenda on-line at the local body's website no later than ten days before the date of the meeting. Notwithstanding Section 2.20.080(D), the failure to timely post a copy of the agenda online because of software or hardware impairment, as defined in Section 2.20.030, shall not constitute a defect in the notice for a regular meeting, if the local body complies with all other posting and noticing requirements.

- B. Supplemental Agenda and Related Materials Requirements for Regular Meetings of the City Council Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and Their Standing Committees. Notwithstanding the notice provisions of 2.20.080(A), the City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and any of their standing committees, may amend or supplement a posted agenda or agenda-related materials no later than seventy-two (72) hours before a regular meeting and only for the following reasons or under the following conditions:
 - 1. To add an item due to an emergency or urgency, provided the local body makes the same findings as required by Section 2.20.080(E) before taking action;
 - 2. To delete or withdraw any item from a posted agenda; however, nothing herein shall limit the ability of a local body to delete or withdraw an item during the meeting as long as the local body permits members of the public to address the deleted or withdrawn item;
 - 3. To provide additional information to supplement the agenda-related material previously filed with the Office of the City Clerk provided that the additional information was not known to the Mayor or staff or considered to be relevant at the time the agenda-related materials were filed. Examples of supplemental material permitted by this section are reports responding to questions or requests raised by members of a local body after posting and filing of the ten day agenda and materials, and analyses or opinions of the item by the Office of the City Attorney, City Auditor, or any member of the City Council;
 - 4. To correct errors or omissions, or to change a stated financial amount, or to clarify or conform the agenda title to accurately reflect the nature of the action to be taken on the agenda item;
 - 5. To consider the recommendations, referrals, minutes, modifications of or actions taken on any item heard by a standing committee of the City Council, Redevelopment Agency, Board of Port Commissioners, and Public Ethics Commission provided that the item has not been materially changed after the committee considered the item;
 - 6. To place an ordinance on the agenda pursuant to Oakland City Charter Section 216 because the Mayor has caused its reconsideration by the City Council under the Mayor's power to suspend an ordinance receiving five votes; or,
 - 7. To place an item on the agenda to allow the Mayor to cast a vote pursuant to Oakland City Charter Section 200; or

8. To continue an agenda item to the next regular meeting of the local body so long as members of the public are given an opportunity to address the local body on the item at the meeting from which the item is continued.
- C. Seventy-two (72) Hour Advance Notice Requirement for Regular Meetings of All Local Bodies Other Than the City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission, and Their Standing Committees. Any local body specified in Section 2.20.030(E)(2), (3), and (4), with the exception of standing committees of the City Council, Redevelopment Agency, Board of Port Commissioners, and Public Ethics Commission, shall provide notice for any regular meeting in compliance with the Ralph M. Brown Act and shall also file a copy of the agenda and all agenda-related material with the Office of the City Clerk at least seventy-two (72) hours before the time of any regular meeting.
 - D. Excuse of Sunshine Notice Requirements. If an item appears on an agenda but the local body fails to meet any of the additional notice requirements under this section, the local body may take action only if:
 1. The minimum notice requirements of the Brown Act have been met; and,
 2. The local body, by a two-thirds vote of those members present, adopts a motion determining that, upon consideration of the facts and circumstances, it was not reasonably possible to meet the additional notice requirements under this section and any one of the following exists:
 - a. The need to take immediate action on the item is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;
 - b. There is a need to take immediate action which relates to federal or state legislation or the local body's eligibility for any grant or gift; or,
 - c. The item relates to a purely ceremonial or commendatory action. Notwithstanding the provisions of this subsection, the City Council, Redevelopment Agency, Board of Port Commissioners or Public Ethics Commission may excuse, by a two-thirds vote of those members present, any of the additional notice requirements imposed by Section 2.20.080 so long as the failure to meet any additional notice requirement was due to a software or hardware impairment as defined by Section 2.220.030(l) and such additional notice requirements are satisfied no later than eight days before the date of the meeting.
 - E. Action on Items Not Appearing on the Agenda. Notwithstanding subsection (D) of this section, a local body may take action on items not appearing on a posted agenda only if:
 1. The matter is an emergency. Upon a determination by a majority vote of the local body that a work stoppage, crippling disaster or other activity exists which severely impairs public health, safety or both; or,
 2. The matter is urgent. Upon a determination by a two-thirds vote by the members of the local body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those present, that there is a need to take immediate action which came to the attention of the local body after the agenda was posted, and that the need to take immediate action:
 - a. Is required to avoid a substantial adverse impact that would occur if the action were deferred to a subsequent special or regular meeting;
 - b. Relates to federal or state legislation; or,
 - c. Relates to a purely ceremonial or commendatory action.
 - F. Nothing in this section shall prohibit a local body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply, or to distribute agenda-related materials relating to items added pursuant to 2.20.080(E) before or during a meeting.

- G. Nothing in this section shall prohibit the Office of the City Attorney from conforming a document to comply with technical requirements as to form and legality.
- H. The Mayor, City Administrator and City Attorney in their capacities with the city and Redevelopment Agency must submit public agenda related materials to the City Clerk in sufficient time to meet the deadlines of this section and Section 2.20.070. However, the referenced officers may submit additional documents to the legislative body and the legislative body may accept the documents if the legislative body makes a finding by two-thirds vote of the members present that the additional information in the documents was not known to the officers or considered to be relevant by the officers at the time of the filing deadlines. Copies of such documents shall be made available to the public at the related meeting. This subsection shall not apply to the City Auditor, and the City Council may consider reports from the City Auditor that are presented to the Council after the deadlines specified in this chapter. Nothing in this section or in any other provision of this chapter shall be interpreted to require that the Mayor, City Administrator or City Attorney submit to the City Clerk any documents that are not public records.

(Ord. 12668 § 5, 2005; Ord. 12483 (part), 2003; Ord. 11957 § 00.8, 1997)

2.20.090 - Agenda-related materials as public records: Agenda subscribers.

In addition to providing access to all records which are public records pursuant to the California Public Records Act (Government Code 6250 et seq.) and this ordinance, every local body specified in Section 2.20.030(E) shall make available for immediate public inspection and copying all agendas and agenda-related materials.

- A. Every local body may charge a fee to agenda subscribers and media organizations to cover reasonable mailing costs of the agenda and agenda-related materials. Neither this section nor the California Public Records Act shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act or this ordinance.
- B. Every local body shall make available for immediate public inspection and copying all documents that have been distributed to a majority of its members. The right to immediate public inspection and copying provided in this section shall not include any material exempt from public disclosure under this ordinance or under state or federal law.
- C. All requests by agenda subscribers to receive agendas or agenda-related materials by mail shall be made in writing and delivered to the Office of the City Clerk or, in the case of the Board of Port Commissioners, to the Secretary of the Board. The City Clerk shall maintain a list of all local bodies and shall immediately forward a copy of the written request to the appropriate local body to ensure compliance with the request. Any written request shall be valid for the calendar year in which it is filed, and must be renewed after January 1 of each year.
- D. Notwithstanding any other provision of this ordinance, the failure of an agenda subscriber to timely receive the agenda or agenda-related material pursuant to this section shall not constitute grounds for invalidation of the actions of the local body taken at the meeting for which the agenda or the agenda-related material was not timely received.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.9, 1997)

2.20.100 - Agenda and oral disclosures: Closed sessions.

- A. In addition to the brief general description of agenda items to be discussed or acted upon in open session, the permissive provisions of Government Code Section 54954.5 are mandatory under this ordinance with respect to any closed session item.
- B. Any action taken without proper agenda disclosure pursuant to this section is subject to invalidation pursuant to the provisions of Government Code Section 54960.1.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.10, 1997)

2.20.110 - Statement of reasons for closed sessions.

- A. Prior to any closed session, a local body shall announce in open session the general reason or reasons for the closed session, and must cite and explain the statutory or case authority under which the session is being closed.
- B. In the case of an item added to the agenda pursuant to Government Code Section 54954.2(b) or Section 2.20.080(E) herein, the statement shall be made in open session concurrent with the findings required pursuant to that section.
- C. A local body shall re-state the reasons for closed session before convening a closed session at any meeting and as to any item that has been adjourned or continued from a prior meeting.
- D. The public shall have the right to comment on any item of closed session before the closed session convenes.
- E. Nothing in this section shall require or authorize a disclosure of information that is confidential under law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.11, 1997)

2.20.120 - Conduct of closed session.

- A. A local body shall consider in closed session only those matters specified in the statement required in Section 2.20.110
- B. After any initial closed session to consider the sale, lease, gift, purchase, or exchange of any property to which the city, Redevelopment Agency, or Port of Oakland has or will have an ownership or possessory interest, such local bodies shall notice for open session a discussion of the advisability of taking such an action before a final action is taken in the matter. This requirement shall not apply if the local body adopts a finding that holding an open session discussion would prejudice the local body in the proposed proceeding or transaction.
- C. With respect to any closed session discussion pertaining to employee salaries and benefits, a local body shall not discuss compensation or other contractual matters with one or more employees having a direct interest in the outcome of the negotiations.
- D. The following provisions of the Brown Act apply to the conduct of closed session by local bodies and are hereby incorporated by reference as though fully set forth herein: Government Code Sections 54956.8; 54956.9; 54957; and 54957.6.
- E. The Offices of the City Attorney, the City Clerk, and the Public Ethics Commission shall provide any person with a copy of the Brown Act or Public Records Act without charge.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.12, 1997)

2.20.130 - Disclosure of closed session discussions and actions.

- A. After every closed session, in addition to the required disclosures pursuant to Government Code Section 54957.1, a local body shall reconvene into open session prior to adjournment and shall disclose publicly all portions of its discussion which are not confidential. The local body may, by motion and vote in open session, elect to disclose any other information which a majority deems to be in the public interest. Any disclosure pursuant to this section shall be made through the presiding officer or such other person, present in the closed session, designated to convey the information.
- B. Immediately following the closed session a local body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:
 - 1. Real property negotiations: Approval of an agreement concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the local body shall report that approval, the substance of the agreement and the vote thereon in open session immediately. If final approval requires action from another party to the negotiations, the local body shall disclose the fact of its approval, the substance of the agreement and the body's vote or votes thereon upon

inquiry by any person, and, in any event, at the next meeting of said local body after the other party or its agent has informed the local body of its action. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or if there are multiple contiguous or closely located properties that are being considered for transfer, the report specified in this section need not be made until the condition has been satisfied or an agreement has been reached with respect to all the properties, or both.

2. Litigation: Direction or approval given to the local body's legal counsel to prosecute, defend, seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation under Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the local body's intentions would not be contrary to the public interest. The report shall identify the names and capacities of all parties to the litigation, the court of jurisdiction and case number, the type of case, any existing claim or order to be defended against, or any factual circumstances or contractual dispute giving rise to the litigation.
 3. Settlement: If a local body accepts a settlement offer signed by an opposing party, the local body shall report its vote of approval and identify the substance of the agreement. If final approval rests with another part or with the court, the local body shall disclose its vote of approval and the substance of the agreement to any person upon inquiry as soon as the settlement becomes final, but in no case later than the next meeting following final approval of settlement. A local body shall neither solicit nor agree to any term in a settlement agreement which would preclude the release, upon request, of the text of the settlement agreement itself and any related documentation communicated to or received from the adverse party or parties. Where the disclosure of documents in settled litigation could affect litigation on a closely related case, the report, settlement agreement and any documents described in this section need not be disclosed until the closely related case is settled or otherwise finally concluded.
- C. Reports required to be made pursuant to this section may be made orally or in writing. Copies of any contracts, settlement agreements, or other documents related to the items or transactions that were finally approved or adopted in closed session and which contain the information required to be disclosed under this section shall be made available for inspection and copying, upon request, at the time the report is made or after any substantive amendments have been retyped into the document.
- D. A written summary of the information required to be reported immediately pursuant to this section, or documents containing that information, shall be made available for inspection and copying by the close of business on the next business day following the meeting. Written notice that such a written summary or supporting documentation is available as to every reported document shall be posted the next business day following the meeting in the place where the meeting agendas of the local body are usually posted.
- E. Action taken in closed session which is not immediately disclosable under this section shall be disclosed and noticed under the procedures set forth in Section 2.20.130(D) at such time as disclosure is required.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.13, 1997)

2.20.140 - Barriers to attendance prohibited.

- A. No local body specified in this ordinance shall conduct any meeting, conference or other function in any facility which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever a local body anticipates that the number of persons attending the meeting may exceed the legal capacity of the room, a public address system shall be used to permit the overflow audience to listen to the proceedings, unless the speakers would disrupt the operation of a local agency office.

- B. Any person attending an open meeting of a local body shall have the right to record, photograph or broadcast the proceedings unless such activities constitute a persistent disruption of the proceedings.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.14, 1997)

2.20.150 - Public testimony at regular and special meetings.

- A. Every agenda for every regular or special meeting shall provide an opportunity for members of the public to directly address a local body on items of interest to the public that are within the local body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Government Code Section 54954.2(b). The agenda of local bodies need not provide an opportunity for members of the public to address the local body on any item that has already been considered by a committee, composed exclusively of members of the local body, at a meeting in which members of the public were afforded the opportunity to address the committee before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the local body.
- B. Every agenda for regular or special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item before taking action. The presiding officer of any local body may request speakers representing similar views to designate a spokesperson in the interest of time. Nothing shall prohibit a local body from adopting rules for allocating additional time to a speaker who desires to speak on multiple agenda items so that the speaker shall address all items at one time before the local body's consideration of those items.
- C. Every local body shall adopt a rule providing that each person wishing to speak on an item shall be permitted to speak once based upon previously adopted time constraints which are reasonable and uniformly applied. It shall be the policy of the city that all speakers be entitled to a minimum of two minutes of speaking time per agenda item, subject to the discretion of the presiding officer of the local body. The presiding officer shall announce publicly all reasons justifying any reduction in speaker time. The stated reasons shall be based at least on a consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items, and the number of persons wishing to address the local body.
- D. No local body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the local body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the local body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall confer any privilege or protection beyond that which is otherwise provided by law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.15, 1997)

2.20.160 - Minutes and recordings.

- A. All local bodies specified in Section 2.20.030(E)(1) and (2) and their standing committees shall record the minutes for each regular and special meeting convened under the provisions of this ordinance. At a minimum, the minutes shall state the time the meeting was called to order, the names of the members attending the meeting, a one-sentence summary of, and the roll call vote on, each matter considered at the meeting, the time the local body began and ended any closed session, those members of the public who spoke on each matter if the speakers identified themselves, and the time the meeting was adjourned. The draft minutes of each meeting shall be available for inspection and copying upon request no later than ten business days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than five business days after the meeting at which the minutes are adopted.
- B. Every local body specified in Section 2.20.030(E)(1) shall make a visual and audio recording of every open meeting. Local bodies specified in Section 2.20.030(E)(2) and (4) shall audio tape each regular

and special open meeting and may make a visual recording of any meeting. Any recording of any open meeting shall be a public record subject to inspection and copying and shall not be erased, deleted or destroyed for at least four years, provided that if during that four-year period a written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. Inspection of any such recording shall be provided without charge on a player or computer made available by the local body. Notwithstanding any other provision of law, every local body specified in Section 2.20.030(E)(1) shall permanently maintain all recordings of all meetings.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.16, 1997)

2.20.170 - Public comment by members of local bodies.

Every member of a local body retains the rights of any citizen to comment publicly on the wisdom or propriety of government actions, including those of the local body of which he or she is a member. Local bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials to express their judgments or opinions, including those judgments or opinions pertaining to the disclosure or non-disclosure of discussions or actions taken in closed session. The release of specific factual information made confidential by state or federal law, including, but not limited to, privileged attorney-client communications, other than by the procedures set forth under state law or this ordinance, may constitute grounds for censure or for an action for injunctive or declaratory relief by the local body. Nothing in this section shall confer any privilege or protection for expression beyond that which is otherwise provided by law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.17, 1997)

Article III. - Public Information

2.20.180 - Definitions.

Whenever in this Article the following words or phrases are used, they shall mean:

- A. "Agency" means an agency of the city of Oakland.
- B. "Department" means a department of the city of Oakland or a department of the Port Department of the city of Oakland.
- C. "Public information" means the content of "public records" as defined in the California Public Records Act (Government Code Section 6250 et seq.) whether contained in public records or in oral communications.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.18, 1997)

2.20.190 - Release of documentary public information.

Release of public records by a local body or by any agency or department, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in any particulars not addressed by this Article. The provisions of Government Code Section 6253.9 are incorporated herein by reference.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.19, 1997)

2.20.200 - Release of oral public information.

Release of oral public information shall be accomplished as follows:

- A. Every Agency director for the city and Redevelopment Agency, and department head for the Port shall designate a person or persons knowledgeable about the affairs of the respective

agency or department, to facilitate the inspection and copying of public records and to provide oral public information about agency or department operations, plans, policies, and positions. The name of every person so designated under this section shall be filed with the City Clerk and posted online.

- B. It shall be the duty of every designated person or persons to provide information on a timely and responsive basis to those members of the public who are not requesting information from a specific person. It shall also be the duty of the person or persons so designated to assist members of the public in identifying those public records they wish to obtain pursuant to Government Code Section 6253.1. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.
- C. Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion is not represented as that of the agency or department and does not materially misrepresent the agency or department position. Nothing in this section shall be construed to provide rights to public employees beyond those recognized by law or agreement, or to create any new private cause of action or defense to disciplinary action.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.21, 1997)

2.20.210 - Public review file—Policy body communications.

Every local body specified in Section 2.20.030(E)(1) shall maintain a communications file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other writing which the clerk or secretary of such local body has distributed to, or sent on behalf of, a quorum of the local body concerning a matter that has been placed on the local body's agenda within the previous thirty (30) days or is scheduled or requested to be placed on the agenda within the next thirty (30) days. Excepted from the communications file shall be commercial solicitations, agenda and agenda-related material, periodical publications or communications exempt from disclosure under the California Public Records Act or this chapter. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the communications file provided that the letter or memorandum of transmittal is included in the communications file.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.22, 1997)

2.20.220 - Non-exempt public information.

Notwithstanding any right or duty to withhold certain information under the California Public Records Act or other law, the following shall govern specific types of requests for documents and information:

- A. Drafts and Memoranda. No completed preliminary drafts or memoranda shall be exempt from disclosure under Government Code Section 6254(a) if said completed preliminary draft or memorandum has been retained in the ordinary course of business or pursuant to law or agency or department policy. Completed preliminary drafts and memoranda concerning contracts, memoranda of understanding or other matters subject to negotiation and pending a local body's approval need not be subject to disclosure until final action has been taken.
- B. Litigation Material. Unless otherwise privileged or made confidential by law, records of all communications between a local body's representatives and the adverse party shall be subject to public inspection and copying, including the text and terms of any settlement agreement, once the pending litigation has been settled or finally adjudicated.
- C. Personnel Information. None of the following shall be exempt from disclosure under Government Code Section 6254(c):

1. Job pool information, to the extent such information is compiled for reporting purposes and does not permit the identification of any particular individual. Such job pool information may include the following:
 - a. Sex, age and ethnic group;
 - b. Years of graduate and undergraduate study, degree(s) and major or discipline;
 - c. Years of employment in the private and/or public sector;
 - d. Whether currently employed in the same position for another public agency;
 - e. Other non-identifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.
 2. The professional biography or curriculum vitae of every employee who has provided such information to the city, Redevelopment Agency or the Board of Port Commissioners excluding the home address, home telephone number, social security number, date of birth, and marital status of the employee.
 3. The job description of every employment classification.
 4. The exact gross salary and paid benefits available to every public employee.
 5. Any adopted memorandum of understanding between the city or Board of Port Commissioners and a recognized employee organization.
- D. Law Enforcement Information. The Oakland Police Services Agency shall cooperate with all members of the public making requests for law enforcement records and documents under the California Public Records Act or other applicable law. Records and documents exempt from disclosure under the California Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the District Attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Such redacted information may include:
- a. The names of juvenile witnesses or suspects;
 - b. Personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;
 - c. The identity of a confidential source;
 - d. Secret investigative techniques or procedures;
 - e. Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or
 - f. Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely.
2. The Oakland Police Services Agency shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, which reports the number of citizen complaints against law enforcement agencies or officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be maintained in a format which assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.
- E. Contracts, Bids and Proposals. Contracts, contract bids, responses to requests for proposals and all other records of communications between the city, Redevelopment Agency and Board of

Port Commissioners and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract until and unless that person is awarded the contract. All bidders and contractors shall be advised that information covered by this subdivision will be made available to the public upon request.

F. Budgets and Other Financial Information. The following shall not be exempt from disclosure:

1. Any proposed or adopted budget for the city, Redevelopment Agency and the Port Department, including any of their respective agencies, departments, programs, projects or other categories, which have been submitted to a majority of the members of the City Council, Redevelopment Agency or Board of Port Commissioners or their standing committees.
2. All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.23, 1997)

2.20.230 - Immediate disclosure request.

- A. Notwithstanding any other provision of law and subject to the requirements of this section, a written request to inspect or obtain copies of public records that is submitted to any department or agency or to any local body shall be satisfied no later than three business days unless the requestor is advised within three business days that additional time is needed to determine whether:
1. The request seeks disclosable public records or information;
 2. The requested records are in the possession of the agency, department or local body;
 3. The requested records are stored in a location outside of the agency, department or local body processing the request;
 4. The requested records likely comprise a voluminous amount of separate and distinct writings;
 5. Reasonably involves another agency, department or other local or state agency that has a substantial subject matter interest in the requested records and which must be consulted in connection with the request; or,
 6. There is a need to compile data, to write programming language or a computer program or to construct a computer report to extract data.
- B. All determinations made pursuant to Section 2.20.230(A)(1)-(6) shall be communicated in writing to the requestor within seven days of the date of the request. In no event shall any disclosable records be provided for inspection or copying any later than fourteen (14) days after the written determination pursuant to 2.20.230(A)(1)-(6) is communicated to the requestor. Additional time shall not be permitted to delay a routine or readily answerable request. All written requests to inspect or copy documents within three business days must state the words "Immediate Disclosure Request" across the top of the first page of the request and on any envelope in which the request is transmitted. The written request shall also contain a telephone number, email or facsimile number whereby the requestor may be contacted. The provisions of Government Code Section 6253 shall apply to any written request that fails to state "Immediate Disclosure Request" and a number by which the requestor may be contacted.
- C. An Immediate Disclosure Request is applicable only to those public records which have been previously distributed to the public, such as past meeting agendas and agenda-related materials. All Immediate Disclosure Requests shall describe the records sought in focused and specific language so they can be readily identified.

- D. The person seeking the information need not state a reason for making the request or the use to which the information will be put.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.24, 1997)

2.20.240 - Minimum withholding.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law. Any redacted, deleted or segregated information shall be keyed by footnote or other clear reference to the appropriate justification for withholding. Such redaction, deletion or segregation shall be done personally by the attorney or other staff member conducting the exemption review.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.25, 1997)

2.20.250 - Justification for withholding.

Any withholding of information shall be justified, in writing, as follows:

- A. A withholding under a permissive exemption in the California Public Records Act or this ordinance shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.
- B. A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.
- C. A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.26, 1997)

2.20.260 - Fees for duplication.

- A. No fee shall be charged for making public records available for inspection.
- B. No fee shall be charged for a single copy of a current meeting agenda.
- C. A fee may be charged for: 1) single or multiple copies of past meeting agenda or any agenda-related materials; 2) multiple copies of a current meeting agenda; and, 3) any other public record copied in response to a specific request.
- D. The agency, department or the city may, rather than making the copies itself, contract at market rate to have a commercial copier produce the duplicates and charge the cost directly to the requester.
- E. No charge shall be made for a single copy of a Draft or Final Environmental Impact Report and Environmental Impact Statement.
- F. All fees permitted under this section shall be determined and specified in the city of Oakland Master Fee Schedule, as amended.
- G. Nothing in this section shall be interpreted as intending to preempt any fee set by or in compliance with State law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.27, 1997)

Article IV. - Policy Implementation

2.20.270 - City of Oakland Public Ethics Commission.

- A. Duties: In the implementation of this ordinance, the Public Ethics Commission shall:

1. Advise the City Council and the Board of Port Commissioners and provide information to other city departments and local bodies on appropriate ways in which to implement this ordinance with a priority on simple, standard procedures.
 2. Assist in citywide training for implementing the ordinance.
 3. Develop and maintain an administrative process for review and enforcement of this ordinance, among which may include the use of mediation to resolve disputes arising under this ordinance. No such administrative review process shall preclude, delay or in any way limit a person's remedies under the Brown Act or Public Records Act.
 4. Propose amendments to the City Council of this ordinance as needed.
 5. Report to the City Council on any practical or policy problems encountered in the administration of this chapter.
- B. Enforcement.
1. Upon the conclusion of the administrative review process, as implemented pursuant to subsection (A)(3) herein, any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce his or her rights under this chapter.
 2. A court may award costs and reasonable attorneys' fees to the plaintiff in an action brought pursuant to this section where it is found that a local body has violated this ordinance. The costs and fees shall be paid by the local body and shall not become a personal liability of any public officer or employee of the local body.
 3. If the litigation is judged to be frivolous by the court, the defendant local body may assert its right to be paid reasonable court costs and attorneys' fees.
- C. Mediation.
1. Notwithstanding any other provision of law, any person whose request to inspect or copy public records has been denied by any local body, agency or department, may demand immediate mediation of his or her request with the Executive Director of the Public Ethics Commission, or some mutually agreed person who agrees to volunteer his or her time, serving as mediator.
 2. Mediation shall commence no later than ten days after the request for mediation is made, unless the mediator determines the deadline to be impracticable. The local body, agency or department shall designate a representative to participate in the mediation. Nothing shall prevent the parties from mediating any dispute by telephone.
 3. The mediator shall attempt to resolve the dispute to the mutual satisfaction of the parties. The mediator's recommendations shall not be binding on any party. All statements made during mediation shall not be used or considered for any purpose in any subsequent or related proceeding.
- D. Cure and Correction.
1. Nothing in this ordinance shall prevent a local body from curing or correcting an action challenged on grounds that a local body violated any material provision of this chapter. A local body shall cure and correct an action by placing the challenged action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action and, if so, whether to affirm or supersede the challenged action after first taking any new public testimony.
 2. In the event the Public Ethics Commission, upon the conclusion of a formal hearing conducted pursuant to its General Complaint Procedures, determines that a local body violated any material provision of this chapter, or took action upon an item for which the agenda related material was not timely filed pursuant to Section 2.20.080(H), the local body shall agendize for immediate determination whether to correct and cure the violation. Any violation shall have no effect on those actions described in Government Code Section 54960.1(d)(1)-(4), inclusive.

E. Reports or Recommendations From Meetings Alleged To Have Been Held In Violation of this Chapter.

If the sole purpose or nature of an action that is challenged for violation of this chapter is to make or convey an advisory report or recommendation to another local body, such local body shall not be precluded from hearing or taking action on the item if it is within the authority or jurisdiction for said local body to hear or take action on the item in the absence of such report or recommendation.

F. Limitation of Actions.

No person may file a complaint with the Public Ethics Commission alleging violation of the notice provisions of Section 2.20.080 if he or she attended the meeting or had actual notice of the item of business at least seventy-two (72) hours prior to the meeting at which the action was taken. No person may file a complaint with the Public Ethics Commission alleging violation of the notice provisions of Section 2.20.070 if he or she attended the meeting or had actual notice of the item at least forty-eight (48) hours prior to the meeting at which the action was taken. No person may file a complaint with the Public Ethics Commission alleging the failure to permit the timely inspection or copying of a public record unless he or she has requested and participated in mediation as specified in Section 2.20.270(C).

(Ord. 12668 § 6, 2005; Ord. 12483 (part), 2003; Ord. 11957 § 00.28, 1997)

2.20.280 - Responsibility for administration.

- A. The City Manager shall administer and coordinate the implementation of the provisions of this chapter for all local bodies, agencies and departments under his or her authority, responsibility or control.
- B. The City Manager shall provide the Public Ethics Commission with staff to permit the Public Ethics Commission to fulfill the functions and duties set forth herein. The City Attorney shall provide the Public Ethics Commission with legal assistance, to the extent such assistance does not constitute a conflict.
- C. The Office of the City Clerk shall be responsible for timely posting all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it. The Office of the City Clerk shall retain copies of agenda-related materials filed with it by local bodies specified in Section 2.20.030(E)(2)(3) and (4) for a period of at least sixty (60) days following the meeting for which said agenda-related materials were submitted.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.29, 1997)

2.20.290 - Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.30, 1997)

2.20.300 - Effective date.

The amendments herein shall become effective on May 1, 2003.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.31, 1997)

City of Oakland Public Ethics Commission



Oakland Government Ethics Act Guide

Public Ethics Commission
1 Frank Ogawa Plaza (City Hall), Room 104
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INTRODUCTION

Oakland employees and officials are entrusted by the public to use City time, property and money efficiently and in a legal and ethically responsible manner. The City of Oakland Government Ethics Act (GEA) codifies the requirements and regulations of the California Political Reform Act and adds local rules and restrictions. GEA is intended to provide a clear, comprehensive, and locally enforceable framework of law to ensure that:

- 1) Government decisions are made in the best interests of Oakland residents and not for individual or private gain;
- 2) Ethics rules for public servants are clear; and
- 3) The law is fairly and effectively enforced.

GEA applies to all Oakland public servants, including elected or appointed City officeholders, City board and commission members (including Port Commissioners), City employees (full or part-time), and City consultants required to file a Statement of Economic Interests ([FPPC a Form 700](#)).

This **Government Ethics Act Guide** is intended to provide an overview of the Oakland Government Ethics Act and is **advisory only**. To the extent the Guide conflicts with the actual ordinance, administrative regulation or interpretation by the Public Ethics Commission, those authorities govern the implementation and enforcement of the ordinance. All legal citations are to the Oakland Municipal Code (O.M.C.) unless otherwise noted.

The Public Ethics Commission (PEC) is responsible for enforcement and implementation of the Government Ethics Act and is charged with providing advice, assistance, and training to Oakland public servants and candidates subject to the law. We encourage you to reach out if you have questions about this guide or your obligations under the law. We provide resources in multiple formats to meet your needs, including online training, custom trainings by request, and both formal and informal legal advice.

Oakland Public Ethics Commission

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FILE YOUR FORM 700

The City of Oakland Conflict of Interest Code (O.M.C. 3.16) designates the public servants required to file a Statement of Economic Interests (Form 700) and disclose all information required pursuant to the California Political Reform Act and the City Conflict of Interest Code. A Form 700 must be filed with the City Clerk's office upon assuming office, annually, and when leaving office.

What financial interests must be disclosed?

All disclosable financial interests are itemized on the Statement of Economic Interests (Form 700) that public servants are required to complete. They include interests in real property, ownership positions in businesses and other entities, sources of income, and gifts received. Form 700 includes instructions with more detail on specific filing requirements.

GIFTS

Public servants required to file a Statement of Economic Interests (Form 700) may not accept gifts from any one source totaling more than \$250 in a calendar year. All gifts valued at \$50 or more must be reported on the public servant's Form 700 (O.M.C. 2.25.060(C)).

In addition, public servants are prohibited from receiving a gift valued at more than \$50 from a restricted source. Restricted sources include persons doing business with or seeking to do business with the Public Servant's department and persons seeking to influence the public servant in any legislative or administrative action within the prior 12 months.

What counts as a gift?

A gift is any payment or other benefit that confers a personal benefit for which the recipient does not provide goods or services in exchange of equal or greater value. It includes a discount or rebate on the price of something unless that discount or rebate is also provided in the regular course of business to members of the public. Services provided to or on the behalf of a public servant are also considered gifts, such as professional services provided for the public servant's personal benefit.

Passes or Tickets Provided to the City

The City receives and periodically distributes entertainment or sporting tickets to public

Are There Exceptions to the Gift Rules?

Yes. Here are some of the most common:

- Gifts which are returned to the donor or for which you reimburse the donor if you return or reimburse the gift within 30 days of receipt
- Gifts which are donated unused to a 501(c)(3) non-profit corporation or governmental agency within 30 days of receipt
- Gifts from a close family relation (unless they are acting as an agent or intermediary for someone else)
- Gifts of hospitality (food, drink, lodging) if the owner or member of the owner's family is present when the hospitality is received
- Gifts of relatively equal value exchanged on birthdays or holidays
- Inheritances
- Tickets to political fundraisers and fundraisers for 501(c)(3) non-profit organizations
- Free tickets or passes that you do not use or are not given to another person
- Gifts that are provided to the government agency and which provide a personal benefit to a public official, such as a travel payment, if the payment is used only for official agency business and the agency controls the payment

officials, employees and members of the public. Requirements must be fulfilled for those tickets or passes not to qualify as a reportable gift to City officials and employees:

1. The City is required to have a written policy stating the public purpose for distribution of the tickets prominently posted on the agency website¹;
2. The ticket or pass cannot be earmarked by the original source for use by a particular City official or employee; and
3. The City must determine, in its sole discretion, which official may use the ticket or pass. The City must also post on its website certain information about who provided and who used the ticket.

If you are a public servant and receive a free ticket from the City to an entertainment or sporting event, be sure to ask the Office of the City Administrator or City Attorney whether all the necessary requirements have been met. Otherwise, you may be required to treat the ticket as a reportable gift subject to the \$250 value limitation.

CONFLICTS OF INTERESTS

No public servant shall make, participate in making, or attempt to influence a governmental decision if it is reasonably foreseeable that the decision could have a material financial effect on his or her financial interests (O.M.C. 2.25.040(A)).

To prevent conflict of interests from occurring, a public servant should identify and fully disclose the financial interests that may cause a conflict, understand the different types of financial interests that may be the basis for a conflict, and consider whether the decision's effect on the public servant's financial interest is reasonably foreseeable and material.

The law surrounding financial conflicts of interest is complicated. For more information about conflicts of interest and what economic interests are covered, see the California Fair Political Practices Commission (FPPC) Fact Sheet titled, [Recognizing Conflicts of Interest](#) and the other educational materials available at www.fppc.ca.gov. You should also contact the Public Ethics Commission or the Office of the City Attorney to help you determine whether your specific instance triggers a financial conflict of interest.

CONFLICTS OF INTERESTS IN CONTRACTING

A public servant may not make or participate in making a contract in which he or she has a financial interest within the meaning of California Government Code Sections 1090 – 1097 (O.M.C. 2.25.040(C)).

What does it mean to make a contract?

California courts take a very broad view of what it means to make a contract. Basically, any participation by an officer or an employee in the process by which a contract is developed, negotiated

¹ See City Council Resolution No. 82032

and executed can constitute the making of a contract. In addition to voting on the contract itself, participating in preliminary discussions, negotiations, and planning and soliciting of bids are included.

What financial interests are involved?

The courts have applied the prohibition contained in Section 1090 to a broad range of financial interests, in some cases broader than those contained in other financial conflict of interest laws. Section 1090 distinguishes between **direct** financial interests (when the public official or employee is the party contracting with the agency) and **indirect** financial interests (when the public official or employee has a financial relationship with the contracting party or will receive some benefit from the contract with the contracting party). There is also a complex set of laws defining so-called **remote interests** and **non-interests**. The nature of the interests determines what actions an official or employee may or may not take regarding the contract.

What if a financial interest exists in a contract process?

A member of a public body (such as a member of a city council, planning commission or other decision-making body) is conclusively presumed to have made a contract that is executed by an agency or department under the public body's jurisdiction. If a private financial interest exists, Section 1090 renders such contracts void and unenforceable, even if the member has disqualified himself or herself from participating, or the contract is beneficial to the city or non-beneficial to the member. When an employee, rather than a member of a public body, is financially interested in a contract, the employee's agency is prohibited from making the contract if the employee is involved in the contract-making process.

INCOMPATIBLE OFFICES

Public officials have a duty of loyalty to their constituents. In those rare cases in which a person may hold or seek two or more public offices, it must be determined whether the two offices are compatible with each other.

A public servant, including but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible (O.M.C. 2.25.040(E)).

How are incompatible offices determined?

Unless simultaneous holding of the particular offices is compelled or expressly authorized by law, offices are incompatible in any of the following circumstances:

1. Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body or over a multimember body that includes that other office;
2. Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices; or
3. Public policy considerations make it improper for one person to hold both offices.

MISUSE OF CITY RESOURCES OR POSITION

A public servant may not use or permit others to use public resources for a campaign activity or for personal, non-City purpose (O.M.C. 2.25.060(A)).

What is a public resource?

Public resources are not limited to money. They also include such things as staff time, office equipment (such as telephones, fax machines, photocopiers, and computers), and office supplies (stationery, stamps, and other items). To use public resources simply means to cause a gain or advantage for the user—and a loss to the City—that can be assigned a monetary value. The law does contain a narrow exception for incidental and minimal use, such as the occasional telephone call. This exception should not be relied upon as authorizing personal use of public resources, however.

PROHIBITED POLITICAL ACTIVITIES

Campaigns for Public Office

Public servants, including City staff and officeholders, **may not**:

1. Perform any campaign-related work while on City-paid time, or inside City buildings, or on City computers or email;
2. Directly solicit contributions from other City public servants;
3. Use their position to coerce or induce another person to support or oppose a candidate;
4. Participate in political activities of any kind while in a City work-related uniform.

FAIR PROCESS

Bribery

A person may not offer or make, and a public servant may not solicit or accept, anything of value in exchange for the performance of any official act, such as a vote, opinion, or action on a matter brought before the official in his or her official capacity (O.M.C. 2.25.070(A)).

Nepotism

A public servant may not make, participate in making or otherwise seek to influence a decision of the City regarding an employment or contract action involving a relative (O.M.C. 2.25.070(D)).

NON-INTERFERENCE IN ADMINISTRATIVE AFFAIRS

The City Charter divides the duties and responsibilities of government among the City's elected and appointed officials. The Office of the City Administrator is authorized, among other things, to appoint,

discipline, assign or remove all department heads and employees under his or her jurisdiction. The City Charter does not extend this authority to members of the City Council.

City Councilmembers and/or their staff may not direct, coerce, or influence any City administrative staff under the jurisdiction of the Mayor, City Administrator, City Auditor, City Attorney, or City Clerk (O.M.C. 2.25.070(E)).

Members of the City Council shall not:

1. attempt to coerce or influence the City Administrator regarding a decision relating to any contract, the purchase of supplies or any other administrative action; or
2. direct or request the appointment of any person to, or the removal from, any office by the City Administrator or any of his or her subordinates or other such officers, or take part in the appointment or removal of officers or employees in the administrative service of the City.

City Councilmembers may, however, make inquiries to request data or information from department directors and authorized staff.²

What should I do if a City Councilmember or Council aide orders me to do something?

If you believe that a Councilmember is improperly directing or interfering with the performance of your job duties, you may contact your supervisor, the Office of the City Administrator, or the Public Ethics Commission.

POST-EMPLOYMENT “REVOLVING DOOR” RULES

Prohibition on Switching Sides

After leaving the City, a public servant may not represent any other person or entity in a transaction where the City is a party if the public servant worked personally and substantially on that particular matter. A particular matter may include a contract, grant, permit, or similar application (O.M.C. 2.25.050(A)).

One Year Lobbying Ban

For one year after termination of employment or service with the City, a public servant may not communicate with their former department or board with the intent to influence a government decision on behalf of another person or entity. For the Mayor, councilmembers, and their senior staff, the one-year lobbying ban extends to **all** City departments (O.M.C. 2.25.050(C)).

Restriction on Prospective Employment

A public servant may not make, participate in making, or otherwise seek to influence a governmental decision affecting a person or entity with whom the public servant is discussing, negotiating, or entering an agreement concerning future employment (O.M.C. 2.25.040(G)).

² See Administrative Instruction (AI) 597.

ENFORCEMENT

The Public Ethics Commission is responsible for enforcement of the Government Ethics Act. Violations are subject to criminal, civil, administrative, and other penalties, including fines of up to \$5,000 per violation or three times the amount unlawfully received, expended, or not reported properly.



Jodie Smith, Chair
 James E.T. Jackson, Vice-Chair
 Jill Butler
 Lisa Crowfoot
 Gail Kong
 Nayeli Maxson

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Jelani Killings, Ethics Analyst
 Whitney Barazoto, Executive Director
 DATE: January 25, 2019
 RE: Mandated Campaign Contribution and Expenditure Limit Adjustment

The Public Ethics Commission (PEC or Commission) is responsible for adjusting Oakland's Campaign Contribution and Expenditure Limits annually according to the increase in the Consumer Price Index (CPI) for the preceding year pursuant to the Oakland Campaign Reform Act.

This memorandum provides background information about the annual adjustment and memorializes publication of the updated contribution and expenditure limits for 2019.

Background

The Oakland Campaign Reform Act (OCRA) imposes limits on campaign spending and seeks to reduce the influence of large contributions on election outcomes. OCRA tasks the Public Ethics Commission with annually adjusting the Contribution and Expenditure Limits for campaigns in Oakland. Below are the applicable sections of the Oakland Campaign Reform Act (attached):

- Limitations on Contributions from Persons (O.M.C. Sec. 3.12.050)
- Limitations on Contributions from Broad-Based Political Committees (O.M.C. Sec. 3.12.060)
- Expenditure Ceilings for candidates who voluntarily agree to expenditure ceilings (O.M.C. Sec. 3.12.200)
- Amount of Independent Expenditures that lift the Expenditure Ceilings (O.M.C. Sec. 3.12.220)

The above sections establish a framework by which contributions to a candidate are limited to \$100 per contributor, unless the candidate voluntarily agrees to limit their overall spending for the entirety of their campaign (expenditure ceiling) to a set amount provided by OCRA. By accepting the expenditure ceiling, the candidate can then receive up to \$500 in contributions from an individual. The same is true for contributions from a broad-based political committee, as defined in OCRA, for which the statutory contribution limits are \$250 and \$1,000, respectively.¹

In addition to these limits, OCRA provides a mechanism by which the candidate expenditure ceiling is lifted if and when a person reaches a certain threshold of spending on independent expenditures on a particular race. The threshold amounts are as follows:

¹ These statutory amounts of \$100, \$500, \$250, and \$1,000 are adjusted each year as described on the next page.

Candidate	Independent Expenditure Threshold
District City Council or School Board	\$15,000
City Attorney, Auditor, Councilmember-at-Large, or Mayor	\$70,000

All of these contribution limit and expenditure ceiling amounts are adjusted each year according to the increase in the Consumer Price Index (CPI), as provided in each of the above OCRA sections. Now, for example, the prior statutory \$100 limit for candidates who do not accept the expenditure ceiling is \$200 in practice, and for those who accept the expenditure ceiling, the statutory \$500 limit is \$800 as a result of annual CPI increases over time.

Annual Adjustment

OCRA specifies the timing and nature of the annual increase, providing that the amounts listed in each of the above sections must be increased annually according to the CPI “for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics.”² The increase of the contribution limitation amounts “shall not exceed the CPI increase,” and the adjustment “shall be rounded to the nearest one hundred (100).” The calculations shall be based on 1999 as the index year for contribution limits, and 1998 as the index year for expenditure ceilings and the independent expenditure threshold. [O.M.C. Sections 3.12.050(G), 3.12.060(G), 3.12.200, and 3.12.220, referring to sec. 3.12.200]

Conclusion

The CPI data for 2018 was released by the U.S. Department of Labor, Bureau of Labor Statistics, on January 11, 2019. Commission staff used this data to calculate the increase for the 2019 contribution and expenditure limits and independent expenditure thresholds as required by the Oakland Campaign Reform Act and is publishing 2019 limits here. Commission staff will distribute the new information widely.

Attached is the Commission’s published spreadsheet for 2019. Also attached is the format that Commission staff used to insert the data point for the annual average CPI increase for all urban consumers in 2018 and make the corresponding calculations for 2019. No further Commission action is necessary.

Attachments:

1. Oakland Campaign Reform Act
2. Campaign Contribution and Expenditure Limits 2019
3. Spreadsheet for Calculating Campaign Contribution and Expenditure Limits 2019
4. U.S. Department of Labor, Bureau of Labor Statistics, CPI All Items, All Urban Consumers (CPI-U) 1999-2018³

² U.S. Bureau of Labor Statistics. San Francisco Region Consumer Price Index. January 2018 – December 2018. <http://www.bls.gov/ro9/cpisanf.htm>. See data at http://www.bls.gov/regions/west/data/consumerpriceindex_sanfrancisco_table.pdf. Data accessed January 17, 2019.

³ http://www.bls.gov/regions/west/data/consumerpriceindex_sanfrancisco_table.pdf

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Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE 13399 C.M.S.

INTRODUCED BY COUNCILMEMBERS DAN KALB, NOEL GALLO, ABEL GUILLEN,
VICE MAYOR ANNIE CAMPBELL-WASHINGTON AND CITY ATTORNEY BARBARA
PARKER

**ADOPT AMENDMENTS TO THE "OAKLAND CAMPAIGN REFORM ACT"
(OCRA) ORDINANCE (A) ALIGNING OCRA WITH THE 2014 AMENDMENT TO
THE OAKLAND CITY CHARTER SECTION 603, (B) STRENGTHENING THE
COMMISSION'S ENFORCEMENT AUTHORITY TO MATCH THE GOVERNMENT
ETHICS ACT AND THE CALIFORNIA POLITICAL REFORM ACT, AND (C)
CLARIFYING AND EXPANDING DEFINITIONS AND SUBSTANTIVE
PROVISIONS TO ENSURE THE ACT USES CLEAR AND ENFORCEABLE
LANGUAGE, AND (D) ENHANCE INDEPENDENT EXPENDITURE DISCLOSURE
REQUIREMENTS.**

WHEREAS, the integrity of City government depends upon a government election process that includes clear rules to which candidates and committees must adhere as they raise and spend money to run for City elective office or to support or oppose candidates or ballot measures; and

WHEREAS, in order to ensure integrity in the campaign finance process, the California Political Reform Act imposes requirements on candidates and committees, including but not limited to required reporting of all campaign contributions and expenditures on state campaign forms and restrictions on the receipt, maintenance, use, and distribution of campaign funds (Government Code Section 81000 et seq.); and

WHEREAS, a Charter City has the constitutional authority to enact local regulations to supplement state ethics laws under the home rule and municipal affairs doctrines; and

WHEREAS, the Oakland Campaign Reform Act was passed in 1993, and amended over the years, to reduce the influence of money in local politics; and

WHEREAS, the citizens of Oakland voted to amend the Oakland City Charter in 2014 to strengthen the Public Ethics Commission to better ensure compliance with laws, including the Oakland Campaign Reform Act, that seek fairness, openness, honesty, and integrity in City government; and

WHEREAS, the City Charter amendments in 2014 transferred the duty to serve as the City's filing officer for campaign statements pursuant to the California Political Reform Act from the City Clerk's office to the Public Ethics Commission; and

WHEREAS, the Oakland Campaign Reform Act has not been amended to keep pace with changes in the California Political Reform Act or with the enforcement authority vested with other City ethics commissions in California, resulting in comparably weaker enforcement of campaign finance laws in Oakland;

WHEREAS, the Oakland City Council finds that these amendments further the purposes of the Oakland Campaign Finance Reform Ordinance;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Oakland Campaign Reform Act. The City Council of the City of Oakland, in order to ensure clear expectations pertaining to the financing of campaigns and campaign committees, and to ensure effective enforcement of local campaign finance laws, does hereby amend Chapter 3.12 of the Oakland Municipal Code to amend the Oakland Campaign Reform Act (hereinafter referred to as the "Act") as follows:

Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT¹

Article I. - Findings and Purpose

3.12.010 - Title.

This chapter shall be known as the city of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. 12158 (part), 1999)

3.12.020 - Findings and declarations.

The Oakland City Council finds and declares each of the following:

- A. Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.
- B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.

¹ **Editor's note**—Per Ord. 11969, passed March 18, 1997, effective January 1, 1997, except to acts occurring on or before December 31, 1996, Chapter 3.12, the Oakland Campaign Reform Act, is suspended pending further legislative action by ordinance, by the Oakland City Council in response to pending legal challenges to Proposition 208, the California Political Reform Act of 1996. Chapter 3.12 will be automatically reinstated without legislative action by the Oakland City Council if Proposition 208 is enjoined in its entirety. Prior ordinance history: Ords. 11612, 11874, 12043 and 12075.

- C. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.
- D. High campaign costs are forcing elected City Officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting elected City Officials from urgent governmental matters.
- E. Elected City Officials are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.
- F. The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.
- G. This Act shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

(Ord. 12158 (part), 1999)

3.12.030 - Purpose of this Act.

The purpose of this Act is to accomplish the following:

- A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.
- B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- D. To reduce the advantage of incumbents and thus encourage competition for elective office.
- E. To allow candidates and elected City Officials to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.
- G. To help restore public trust in governmental and electoral institutions.

(Ord. 12158 (part), 1999)

Article II. - Definitions

3.12.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in the California Political Reform Act (California Government Code Sections 81000 through 91014), as amended, shall govern the interpretation of this Act.

- A. "Broad-based political committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred (100) or more persons, and acting in concert makes contributions to five or more candidates.
- B. "Candidate" means any candidate, as defined by the California Political Reform Act, for City Office.
- C. "City" means the City of Oakland.
- D. "City Office" includes, but is not limited to, City of Oakland Mayor (Mayor), City of Oakland City Attorney (City Attorney), City of Oakland City Auditor (City Auditor), City of Oakland City Councilmembers (Councilmembers), and Oakland School Board Directors (School Board Directors).
- E. "City Official" means any person holding a City Office, any member of a City board or commission, and any City employee.
- F. "Election" means any election for City Office.
- G. "Election cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1st, and ending on December 31st of the fourth year thereafter.
- H. "Entity" means any person, other than an individual.
- I. "Local committee" means any committee, as defined in the California Political Reform Act, that is required by the California Political Reform Act to file campaign statements with the City.
- J. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.
- K. "Qualified campaign expenditure" for candidates means and includes all of the following:
 - 1. Any expenditure made by a candidate, elected City Official or committee controlled by the candidate or elected City Official, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate.
 - 2. A nonmonetary contribution provided at the request of or with the approval of the candidate, elected City Official or committee controlled by the candidate or elected City Official.

"Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

(Ord. No. 13262, § 1, 10-21-2014; Ord. No. 13156, § 3, 3-19-2013; Ord. No. 12998, § 1, 3-2-2010; Ord. 12158 (part), 1999)

Article III. - Contribution Limitations

3.12.050 - Limitations on contributions from persons.

- A. No person shall make to any candidate and the controlled committee of such a candidate, and no candidate and the candidate's controlled committee shall receive from any such person, a contribution or contributions totaling more than one hundred dollars (\$100.00), adjusted annually pursuant to subsection F, for each election except as stated in subsection B of this section.
- B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no person shall make to a candidate and the controlled committee of such candidate, and no such candidate and the controlled committee of such candidate shall receive contributions totaling more than five hundred dollars (\$500.00), adjusted annually pursuant to subsection F, from any person for each election.
- C. Any person who makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City Office in excess of the amounts stated in subsections A.
- D. This section is not intended to prohibit or regulate contributions to persons or broad based political committees for the purpose of influencing elections for offices other than city offices.
- E. Persons making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for city office. Where a person has separately accounted for such contributions and expenditures for such elections for city office, contributors to that person may contribute more than the amount set forth in subsection A of this section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for city office.
- F. Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000; Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

3.12.060 - Limitations on contributions from broad-based political committees.

- A. No broad-based political committee shall make to any candidate and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than two hundred fifty dollars (\$250.00), adjusted annually pursuant to subsection F, for each election except as stated in subsection B of this section.
- B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no broad-based political committee shall make to any candidate and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than

one thousand dollars (\$1,000.00), adjusted annually pursuant to subsection F, for each election.

- C. Any broad-based political committee that makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for city office in excess of the amounts stated in subsection A of this section.
- D. This section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than city offices.
- E. A broad-based political committee making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for city office. Where a broad-based political committee has separately accounted for such contributions and expenditures for such elections for city office, contributors to that broad-based political committee may contribute more than the amounts set forth in subsection A of this section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for city office.
- F. Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000; Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

3.12.065 – Contributions made under legal name.

No contributions shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

3.12.070 - Return of contributions.

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor no later than 5 business days after the closing date of the campaign statement on which the contribution would otherwise be reported. In the case of a late contribution as defined in Government Code Section 82036, it shall not be deemed received if it is returned to the contributor within forty-eight (48) hours of receipt.

(Ord. 12158 (part), 1999)

3.12.080 - Aggregation of contributions.

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

- A. Two or more entities' contributions shall be aggregated when any of the following circumstances apply:
 - 1. The entities share the majority of members of their boards of directors.
 - 2. The entities share three or more, or a majority of, officers.
 - 3. The entities are owned or controlled by the same majority shareholder or shareholders.
 - 4. The entities are in a parent-subsidary relationship.
 - 5. One entity finances, maintains, or controls the other entity's contributions or expenditures.
- B. Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decision to make contributions.
- C. The contributions of an entity whose contributions are directed and controlled by any person shall be aggregated with contributions made by that person and any other entity whose contributions are directed and controlled by that same person.
- D. If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
- E. No committee and no broad-based political committee which supports or opposes a candidate shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad-based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad-based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

(Ord. 12158 (part), 1999)

3.12.090 - Loans.

- A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Act.
- B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.
- C. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.
- D. Other than loans pursuant to subsection C of this section, extensions of credit in excess of one thousand five hundred dollars (\$1,500.00) for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

(Ord. 12158 (part), 1999)

3.12.100 - Family contributions.

A. Contributions by two individuals married to each other shall be treated as separate contributions and shall not be aggregated.

B. Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

(Ord. 12158 (part), 1999)

3.12.110 - One campaign committee and one checking account per candidate

A candidate shall have no more than one campaign committee and one checking account for the city office being sought, out of which all expenditures for that office shall be made. This section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

(Ord. 12158 (part), 1999)

3.12.115 - Ballot measure committees controlled by candidates or elected City Officials.

A candidate or elected City Official who controls a ballot measure committee may not directly or indirectly use or influence the use of ballot measure committee funds to support the candidate's or elected City Official's election or to support or oppose other candidates, and may not transfer such funds to another committee supporting the candidate's or elected City Official's election, or supporting or opposing other candidates. The foregoing notwithstanding, the prohibitions of this section shall not apply to a committee created to oppose or support the qualification of a recall measure and/or the recall election of the controlling candidate or controlling elected City Official.

(Ord. No. 13262, § 1, 10-21-2014)

3.12.120 - Money received by elected City Officials and candidates treated as contributions, income or gifts.

Any funds received by any elected City Official, candidate, or committee controlled by an elected City Official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the California Political Reform Act.

(Ord. 12158 (part), 1999)

3.12.130 – Contributor Identification and Restriction on Use of Cash.

A. No contribution of one hundred dollars (\$100.00) or more shall be deposited into a campaign checking account of a candidate or local committee unless the name, address,

occupation, and employer of the contributor is on file in the records of the recipient of the contribution.

- B. No person shall make, and no candidate or local committee shall receive, a contribution of one hundred dollars (\$100) or more in cash.
- C. No candidate or local committee shall make an expenditure of one hundred dollars (\$100) or more in cash.
- D. No person shall make a contribution of one hundred dollars (\$100) or more other than an in-kind contribution unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Government Code Section 84302.

(Ord. 12158 (part), 1999)

3.12.140 - Contractors doing business with the City or the Oakland Unified School District prohibited from making contributions.

- A. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the City for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, for selling or leasing any land or building to the City, or for purchasing or leasing any land or building from the City, whenever the value of such transaction would require approval by the City Council shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or the termination of negotiations for such contract.
- B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District. for selling or leasing any land or building to the School District, or for purchasing or leasing any land or building from the School District, whenever the value of such transaction would require approval by the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or termination of negotiations for such contract.
- C. If a person is an entity, the restrictions of subsections A and B also apply to all of the entity's principals, including, but not limited to, the following:
 - 1. The entity's board chair, president, chief executive officer, chief operating officer, chief financial officer, and any individual who serves in the functional equivalent of one or more of those positions;
 - 2. Any individual who owns an ownership interest in the entity of 20 percent or more; and
 - 3. An individual employee, independent contractor, or agent of the entity, that represents or is authorized to represent the entity before the City in regards to the contract or proposal contract.

- D. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.
- E. For contributions to elected City Officials other than School Board Directors, transactions that require approval by the City Council include but are not limited to:
 - 1. Contracts for the procurement of services that are professional or consulting services exceeding fifteen thousand dollars (\$15,000.00).
 - 2. Contracts for the procurement of services exceeding fifty thousand dollars (\$50,000.00), other than contracts for professional or consulting services.
 - 3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding fifty thousand dollars (\$50,000.00).
 - 4. Contracts for the sale or lease of any building or land to or from the City.
 - 5. Amendments to contracts described in subsections (E)(1), (2), (3), and (4) of this section.
- F. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:
 - 1. Professional services and consulting contracts exceeding twenty-five thousand dollars (\$25,000.00), including personal service agreements.
 - 2. Contracts requiring School Board approval under Public Contract Code Section 20111.
 - 3. Construction contracts exceeding twenty-five thousand dollars (\$25,000.00) whether or not they are subject to the provisions of the Public Contract Code.
 - 4. Contracts for the sale or lease of any building or land to or from the School District.
 - 5. Amendments to contracts described in subsections (F)(1), (2), (3), and (4) of this section.
- G. "Commencement of negotiations" for City contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any City Official or when a City Official formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.
 - I. "Commencement of negotiations" for Oakland School District contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed School District officer or employee or when any elected or appointed School District officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.
- J. "Commencement of negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.
- K. "Completion of negotiations" occurs when the City or the School District executes the contract or amendment.
- L. "Termination of negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by a City Official or an appointed or elected School District officer or employee.

- M. The Oakland City Administrator shall be responsible for implementing procedures for City contracts to ensure contractor compliance with this Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed by the City Clerk at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The City Clerk shall keep an updated list of current contractors available for inspection.

- N. The Oakland Superintendent of Schools shall be responsible for implementing procedures for Oakland School District contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed with the School District at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The School District shall keep an updated list of current contractors available for inspection.

- O. A person who contracts with the City or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the City or the School District or for purchasing any land or building from the City or the School District, or for leasing any land to or from

the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates subsection A of this section, shall be subject to the enforcement provisions of Article IX of this Act.

- P. Candidates and their controlled committees shall include a notice on all campaign fundraising materials equivalent to eight point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

The Oakland Campaign Reform Act limits campaign contributions by all persons (OMC §§ 3.12.050 and 3.12.060) and prohibits contributions during specified time periods from contractors doing business with the City of Oakland or the Oakland Unified School District (OMC § 3.12.140).

(Ord. 12158 (part), 1999)

3.12.150 - Officeholder fund.

- A. Every elected City Official shall be permitted to establish one officeholder expense fund. All contributions deposited into the officeholder expense fund shall be deemed to be held in trust for expenses associated with holding the office currently held by the elected City Official. Contributions to the officeholder fund must be made by a separate check or other separate written instrument. Single contributions may not be divided between the officeholder fund and any other candidate committee. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder fund shall not exceed twenty-five thousand dollars (\$25,000.00) per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder fund shall not exceed thirty thousand dollars (\$30,000.00) per year in office. For the office of the Mayor, total contributions to an officeholder fund shall not exceed fifty thousand dollars (\$50,000.00) per year in office.
- B. Expenditures from an officeholder fund may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in subsection (C)(1) through (5) of this section. Such allowable expenditures shall include, but are not limited to the following categories:
1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund;
 2. Expenditures for office equipment, furnishings and office supplies;
 3. Expenditures for office rent;
 4. Expenditures for salaries of part-time or full-time staff employed by the elected City Official for officeholder activities;
 5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;
 6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the elected City Official (2) a member of the elected City Official's staff; or (3) such other person designated by the elected City Official who is authorized to perform such government duties;

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the elected City Official, (2) a member of the elected City Official's staff, (3) such other person designated by the elected City Official who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel;
 8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity;
 9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will have a material financial effect on the elected officer, any member of his or her immediate family, or his or her committee treasurer;
 10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;
 11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the elected City Official or a member of the elected City Official's staff in the performance of his or her governmental responsibilities;
 12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for city, county, regional, state or federal elective office;
 13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, school district-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board;
 14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the elected City Official communicates in his or her official capacity;
 15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions;
 16. Expenditures for accounting, professional and administrative services provided to the officeholder fund;
 17. Expenditures for ballot measures.
- C. Officeholder expense funds shall not be used for the following:
1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office;
 2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;
 3. Membership in any athletic, social, fraternal, veteran or religious organization;
 4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City Official;

- 5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.
- D. No funds may be transferred from the officeholder fund of an elected City Official to any other candidate committee.
- E. Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.
- F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. 12158 (part), 1999)

3.12.160 - Allowance for donation of office space.

- A. Donation of office space for use by elected City Officials in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:
 - 1. The donation is made to the City and accepted pursuant to Oakland City Charter Section 1203 for use by the Mayor, Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
 - 2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the City Clerk.
- B. Use of office space donated pursuant to this section by an elected City Official shall not be considered a "qualified campaign expenditure" pursuant to Section 3.12.040 of this Act.

(Ord. 12158 (part), 1999)

3.12.170 - Legal expense funds.

- A. An elected City Official or candidate may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or elected City Official's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or elected City Official's governmental activities and duties. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. All funds contributed to an elected City Official or candidate for legal expense fund must be deposited into the elected City Official's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.
- B. Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.
- C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. 12158 (part), 1999)

3.12.180 - Volunteer services exemption.

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

(Ord. 12158 (part), 1999)

Article IV. - Expenditure Ceilings

3.12.190 - Expenditure ceilings.

All candidates who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Sections 3.12.050B and 3.12.060B of this Act. Before receiving any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the Public Ethics Commission on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

(Ord. 12158 (part), 1999)

3.12.200 - Amount of expenditure ceilings.

A candidate for office of Mayor who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding seventy cents (\$.70) per resident for each election in which the candidate is seeking elective office. A candidate for other citywide offices who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding fifty cents (\$.50) per resident for each election in which the candidate is seeking office. A candidate for District City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding one dollar and fifty cents (\$1.50) per resident in the electoral district for each election in which the candidate is seeking elective office. A candidate for School Board Director who voluntarily agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding one dollar (\$1.00) per resident for each election in the electoral district for each election for which the candidate is seeking office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district.

Beginning on January 1, 2017, the Public Ethics Commission shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The increase shall be rounded to the nearest thousand. The City Clerk shall publish the expenditure ceiling amounts no later than February 1st of each year.

(Ord. 12197 (part), 1999; Ord. 12158 (part), 1999)

3.12.210 - Reserved.

Editor's note— Ord. No. 12998, § 1, adopted March 2, 2010, repealed the former section 3.12.210 in its entirety, which pertained to time periods for expenditures, and derived from Ord. No. 12158, adopted 1999.

3.12.220 - Expenditure ceilings lifted.

If a candidate declines to accept expenditure ceilings and receives contributions or makes qualified campaign expenditures equal to fifty (50) percent or more of the expenditure ceiling, or if any person makes one or more independent expenditures totaling more than fifteen thousand dollars (\$15,000.00) on a District City Council or School Board election or seventy thousand dollars (\$70,000.00) in a City Attorney, Auditor, Councilmember-at-Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in Sections 3.12.050B and 3.12.060B of this Act. The independent expenditure committee amounts of fifteen thousand dollars (\$15,000.00) and seventy thousand dollars (\$70,000.00) respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by Section 3.12.200 of this chapter.

(Ord. 12158 (part), 1999)

Article V. - Independent Expenditures

3.12.230 - Independent expenditures for mass mailings, slate mailings or other campaign materials.

- A. Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate shall place the following statement on the mailing in typeface of no smaller than fourteen points:

Notice to Voters

(Required by the City of Oakland)

This mailing is not authorized or approved by any City candidate or election official.

It is paid for

by (name) _____

_____(address, city, state)

Total cost of this mailing is: (amount)

- B. A committee must disclose the names of persons from whom the committee received its two highest cumulative contributions of \$5,000 or more in the same manner as required by California Political Reform Act section 84506 on all mass mailings and television advertisements that are independent expenditures supporting or opposing a candidate or measure being voted upon only in the City.

(Ord. 12158 (part), 1999)

Article VI. - Electronic Filing and Recordkeeping Requirements

3.12.240 - Electronic filing of campaign statements.

- A. **Electronic Filing of Campaign Statements.** Any person required by state or local law to file a campaign statement or report with the local filing officer, shall file the statement or report in an electronic format with the Public Ethics Commission provided that the Public Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.
- B. **Continuous Filing of Electronic Statements.** Once a committee is subject to the electronic filing requirements imposed by this section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this Act and the California Political Reform Act.
- C. **Late Filing Fees.** If any person files an original statement or report after the deadline imposed by state or local law, he or she shall, in addition to any other penalties or remedies established by this Act or state law, be liable in the amount of \$10.00 per day after the deadline until the statement or report is filed, to the Public Ethics Commission. No liability under this subsection shall exceed the cumulative amount stated in the late statement or report, or \$100.00, whichever is greater. The Public Ethics Commission shall deposit any funds received under this section into the City's general fund.
- D. **Adoption of General Law.** Except as otherwise provided in, or inconsistent with, this Act or other provisions of local law, the provisions of the California Political Reform Act relating to local elections including any subsequent amendments are hereby incorporated as part of this article.

(Ord. No. 13156, § 3, 3-19-2013)

3.12.245 - Recordkeeping requirements.

Every person required by state or local law to file a campaign statement or report with the City shall prepare and retain detailed records (including bills, receipts, and other documents) needed to comply with the filing requirement. The records shall be retained for at least four (4) years following the date the campaign statement or report was filed with the Public Ethics Commission.

Article VII. - Violations Related to Enforcement

3.12.250 - Violations Related to Enforcement

False Charges and Information. A person shall not knowingly furnish false, fraudulent, or misleading complaints, evidence, documents, or information to the Public Ethics Commission, or District Attorney, or knowingly misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Public Ethics Commission or District Attorney of an alleged violation of this Act.

Article VIII. - Agency Responsibility and Authority

3.12.260 - Public Ethics Commission Role and Responsibilities.

The Public Ethics Commission shall:

- A. Oversee compliance with the Act.
- B. Serve as the local filing officer for campaign statements and reports pursuant to the California Political Reform Act.
- C. Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this Act, subject to Section 2.24.070 of the Oakland Municipal Code.

(Ord. 12158 (part), 1999)

3.12.265 - Duties of the City Clerk.

The City Clerk shall, at a minimum, provide with the nomination packets given to candidates an advisory sheet directing candidates to the Public Ethics Commission for information about campaign reporting requirements.

(Ord. No. 13156, § 4, 3-19-2013; Ord. 12158 (part), 1999)

Article IX. - Enforcement

3.12.270 - Penalties

Any person who violates this Act is subject to criminal, civil, administrative, and other penalties provided for in this Section. In the event criminal violations of this Act come to the attention of the Public Ethics Commission, it may forward the information to the appropriate law enforcement agency.

- A. **Criminal Penalties.** Any person who knowingly or willfully violates any provision of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable under the provisions of this Act.
 1. No person convicted of a misdemeanor under this Act shall act as a lobbyist or as a City contractor for a period of four (4) years following the date of the conviction unless a court, at the time of sentencing, specifically determines that this provision shall not be applicable.
 2. For the purposes of this Section, a plea of nolo contendere shall be deemed a conviction.
- B. **Civil Penalties.** Any person who violates any provision of this Act shall be liable in a civil action for an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed expended, gave or received, whichever is greater. A decision by the Public Ethics Commission to bring a civil action requires an affirmative vote of at least five (5) of its members.
 1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.
 2. In determining the amount of liability, a court may take into account the seriousness of the violation and the degree of culpability of the defendant.

C. Administrative Penalties. Any person who violates any provision of this Act, who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable in an administrative proceeding before the Public Ethics Commission held pursuant to the Public Ethics Commission's Complaint Procedures. The Public Ethics Commission may impose administrative penalties in an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. In addition to administrative penalties, the Public Ethics Commission may issue warnings or require other remedial measures.

1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

3.12.280 - Injunctive Relief

- A. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, VI, and VII of this Act.
- B. Any individual residing within the City may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, and VI of this Act.
- C. Any individual, other than the Public Ethics Commission, before filing a civil action pursuant to this section, shall first file with the Public Ethics Commission a written request for the Public Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Public Ethics Commission shall respond in writing within ninety (90) days after receipt of the request indicating whether they intend to file an administrative or civil action. If the Public Ethics Commission indicates in the affirmative and brings an administrative or civil action within sixty (60) days thereafter, no other action may be brought unless the action brought by the Public Ethics Commission is dismissed without prejudice.
- D. If the Public Ethics Commission needs additional time to determine whether to bring an action or needs additional time to bring an action, it may, by resolution indicating evidence of good cause and notice thereof to the requestor, extend the ninety (90) day time period by another sixty (60) days. If the Public Ethics Commission indicates they will not pursue the matter, or if it does not pursue an administrative or civil action within the sixty (60) day period following their affirmative response to the requestor, the requestor may file suit pursuant to this section. No resident may bring an action pursuant to this section if the Public Ethics Commission has commenced an administrative action or a law enforcement agency has commenced criminal action arising out of the same facts.

3.12.290 - Forfeiture

Any person who receives a financial benefit as a result of a violation of this Act by any person shall be liable for disgorging to the City's general fund up to the amount of the financial benefit received as a result of the violation.

3.12.300 - Costs of Litigation.

The court may award to a party, other than the City or any of its commissions, boards, departments or agencies, who prevails in any civil action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

3.12.310 - Limitation of Actions

- A. A criminal action alleging a violation of this Act may only be commenced by the Alameda County District Attorney or the California Attorney General and no more than four (4) years after the date of the violation.
- B. A civil action alleging a violation of this Act may only be commenced by the Public Ethics Commission or an individual residing in the City and no more than five (5) years after the date of the violation.
- C. An administrative action alleging a violation of this Act may only be commenced by the Public Ethics Commission and no more than five (5) years after the date of the violation.
- D. Commencement of an administrative action is the date the Public Ethics Commission sends written notification to the respondent of the allegation pursuant to the Commission's Complaint Procedures.
- E. Unless otherwise prescribed by applicable law, the date of the violation means the earliest date when the complainant, the Public Ethics Commission, or other prosecuting authority has, or reasonably should have, knowledge of the violation and its cause, and a suspicion of wrongdoing. Suspicion shall be determined from an objective standpoint of what is reasonable for the complainant, the Public Ethics Commission, or other prosecuting authority to know or suspect under the facts of the situation.

3.12.320 - Liability

- A. In addition to a committee itself, persons who qualify under the California Political Reform Act as principal officers of the committee are jointly and severally liable for violations by the committee. For committees controlled by a candidate, the candidate and the committee's treasurers are deemed to be principal officers.
- B. In addition to a person whose conduct is required or prohibited under this Act, an agent acting on behalf of that person is jointly and severally liable for a violation that arises out of the agent's actions. There is a rebuttable presumption that the following persons are agents of a committee:
 - 1. A current or former officer of the committee;
 - 2. An employee of the committee;
 - 3. A person who has received compensation or reimbursement from the committee; and
 - 4. A person who holds or has held a position within the committee organization that reasonably appears to be able to authorize expenditures for committee activities.
- C. This Section does not limit potential liability for persons who cause another person to violate this Act or who aids and abets another person in a violation.

3.12.330 - Disqualification.

In addition to any other penalties prescribed by law, if a candidate receives a contribution in violation of Sections 3.12.050 and 3.12.060, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 et seq. and the regulations of the Fair Political Practices Commission shall apply to interpretations of this section.

(Ord. 12158 (part), 1999)

Article VIII. - Miscellaneous Provisions

3.12.340 - Applicability of other laws.

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this state or jurisdiction.

(Ord. 12158 (part), 1999)

3.12.350 – Reference to other laws.

All references in this Act to other laws refer to those laws as amended.

3.12.360 - Severability.

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

(Ord. 12158 (part), 1999)

Section 3. Effective Date. This Ordinance shall become effective on January 1, 2017.

IN COUNCIL, OAKLAND, CALIFORNIA,

NOV 29 2016

PASSED BY THE FOLLOWING VOTE:

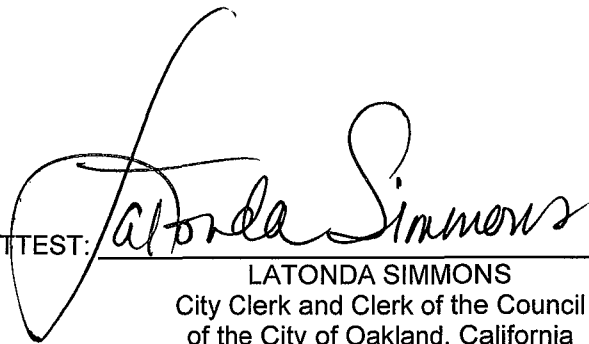
AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation:

12-14-16

Introduction Date
NOV 01 2016

**CITY OF OAKLAND
CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS PER THE OAKLAND
CAMPAIGN REFORM ACT
2019**

LIMITATIONS ON CONTRIBUTIONS FROM PERSONS (§3.12.050)

For candidates who do not adopt the expenditure ceilings (3.12.050(A))	\$200
For candidates who adopt the expenditure ceilings (3.12.050(B))	\$800

LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060)

For candidates who do not adopt the expenditure ceilings (3.12.060(A))	\$400
For candidates who adopt the expenditure ceilings (3.12.060(B))	\$1,700

**EXPENDITURE CEILINGS FOR MAYOR AND OTHER CITYWIDE OFFICES WHO VOLUNTARILY
AGREE TO EXPENDITURE CEILINGS (§3.12.200)**

Mayor	\$472,000
City Auditor	\$337,000
City Attorney	\$337,000
Council Member At-Large	\$337,000
District 1 Council Member	\$148,000
District 2 Council Member	\$148,000
District 3 Council Member	\$148,000
District 4 Council Member	\$141,000
District 5 Council Member	\$142,000
District 6 Council Member	\$141,000
District 7 Council Member	\$143,000
District 1 School Board Director	\$99,000
District 2 School Board Director	\$99,000
District 3 School Board Director	\$99,000
District 4 School Board Director	\$94,000
District 5 School Board Director	\$94,000
District 6 School Board Director	\$94,000
District 7 School Board Director	\$95,000

**INDEPENDENT EXPENDITURE COMMITTEE THRESHOLD/EXPENDITURE CEILINGS LISTED
(§3.12.220)**

Citywide offices	\$121,000
District offices	\$26,000

CITY OF OAKLAND
CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS PER THE OAKLAND CAMPAIGN REFORM ACT
2019

LIMITATIONS ON CONTRIBUTIONS FROM PERSONS (§3.12.050)

LIMITATIONS ON CONTRIBUTIONS FROM PERSONS (§3.12.050)				
Consumer Price Index (CPI) Values*				
1999 (index year)	172.5	Annual Avg CPI		
2018	285.550	Annual Avg CPI		
Adjustment Factor	165.54%			
Position	Codified Limit	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding**
Contributions from Persons				
For candidates who do not adopt the expenditure ceilings (3.12.050(A))	\$100	165.54%	\$166	\$200
For candidates who adopt the expenditure ceilings (3.12.050(B))	\$500	165.54%	\$828	\$800
* CPI is the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, San Francisco-Oakland-San Jose, CA, All Items, Annual Value				
** Per Municipal Code the CPI Adjusted Contribution amount must be rounded to the nearest one hundred (100).				

LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060)

LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060)				
Consumer Price Index (CPI) Values*				
1999 (index year)	172.5	Annual Avg CPI		
2018	285.550	Annual Avg CPI		
Adjustment Factor	165.54%			
Position	Codified Limit	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding**
Contributions from Broad-Based Political Committees				
For candidates who do not adopt the expenditure ceilings (3.12.060(A))	\$250	165.54%	\$414	\$400
For candidates who adopt the expenditure ceilings (3.12.060(B))	\$1,000	165.54%	\$1,655	\$1,700
* CPI is the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, San Francisco-Oakland-San Jose, CA, All Items, Annual Value				
** Per Municipal Code the CPI Adjusted Contribution amount must be rounded to the nearest one hundred (100).				

EXPENDITURE CEILINGS FOR MAYOR AND OTHER CITYWIDE OFFICES WHO VOLUNTARILY AGREE TOP EXPENDITURE CEILINGS (§3.12.200)

EXPENDITURE CEILINGS FOR MAYOR AND OTHER CITYWIDE OFFICES WHO VOLUNTARILY AGREE TOP EXPENDITURE CEILINGS (§3.12.200)							
Consumer Price Index (CPI) Values*							
1998 (index year)	165.5	Annual Avg CPI					
2018	285.550	Annual Avg CPI					
Adjustment Factor	172.54%						
Position	Codified Limit	2010 Census Population**	Total Expenditures	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding***	
Mayor	\$0.70	390,724	\$273,507	172.54%	\$471,903	\$472,000	
City Auditor	\$0.50	390,724	\$195,362	172.54%	\$337,073	\$337,000	
City Attorney	\$0.50	390,724	\$195,362	172.54%	\$337,073	\$337,000	
Council Member At-Large	\$0.50	390,724	\$195,362	172.54%	\$337,073	\$337,000	
District 1 Council Member	\$1.50	57,221	\$85,832	172.54%	\$148,092	\$148,000	
District 2 Council Member	\$1.50	57,102	\$85,653	172.54%	\$147,784	\$148,000	
District 3 Council Member	\$1.50	57,196	\$85,794	172.54%	\$148,027	\$148,000	
District 4 Council Member	\$1.50	54,662	\$81,993	172.54%	\$141,469	\$141,000	
District 5 Council Member	\$1.50	54,681	\$82,022	172.54%	\$141,518	\$142,000	
District 6 Council Member	\$1.50	54,582	\$81,873	172.54%	\$141,262	\$141,000	
District 7 Council Member	\$1.50	55,280	\$82,920	172.54%	\$143,068	\$143,000	
District 1 School Board Director	\$1.00	57,221	\$57,221	172.54%	\$98,728	\$99,000	
District 2 School Board Director	\$1.00	57,102	\$57,102	172.54%	\$98,523	\$99,000	
District 3 School Board Director	\$1.00	57,196	\$57,196	172.54%	\$98,685	\$99,000	
District 4 School Board Director	\$1.00	54,662	\$54,662	172.54%	\$94,313	\$94,000	
District 5 School Board Director	\$1.00	54,681	\$54,681	172.54%	\$94,345	\$94,000	
District 6 School Board Director	\$1.00	54,582	\$54,582	172.54%	\$94,175	\$94,000	
District 7 School Board Director	\$1.00	55,280	\$55,280	172.54%	\$95,379	\$95,000	

**CITY OF OAKLAND
CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS PER THE OAKLAND CAMPAIGN REFORM ACT
2019**

INDEPENDENT EXPENDITURE COMMITTEE THRESHOLD/EXPENDITURE CEILINGS LIFTED (§3.12.220)				
Consumer Price Index (CPI) Values*				
1998 (index year)	165.5	Annual Avg CPI		
2018	285.550	Annual Avg CPI		
Adjustment Factor	172.54%			
Position	Codified Limit	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding**
Citywide offices	\$70,000	172.54%	\$120,776	\$121,000
District offices	\$15,000	172.54%	\$25,881	\$26,000
* CPI is the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, San Francisco-Oakland-San Jose, CA, All Items, Annual Value				
** Per Municipal Code the CPI Adjusted Expenditure amount must be rounded to the nearest one thousand (1,000).				

U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS
 Western Information Office, 90 7th St., Suite 14-100, San Francisco, CA 94103
 Information Staff (415) 625-2270 / Fax (415) 625-2351

SAN FRANCISCO-OAKLAND-HAYWARD
 Consumer Price Index, All Items, 1982-84=100 for All Urban Consumers (CPI-U)

YEAR	SEMIANNUAL												ANNUAL AVERAGE					
	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC		1ST HALF	2ND HALF			
1999		169.4		172.2		171.8		173.5		175.2		174.5		170.8		174.2		172.5
2000		176.5		178.7		179.1		181.7		183.4		184.1		177.7		182.6		180.2
2001		187.9		189.1		190.9		191.0		191.7		190.6		188.7		191.1		189.9
2002		191.3		193.0		193.2		193.5		194.3		193.2		192.3		193.7		193.0
2003		197.7		197.3		196.3		196.3		196.3		195.3		196.8		196.1		196.4
2004		198.1		198.3		199.0		198.7		200.3		199.5		198.2		199.5		198.8
2005		201.2		202.5		201.2		203.0		205.9		203.4		201.5		203.9		202.7
2006		207.1		208.9		209.1		210.7		211.0		210.4		207.9		210.6		209.2
2007		213.688		215.842		216.123		216.240		217.949		218.485		214.736		217.361		216.048
2008		219.612		222.074		225.181		225.411		225.824		218.528		221.730		223.804		222.767
2009		222.166		223.854		225.692		225.801		226.051		224.239		223.305		225.484		224.395
2010		226.145		227.697		228.110		227.954		228.107		227.658		226.994		227.944		227.469
2011		229.981		234.121		233.646		234.608		235.331		234.327		232.082		234.698		233.390
2012		236.880		238.985		239.806		241.170		242.834		239.533		238.099		241.201		239.650
2013		242.677		244.675		245.935		246.072		246.617		245.711		243.894		246.152		245.023
2014		248.615		251.495		253.317		253.354		254.503		252.273		250.507		253.463		251.985
2015		254.910		257.622		259.117		259.917		261.019		260.289		256.723		260.421		258.572
2016		262.600		264.565		266.041		267.853		270.306		269.483		263.911		268.777		266.344
2017		271.626		274.589		275.304		275.893		277.570		277.414		273.306		276.542		274.924
2018		281.308		283.422		286.062		287.664		289.673		289.896		282.666		288.435		285.550

Table of over-the-year percent increases. An entry for Feb. 2006 indicates the percentage increase from Feb. 2005 to Feb. 2006.

2000	4.2	3.8	4.7	5.5	4.0	4.8	4.5
2001	6.5	5.8	5.1	3.5	6.2	4.7	5.4
2002	1.8	2.1	1.3	1.4	1.9	1.4	1.6
2003	3.3	2.2	1.4	1.1	2.3	1.2	1.8
2004	0.2	0.5	1.2	2.2	0.7	1.7	1.2
2005	1.6	2.1	2.2	2.0	1.7	2.2	2.0
2006	2.9	3.2	3.8	3.4	3.2	3.3	3.2
2007	3.2	3.3	2.6	3.8	3.3	3.2	3.3
2008	2.8	2.9	4.2	0.0	3.3	3.0	3.1
2009	1.2	0.8	0.2	2.6	0.7	0.8	0.7
2010	1.8	1.7	1.0	1.5	1.7	1.1	1.4
2011	1.7	2.8	2.9	2.9	2.2	3.0	2.6
2012	3.0	2.1	2.8	2.2	2.6	2.8	2.7
2013	2.4	2.4	1.6	2.6	2.4	2.1	2.2
2014	2.4	2.8	3.0	2.7	2.7	3.0	2.8
2015	2.5	2.4	2.6	3.2	2.5	2.7	2.6
2016	3.0	2.7	3.1	3.5	2.8	3.2	3.0
2017	3.4	3.8	3.0	2.9	3.6	2.9	3.2
2018	3.6	3.2	4.3	4.5	3.4	4.3	3.9



Jodie Smith, Chair
 James E.T. Jackson, Vice-Chair
 Jill Butler
 Lisa Crowfoot
 Gail Kong
 Nayeli Maxson

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Suzanne Doran, Lead Analyst
 Whitney Barazoto, Executive Director
 DATE: January 25, 2019
 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 – January 31 is the filing deadline for semi-annual campaign statements covering the period from July 1 through December 31, 2018. All active campaign committees registered with the City of Oakland must file. In addition, individuals and entities that made contributions totaling \$10,000 or more in 2018 (major donors) must file FPPC Form 461.

- **Outreach** – Outreach to filers this month included email notices of the upcoming deadline and reminders via our social media accounts. As mentioned in prior reports, major donors are a group that include a higher proportion of individuals with limited experience and knowledge of disclosure requirements. Commission staff utilized the available campaign finance data to screen for potential major donors based on reports of contributions received. Our office sent courtesy notices to about ten individuals advising them of disclosure requirements and resources for assistance. Upon receipt of the filings through year-end, a further screening for compliance will be conducted.
- **Technical assistance and advice** – In preparation for the filing deadline, frontline staff conducted cross training for technical support and shared the more common filer issues we encounter to inform future educational offerings.

Lobbyist disclosure – January 31 is the deadline for annual lobbyist registration renewal and January 30 is the deadline for quarterly lobbyist activity reports covering the period from October 1 through December 31, 2018. Commission staff updated and posted lobbyist forms for 2019, and revisions to lobbyist webpages to include more disclosure information are in progress. Outreach to lobbyists this month included email notices of the upcoming deadline and reminders via our social media accounts. All registered lobbyists are compliant through the third quarter 2018.

FPPC Form 803 Behested Payments – Commission staff requested filing system vendor NetFile add an additional feature to allow upload of paper Form 803 filings. The new feature went live this month,

and all 803s filed in 2017 and 2018 are now available online. Users can now search by the name of an officeholder for Form 803s making Behested Payment reports more readily available to the public.

Illuminating Disclosure Data

Open Disclosure – With the passing of the November 2018 election, Commission staff’s role as project manager for Open Disclosure is less active. However, we maintain regular contact with team leaders and participated when the team met in December to evaluate the results of its 2018 efforts, map out post-election tasks, and brainstorm new features to incorporate for the next election cycle. Staff continues to check-in with Open Oakland volunteers interested in helping expand and improve access to disclosure information within the PEC’s jurisdiction to provide residents a more complete picture of political spending in Oakland.

Online Engagement and General Outreach

Social Media – Each month, Commission staff selects focus areas to promote in posts to the Commission’s social media accounts. January focused on raising awareness of campaign finance and lobbyist disclosure deadlines and PEC support for filers. Staff is exploring boosting content targeted to Oakland residents to increase reach and raise awareness of the Commission and its activities.

Performance measurement

In January, Commission staff compiled 2018 output and outcome data from our tracking systems for use in the annual report and 2019 strategic planning. We continue to monitor and update tracking tools to enable a more nuanced view of program activity.



Jodie Smith, Chair
 James E.T. Jackson, Vice-Chair
 Jill Butler
 Lisa Crowfoot
 Gail Kong
 Nayeli Maxson

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Jelani Killings, Ethics Analyst
 Whitney Barazoto, Executive Director
 DATE: January 25, 2019
 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 continues to develop and expand the Commission's ethics training and outreach program under the Government Ethics Act. PEC education/outreach program staff has been working on a variety of activities that include the following:

Ethics Education

On January 3, staff made an ethics presentation at the request of the City's Cannabis Regulatory Commission. Staff provided board members with information about the Commission and its services, and gave an overview of the Government Ethics Act including Form 700 filing requirements.

On January 8, Staff sent out email correspondence to all newly elected and sitting elected officials providing them with an ethics training checklist and extending support in regards to compliance with state and local ethics laws. The ethics checklist includes watching the PEC's introductory Government Ethics Act video, filing Form 700, taking the PEC's online ethics training for Form 700 filers, taking the state-required AB1234 ethics training, and contacting the PEC for an in-person ethics check-in meeting.

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 January 16, staff trained 39 new employees on GEA provisions.

On January 22, Staff attended the City's Advancing Racial Equity training. The training focused on acknowledging and reducing existing racial disparities and implementing equitable practices in City services and processes to eliminate them. Staff will implement best practices into community outreach and program administration.

On January 23, Staff presented at the Department of Human Resources Management's (DHRM) Single Point of Contact (SPOC) meeting. SPOCs are designated individuals within each department of the City that serve as liaisons to the DHRM. Staff's presentation was part of an ongoing coordination with DHRM to create an accurate list of Form 700 filers in the City of Oakland. SPOCs serve as the initial point of contact in each department and are responsible for submitting new employee requisitions that, among other things, should identify required Form 700 filers. Through several efforts by Staff to obtain an accurate Form 700 filer list, it was discovered that the filer designation for over 3,000 current employees was unknown. Subsequently, Staff gave SPOCs a presentation on Form 700 and the importance of being able to identify all filers for education and compliance purposes. Staff will

continue working with the DHRM to identify all Form 700 filers and ensure that they take the PEC's online training.

On January 24, staff facilitated an ethics discussion at the City's quarterly Supervisory Academy. The discussions are intended to allow for more meaningful dialogue concerning ethical values in decision making with a focus on identifying ethical dilemmas that City staff face in carrying out their daily duties.

Publications

Staff recently revised the PEC Ethics Resource Guide to align with the Government Ethics Act (GEA) and to condense content. The previous guide was based on the California Political Reform Act and was published prior to the adoption of GEA. The newly revised guide summarizes all the key GEA provisions and provides an additional GEA educational resource to support PEC trainings, fact sheets, and advisories.

Staff is currently drafting the next issue of the PEC's newsletter that will be published in February. The newsletter will highlight Commission activities from 2018, upcoming projects in 2019, and provide education regarding relevant ethics topics. Commissioners are welcomed to send any recommendations for newsletter content to Ethics Analyst Jelani Killings at jkillings@oaklandca.gov.



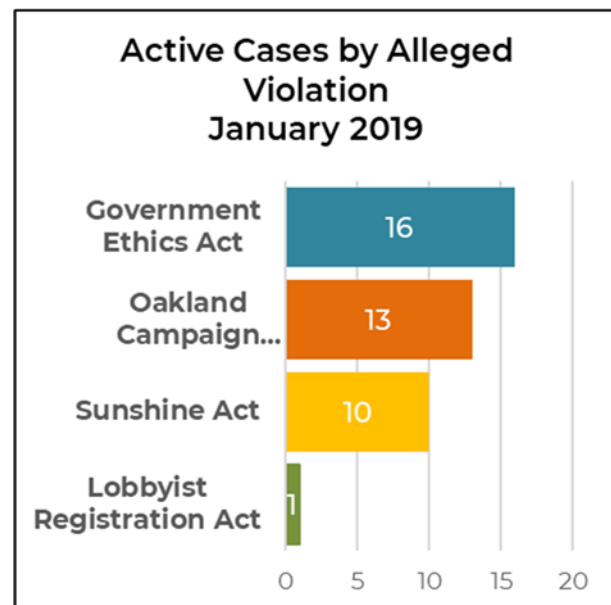
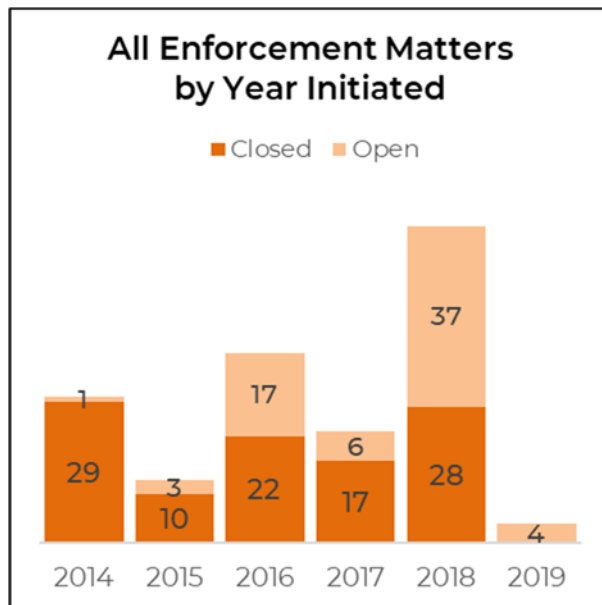
Jodie Smith, Chair
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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Simon Russell, Acting Chief of Enforcement
 DATE: January 25, 2019
 RE: Enforcement Program Update

Current Enforcement Activities

Since the last Enforcement Program Update on December 24, 2018, Commission staff received 4 sworn complaints. Enforcement staff dismissed 2 complaints after determining that the allegations did not warrant a PEC investigation. This brings the total Enforcement caseload to 27 matters in the intake or preliminary review stage, 6 matters under active investigation, 18 matters under post-investigation analysis, and 6 matters in settlement negotiations or awaiting an administrative hearing. Enforcement's caseload also includes 9 ongoing records request mediations.



Enforcement staff has been focusing on intake of cases that had not been reviewed upon submission. To that end, we have not only been devoting more resources to moving cases more quickly through the intake process, but have also made changes to the intake process itself. It is now Enforcement staff's goal to review all new complaints within two weeks of receiving them. Before dismissing a complaint, Enforcement staff will contact the complainant to give them a chance to respond to our analysis and provide further evidence in support of their allegations. All decisions to open an investigation or dismiss a complaint now require two layers of review, with the Chief of Enforcement and the Executive Director signing off on all such decisions.

Finally, Enforcement staff continues its active investigations. Since the last Enforcement Program Update on December 24, 2018, Enforcement staff issued one subpoena, three requests for voluntary production of documents or testimony, and initiated settlement discussions in one case.

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.

Since the last Enforcement Program Update on December 24, 2018, the following status changes occurred:

1. *In the Matter of Mary Help of Christians Church* (Complaint No. 18-09): This complaint was dismissed after staff determined that the subject of the complaint does not fall within the PEC's enforcement jurisdiction (Attachment 1).
2. *In the Matter of Scott Clifford* (Complaint No. 18-20.1): Pursuant to the Commission's vote at its meeting of January 7, 2019, Enforcement staff retracted a warning letter that it had previously issued to the respondent and closed this matter with no further action.
3. *In the Matter of Mark Tran* (Complaint No. 18-21.1): Pursuant to the Commission's vote at its meeting of January 7, 2019, Enforcement staff retracted a warning letter that it had previously issued to the respondent and closed this matter with no further action.
4. *In the Matter of Katrin Wehrheim* (Complaint No. 18-34.1): Pursuant to the Commission's vote at its meeting of January 7, 2019, Enforcement staff issued an advisory letter to the respondent and closed this matter with no further action.
5. *In the Matter of Cassia Stepak* (Complaint No. 18-34.2): Pursuant to the Commission's vote at its meeting of January 7, 2019, Enforcement staff issued an advisory letter to the respondent and closed this matter with no further action.
6. *In the Matter of Amber Danielle-Rose Todd* (Complaint No. 18-41): This Sunshine Act complaint was withdrawn by the complainant after the documents in question were produced.
7. *In the Matter of Oakland City Council* (Complaint No. 18-49): This complaint was dismissed after staff determined that the subject of the complaint does not fall within the PEC's enforcement jurisdiction (Attachment 2).
8. Complaint Nos. 18-51, 19-01, 19-02, and 19-03: Commission Staff received four formal complaints and is conducting a preliminary review of the allegations.

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

January 17, 2019

Tami Smith



Re: PEC Complaint No. 18-09; Dismissal Letter

Dear Ms. Smith:

On February 26, 2018, the City of Oakland Public Ethics Commission (PEC) received your complaint (#18-09) alleging that Mary Help of Christians Church fenced and paved the Kennedy Tract Park located at 2611 East 9th Street.

We have reviewed your complaint and determined that it does not allege any violation of the laws within the jurisdiction of the PEC. This is because Kennedy Tract Park is owned by a private party, not by the City of Oakland. Regarding property matters, the PEC only has jurisdiction over the actions of City officials; it does not have jurisdiction over the uses to which private parties put their property.

There might be some confusion regarding the name of the property, which is referred to as a "park" despite being private property. When the PEC inquired about this matter with the City's Department of Parks & Recreation and the Department of Real Estate Management, we were informed that the City used to lease the park, but that the lease expired on October 17, 1991, and was not renewed. Therefore, the park has actually been private property since that date.

Because your complaint does not make an allegation within the jurisdiction of the PEC, we are dismissing your complaint.

If you believe that any changes to the property were made without the proper permits or public notice (if applicable), you might try filing a report with the City's Department of Planning & Building.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on February 4, 2019, at 6:30PM in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,



Simon Russell, Acting Chief of Enforcement

cc: Mary Help of Christians Church

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Public Ethics Commission
Enforcement Unit

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January 24, 2019

Gene Hazzard



Re: PEC Complaint No. 18-49; Dismissal Letter

Dear Mr. Hazzard:

On December 12, 2018, the City of Oakland Public Ethics Commission (PEC) received your complaint (#18-49) alleging that members of the City Council violated the Government Ethics Act (GEA) by voting to increase the City Attorney's salary based upon a "compaction" theory, rather than having the City Attorney's salary approved by voters in an election.

We have reviewed your complaint and determined that it does not allege any violation of the laws within the jurisdiction of the PEC. This is because the City Attorney's salary is set according to Oakland City Charter section 401(1), over which the PEC lacks enforcement jurisdiction. Nor is there any evidence that the City Council vote violated any of the laws contained in the GEA.

Because your complaint does not make an allegation within the enforcement jurisdiction of the PEC, we are dismissing the matter pursuant to the Commission's Complaint Procedures.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on February 4, 2019, at 6:30PM in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed.

However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,



Simon Russell, Acting Chief of Enforcement

cc: City Council



Jodie Smith, Chair
 James E.T. Jackson, Vice-Chair
 Jill Butler
 Lisa Crowfoot
 Gail Kong
 Nayeli Maxson

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Whitney Barazoto, Executive Director
 DATE: January 25, 2019
 RE: Executive Director's Report

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities since 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 ongoing goals and activities for 2018-19 for each program area.

Commissioner Appointment

Congratulations to Nayeli Maxson, who was chosen as the Commission's PEC-appointed Commissioner at the January meeting. The City Auditor also has an appointment to make for the Jan 22, 2019 – Jan 21, 2022 term. The Director met with City Auditor Courtney Ruby on January 23 to discuss the appointment process, and the City Auditor expressed her plan to seek applications for the position and make her appointment soon thereafter.

California Fair Political Practices Commission Meeting

The California Fair Political Practices Commission conducted its monthly public meeting here in Oakland City Hall on January 17, 2019. The PEC Director provided a presentation about the Public Ethics Commission and specifically, the Commission's growth and resulting evolution of ethics in Oakland. Staff noted more work ahead and also thanked the FPPC for our ongoing collaborative relationship with the state commission.

PEC Staffing

The Director is in the process of conducting interviews of candidates for the Enforcement Chief position and estimates that a final decision may be made by mid-February. The Director also is preparing a budget request for two additional positions, as reported in January, 1) a Senior Investigator to lead complex investigations and draft case resolutions, and 2) an Ethics Analyst III to lead the Commission's public-facing education, advice, outreach, and disclosure activities and conduct policy work. Budget requests are due in February to be considered for the Mayor's proposed budget, which then goes to City Council before the new fiscal year begins in July 2019.

Annual Retreat

Commissioners will receive a scheduling email soon to select potential dates for the Commission's annual retreat in March. The retreat, which will be a public meeting, will provide an opportunity for Commissioners to review operational activities and discuss priorities for the year ahead and beyond.

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: -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	PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data. Filing tools collect and transmit data in an effective and user-friendly manner.	Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format. Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.	<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 v 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 v 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