



Item 13a - Executive Director's Report

Arvon Perteet, Chair
Ryan Micik, Vice Chair
Charlotte Hill
Joe Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Acting Executive Director
DATE: December 22, 2022
RE: Executive Director's Monthly and Year-End Report for 2022 for the January 11, 2023, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities not included in other program reports for this past month and in 2022 overall. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects for 2022 for each program area.

Commissioner Transitions and Activities

In 2022, the Commission welcomed two new Commissioners. Charlotte Hill was selected by the PEC through its annual public recruitment process at the end of 2021. Ms. Hill's term began January 22, 2022 and runs through January 21, 2025. In April, the City Auditor appointed Francis Upton IV to fill outgoing Commissioner Jerett Yan's seat. Mr. Upton's term runs through January 21, 2025. Lastly, the City Attorney appointed sitting-Commissioner Ryan Micik to complete the vacant term created by Commissioner Jessica Leavitt's early departure. Commissioner Micik's term was effective July 1 and runs through January 21, 2024.

Special appreciation to Commissioner Joe Tuman whose term as mayoral-appointee to the PEC concludes January 21, 2023. Thank you, Joe, for your commitment and service to the PEC and the City of Oakland since 2020.

PEC Retreat – In April 2022, the Commission held a two-day strategic planning retreat. The retreat, which was open to the public, provided Commissioners and staff an opportunity to review program objectives and identify projects for PEC work in the years ahead. Following the retreat, Commissioners reviewed an updated performance plan that included program objectives and goals, performance indicators and results by year, and projects for PEC focus going forward. The five main priorities identified for 2022 were:

1. Executive Director recruitment;
2. Commissioner-led community outreach;
3. Democracy Dollars policy and potential implementation;
4. Proactive prevention activities, including Ticket Policy ordinance education, ethics onboarding, and candidate education and committee compliance for the 2022 Election; and
5. Prioritization of enforcement cases and bringing certain cases to hearings before the full Commission.

Administrative Hearings Training – In October 2022, Commission staff released a recorded training on conducting Administrative Hearings for Commissioners. The training provides an overview of hearing procedures, due process for quasi-judicial boards, scheduling procedures, preliminary hearing

requirements, credibility determinations, and an overview of findings of facts, penalties, and final orders. The Commission held a follow-up question and answer session during the November regular meeting. The Administrative Hearings training is available to the public and may be accessed [online](#) from the Commission's [Enforcement Program](#) webpage and the Commission's [YouTube Channel](#).

PEC Legislation

Ticket Distribution Policy Ordinance – In early 2022, Commission staff submitted the PEC's proposed Ticket Distribution Policy Ordinance to the City Council Rules Committee, which has policy jurisdiction for PEC-related legislation. Ultimately, City Council adopted the PEC's proposed Ticket Distribution Policy Ordinance on May 3. The new policy covering distribution of free event tickets provided to the City of Oakland became effective June 1, 2022.

Measure W - Oakland Fair Elections Act (Democracy Dollars) - Following the PEC's review and formal support of the proposed Oakland Fair Elections Act in April 2022, Commission staff worked with the assigned PEC subcommittee, Councilmember offices, and members of the Bay Area Political Equality Collaborative coalition to clarify language, funding, and other implementation details as written in the proposal. In July, City Council voted to place the Fair Elections Act on the Oakland ballot, and on November 8, Oakland voters approved Measure W, the Oakland Fair Elections Act (OFEA), by 73.9 percent, replacing the Limited Public Financing Act with the Oakland Fair Elections Act and a newly designed public financing program to be administered by the Public Ethics Commission. While the new OFEA takes effect January 1, 2023, the additions to staff and program funds are not effective until July 1, 2023.

In November and December, staff activities focused initiating internal City processes to ensure timely allocation of new program funds, staffing, and technology necessary to administer the new Democracy Dollars Program. The Commission established an ad hoc subcommittee to assist with Measure W implementation at its December meeting.

Measure X - "Good Governance" – Oakland voters also approved Measure X, Good Governance Charter Reform, by 80.2 percent in November 2022, which added setting the salaries of the City Auditor and City Attorney to the Commission's duties and adjusted the formula for the Commission to set councilmember salaries.

PEC Staff Transitions

Whitney Barazoto resigned as Executive Director in June 2022, starting recruitment for a new ED, which concluded in August with the promotion of PEC Enforcement Chief Kellie Johnson to the Executive Director position. However, since Ms. Johnson's resignation a new recruitment for the ED vacancy is underway.

Other 2022 staff changes included the promotion of Ethics Investigator Simon Russell to the Enforcement Chief position and the promotion of Administrative Assistant Ana Lara-Franco to the newly-budgeted Administrative Analyst position in November 2022. The promotions created vacancies for Ethics Investigator and Administrative Assistant II to be filled in 2023.

Alameda County Grand Jury Report

In June, the Alameda County Civil Grand Jury released its 2021-2022 report investigating the operations of various officers, departments, and agencies in Alameda County including an evaluation the City of

Oakland's Form 700 process. The Grand Jury report recommended that the City of Oakland transfer the Form 700 Filing Officer responsibility from the City Clerk to the Public Ethics Commission, and asked that the Commission, in addition to other City agencies and officials, respond to their findings and recommendations. After meetings with the City Clerk and City Administrator staff and a presentation by the City Clerk at the Commission's November meeting, the Commission submitted an independent response that agreed with the Grand Jury findings and recommendation that Form 700 Filing Officer duties be transferred to the Public Ethics Commission with necessary resources (attached). At its December 6, 2022, meeting Council approved the City of Oakland's Grand Jury response, which disagreed with the Grand Jury recommendation to transfer Filing Officer duties from the City Clerk's office to the PEC (attached). Improving awareness of Form 700 requirements and upgrading compliance systems continues to be of high interest to the PEC regardless of which department is assigned Filing Officer responsibility. As noted in the Disclosure and Engagement report, throughout 2022 Commission staff successfully engaged in a cross-departmental effort to develop new Citywide processes to ensure that departments are uniformly communicating ethics training and Form 700 information to employees and consultants hired by their departments. Staff will monitor and assess compliance outcomes using the new tools implemented in 2022 in the coming year.

PEC Partners with UCB Goldman School Students for Review of New "Pay to Play" Restrictions

On January 1, 2023, a new state law takes effect that is designed to extend California "pay-to-play" restrictions to local elected officials who make licensing, permitting, and other use entitlement decisions as members of a local elected body. SB 1439 will bar local elected officials from accepting or soliciting contributions of over \$250 from anyone affiliated with a group that has a pending license, permit, or use entitlement until 12 months after the final decision is made. In addition to the restriction on contributions, both the elected officials who received contributions as well as contractors going before a local agency will have to disclose contributions over \$250 they made or received within the past 12 months during a proceeding.

The Oakland Campaign Reform Act (OCRA) contains an extensive prohibition on contributions by individuals negotiating contracts with the City of Oakland or Oakland Unified School District. The OCRA contractor ban applies to any contract that requires City Council or School Board approval. It prohibits contractors from contributing to candidates for local office during contract negotiations, as well as for 180 days after the completion or termination of negotiations. However, current processes do not provide the transparency necessary to proactively identify all the individuals affected by the ban and to ensure compliance. It also means that elected officials and candidates cannot easily identify prohibited contributors, increasing the chance that they violate the law by inadvertently accepting their contributions.

Commission Staff will need to develop materials to inform and support compliance by those subject to the new requirements in the coming year. To gain resources to conduct a robust review, staff submitted a proposal to the UCB Goldman School of Public Policy to sponsor a student-led project examining issues such as how SB 1439 enhances and/or conflicts with local law; ways to raise awareness of contractor restrictions and disclosure requirements; as well as any recommended changes to local contracting and/or campaign finance disclosure rules and processes to support compliance. The proposal was accepted for the Spring 2023 semester and a team of graduate students will begin work on the project in late January 2023.

Attachments: Commission Programs and Priorities; PEC Response to Grand Jury Report; City of Oakland Response to Grand Jury Report.

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PUBLIC ETHICS COMMISSION

Programs and Priorities 2022

Program	Goal	Desired Outcome	Program Activities	2022 Major Projects
<p>Lead/ Collaborate (Policy, Systems, Culture)</p>	<p>PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity, and innovation.</p>	<p>Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies</p>		<ul style="list-style-type: none"> ✓ Public Finance Redesign/Ballot measure ✓ Ticket administration policy & process improvements adopted ○ Public Records Performance Tool
<p>Educate/ Advise</p>	<p>Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.</p>	<p>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.</p>	<ul style="list-style-type: none"> • Regular ethics training • Information, advice, and technical assistance • Targeted communications to regulated communities • Campaign Finance Training • New trainings as needed for diversion 	<ul style="list-style-type: none"> ✓ Sunshine training – Open meetings ✓ Ethics onboarding process improvement/SPOC training ✓ New ticket policy training ○ Sunshine training – Public records
<p>Outreach/ Engage</p>	<p>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.</p>	<p>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.</p>	<ul style="list-style-type: none"> • Public Records mediations • Outreach to client groups – targeted training • PEC social media outreach • Improvements and updates to website content 	<ul style="list-style-type: none"> ✓ PEC performance dashboards and data story for enforcement program and mediations ✓ Commissioner-led public outreach/PEC roadshow reboot
<p>Disclose/ Illuminate</p>	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Residents can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ul style="list-style-type: none"> • Technical support for filers • Facial review of disclosure filings, amendments, impose late fees • Monitor compliance, engage with filers, refer for enforcement as needed • Maintain data assets 	<ul style="list-style-type: none"> ✓ Open Disclosure updated and launched in time for 2022 election ✓ Show Me the Money campaign finance app with expanded features launched in time for 2022 election ✓ Public Records Request data published ○ Updates to Ticket Distribution (Form 802) database

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				<ul style="list-style-type: none"> ○ Government Integrity Data Project – data portal integrating all ethics data
<p>Detect/ Deter</p>	<p>PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC's jurisdiction.</p>	<p>Public servants, candidates, lobbyists, and City contractors are motivated to comply with the laws within the PEC's jurisdiction.</p>	<ul style="list-style-type: none"> ● Process and investigate complaints ● Initiate proactive cases ● Collaborate/coordinate with other government law enforcement agencies 	<ul style="list-style-type: none"> ✓ Collaborated with front office staff to streamline monitoring of campaign forms during election
<p>Prosecute</p>	<p>Enforcement is swift, fair, consistent, and effective.</p>	<p>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.</p>	<ul style="list-style-type: none"> ● Prioritize cases ● Conduct legal analyses, assess penalty options ● Negotiate settlements ● Make recommendations to PEC 	<ul style="list-style-type: none"> ✓ Conducted administrative hearing officer training ✓ Enforcement subcommittee researched best practices across state ○ Resolve 2016 and 2017 case backlog
<p>Administration/ Management</p>	<p>PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.</p>	<p>PEC staff model a culture of accountability, transparency, innovation, and performance management.</p>	<ul style="list-style-type: none"> ● Limited Public Financing program implementation ● Annual Report ● Review data to inform activities ● Ongoing professional development and staff reviews 	<ul style="list-style-type: none"> ✓ PEC Retreat ✓ Budget – new Administrative Analyst position ✓ Administrative Analyst position filled ✓ Enforcement Chief position filled ○ ED recruitment/hiring ○ Commissioner recruitment ○ Enforcement database upgrade