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

Commission Staff: Whitney Barazoto, Executive Director; Milad Dalju, Deputy Director; Suzanne Doran, Lead Analyst, Civic Engagement; Jelani Killings, Ethics Analyst; Ana Lara-Franco, Commission Assistant; Simon Russell, Investigator

City Attorney Staff: Tricia Hynes, Deputy City Attorney

**SPECIAL MEETING AGENDA**

**Public Ethics Commission**

1. **Establish a Quorum**

2. **Open Forum**

**ACTION ITEMS**

3. **Public Ethics Commission Annual Report for 2017.** The Commission will review and consider approval of the annual report of the Commission’s activities in 2017. *(Attachment 1 – PEC Annual Report)*

4. **Public Ethics Commission Retreat.** The Commission will convene for its annual retreat to conduct strategic planning, performance, and operational activities. Retreat items will include the following:
   a. Build rapport among staff and Commissioners
   b. Review and discuss organizational objectives, program areas, and performance measurements *(Attachment 2 – PEC Strategic Plan and Performance Measurements)*
   c. Discuss and provide direction to staff regarding the process for handling complaints received against the Commission *(Attachment 3 – Memorandum and City Attorney Opinion)*
   d. Review and discuss a draft Communications Plan for the Commission *(Attachment 4 – Draft Communications Plan)*

The meeting will adjourn upon the completion of the Commission’s business.
A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

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

The Public Ethics Commission (PEC or Commission) led a variety of initiatives in 2017 intended to institutionalize government ethics inside City Hall and throughout City government. This work exemplifies the Commission’s important role in leading culture change toward compliance with the City of Oakland’s government ethics, campaign finance, transparency, and lobbyist registration laws that aim to promote fairness, openness, honesty, and integrity in city government.

Highlights for 2017:

- **Advice calls increased dramatically** – the Commission received a record 251 requests for advice from City public servants (including elected officials), candidates for office, lobbyists and law firms, up from 94 in 2016.
- **New Online Ethics Training created** – Commission staff created a comprehensive, one-hour online ethics training for staff who hold decision-making positions that require them to file a Form 700 Statement of Economic Interests.
- **City ethics data illuminated** – as the new filing officer for campaign statements since January 1, 2017, Commission staff worked to enhance the accuracy and accessibility of data regarding campaign finance activities and payments made to charities at the behest of elected officials; staff also enhanced accessibility of lobbyist registration data for the public.
- **Stronger and more diverse range of enforcement tools deployed** – the enforcement team continues to expand its breadth and depth by utilizing a range of enforcement options, from advisory and warning letters to streamlined (low-level) fines, up to the finding of probable cause by the Commission, authorizing proceeding to an administrative hearing.
- **Important policy changes initiated** – the Commission conducted a comprehensive review of the City’s policy and process for distributing tickets to Oakland Coliseum and Oracle Arena games and events, publishing a report and proposed policy revision to City Council. In addition, the Commission initiated a review of the City’s campaign financing program with the aim of expanding participation by Oaklanders in the candidate campaign process.
- **Commission independence solidified** – the Commission further settled its position as an independent and self-functioning institution within City government with greater control over its own administrative functions such as budget administration and an established contract for administrative hearings, among others.

This report summarizes the Commission’s work in 2017, a year in which the Commission’s prevention, enforcement and collaborative activities have clearly taken root to allow the Commission to work effectively to cultivate and maintain government integrity in Oakland.
PEC MISSION AND ACTIVITIES

The Public Ethics Commission was created in 1996 to ensure fairness, openness, honesty, and integrity in City government. The PEC’s work is governed by local ordinances in three main areas: campaign finance, transparency, and ethics. The Commission’s authority and ability to do its work rests heavily on the provisions outlined in the City Charter, as amended in 2014, as well as in each relevant ordinance, listed as follows:

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

The Commission’s activities, and the six-person staffing structure provided by the 2014 City Charter changes, are organized per the following ethics compliance framework to ensure a strong, effective, and fair ethics commission:

**Lead/Collaborate** – Lead by example and facilitate City policy, management, and technological changes to further the Commission’s mission.

**Educate/Engage** – Provide education, advice, technical assistance, and formal legal opinions to promote awareness and understanding of the City’s campaign finance, ethics, and transparency laws.

**Disclose/Illuminate** – Facilitate accurate, effective, and accessible disclosure of government integrity data, such as campaign finance reporting, conflicts of interest/gifts reports, and lobbyist activities, all of which help the public and PEC staff monitor filings, view information, and detect inconsistencies or noncompliance.

**Detect/Deter** – Conduct investigations and audits to monitor compliance with the laws within the Commission’s jurisdiction.

**Prosecute** – Enforce violations of the laws within the Commission’s jurisdiction through administrative or civil remedies.

### Transformation in 2014

The legislative changes made in 2014 were designed to equip the Commission with more authority, independence, and resources to ensure compliance with ethics, transparency, and campaign finance laws.

**Oakland City Charter:**

Measure CC was adopted by Oakland voters on November 4, 2014, to amend the Oakland City Charter to augment the authority, independence, and staffing of the Public Ethics Commission. The new provisions became effective on January 1, 2015, and the new staff positions were budgeted in July 2015.

**Government Ethics Act:**

In December 2014, City Council approved the PEC’s proposed Oakland Government Ethics Act, to consolidate government ethics rules into one local ordinance and to enhance education and enforcement of those rules in and around City Hall.
LEAD AND COLLABORATE

The Commission leads by example and employs collaborative approaches to facilitate changes in City laws, policies, systems, and technology to ensure fairness, openness, integrity, and innovation. A collaborative approach aims to leverage the efforts of City and community partners working on similar or overlapping initiatives in order to enhance government integrity. Such an approach also recognizes that lasting results in transparency and accountability are achieved not through enforcement alone, but through a comprehensive strategy that aligns all points in the administration of City government – including clear laws, policies and process, effective management and use of staff resources, technology that facilitates desired outcomes, and an understanding of staff culture and citizen expectations.

A NEW CITY TICKET POLICY AND PROCESS

After reviewing the City’s distribution of tickets received from the Oakland-Alameda County Coliseum and Oracle Arena, the Commission issued a comprehensive report and recommended policy for the distribution of these City tickets. The Commission’s review followed news reports in 2016 alleging that City Councilmembers used thousands of dollars in free tickets to Golden State Warrior’s, Oakland Raiders, and Oakland A’s games and other events.

The Commission found that the City’s longstanding practice of handing batches of tickets to Oakland elected officials under an outdated policy, combined with a cavalier attitude and ineffective system of reporting tickets, resulted in tickets being used by City officials and staff as if they were a perk of office – or tickets going unused and unreported – in contrast to the public purposes for which the policy was created. The Commission summarized these concerns in a final report that included specific recommendations for a new and better managed distribution process as well a revised policy drafted by the Commission for City Council consideration.

CLEARER LOBBYIST REGISTRATION

The Commission proposed changes to the Lobbyist Registration Act to clarify and align language of the Act with the Commission’s enforcement and complaint procedures, and shift the location for filing lobbyist registration forms from the City Clerk’s office to the Public Ethics Commission to facilitate easier filing and better enforcement. City Council unanimously approved the amended ordinance, which became effective in January 2018.
CAMPAIGN FINANCE REDESIGN

As part of the Commission’s project to revise campaign and public financing laws in Oakland, the Commission’s Campaign Finance subcommittee reviewed best practices and brought together community and national partners to consider potential reforms to the City’s campaign laws. In October 2017, the subcommittee identified concerns with the City’s existing campaign finance and public financing laws, including data visualizations provided by MapLight that showed clear disparities among racial, socio-economic, and geographic populations participating in the campaign process. This project will continue into 2018 with outreach and listening sessions in partnership with the UC Berkeley Goldman School of Public Policy, as well as Commission work to draft recommendations and potential legislation.

MapLight Shows Campaign Contributions Vary Across the City of Oakland

“Oakland campaigns included a lot of money from outside the city. Nearly 40 percent came from other parts of California and 5 percent from out of state. Within the city, contributions are concentrated in wealthier parts of the city, particularly the Oakland Hills. Below, zip codes with higher median household incomes are in darker blue, and the amount of money contributed from each zip code is shown by the green circles.”*

EDUCATE AND ENGAGE

Prevention activities consist of education, outreach, and online information to facilitate compliance with government integrity laws. The Commission educates and advises candidates for local elective office, elected officials, appointed officials, City staff, lobbyists, people doing business with Oakland, City residents, businesses, and organizations.

ADVICE AND ASSISTANCE

In 2017, Commission staff responded to more advice requests than ever before: 251 requests for information, advice or assistance regarding campaign finance, ethics, or lobbyist registration issues. This is more than double the number of advice calls in 2016 (94 requests), and it amounts to a seventeen-fold increase from 2013 (14 requests.)

Of the 251 requests received in 2017, 135 of these requests were campaign-related questions, mostly from treasurers, candidates, and law firms seeking to comply with campaign finance laws. Other questions were from City staff and officials, lobbyists, members of the public, and others regarding about lobbying rules, gift restrictions, and conflicts of interests, to name a few.

<table>
<thead>
<tr>
<th>Information and Advice Requests Top Five Issue Areas 2017</th>
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<tbody>
<tr>
<td>Campaign rules</td>
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<tr>
<td>Ethics</td>
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<tr>
<td>Lobbying</td>
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<td>PEC general</td>
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<td>Public records/Open meetings</td>
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<td>121</td>
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ETHICS TRAININGS

Commission staff continued to create new ethics trainings and materials in 2017 following its work in 2016 to raise awareness and understanding of the City’s Government Ethics Act of 2014.
The following ethics training activities were continued from the prior year, almost doubling the number of training attendees in 2017:

- **New Employee Orientation** – Commission staff provided introductory ethics training at 12 New Employee Orientation sessions (offered monthly), reaching more than 380 new employees in 2017 (up from 270 in 2016).

- **Supervisor Academy** – Staff provided ethics presentations at three supervisor-level workshops, reaching more than 60 supervisors in various departments throughout the City.

- **Custom Trainings** – Upon the request of the Oakland Parks, Recreation, and Youth Development Department, staff presented ethics training to roughly 300 City employees brought on for the Summer in 2017.

- **Ethics in City Boards and Commissions** – Commission staff continued to present introductory ethics trainings to three boards in 2017 for a total of 30 commissioners. In addition, Commission staff also helped facilitate deeper training and discussion among board and commission staff to ensure that these key staff have the resources they need to support their community board members in serving with integrity and complying with government ethics and open meetings laws. This included sharing the PEC’s newly revised Board and Commission Member Handbook and checklist of orientation activities for new members.

- **AB 1234 Training for Elected Officials** – Commission staff continue to facilitate the completion of state-required ethics training for elected officials.

### ONLINE ETHICS TRAINING

Commission staff designed a new, comprehensive online training in 2017 for all employees who are required to file a Form 700 Statement of Economic Interests. These “Form 700 filers” include City employees and officials with decision-making authority, from program analysts and managers to Citywide elected officials. The hour-long training covers the Oakland Government Ethics Act and includes hypothetical scenarios and quizzes to enhance participant learning. It was launched through the City’s Target Solutions
training program in coordination with the Department of Human Resources at the start of 2018 for all Form 700 filers.

OUTREACH

The Commission continued its series of community presentations, referred to as the “roadshow,” to connect directly with Oakland residents to share information about the Commission’s growth, role, and activities, and to receive community input on how the Commission can best serve them. Commissioners spoke at seven “roadshow” events, reaching approximately 153 Oaklanders. These outreach events occurred at Neighborhood Crime Prevention Councils as well as broader community organization events.

PUBLICATIONS

The Commission made substantial revisions to two comprehensive guides that are intended to assist the regulated community in complying with local laws.

First, the Board and Commission Member Handbook provides an overview of government ethics and sunshine laws, information about commissioner roles and responsibilities, and background on City government. Second, the Oakland Campaign Reform Act Guide provides an overview of the Oakland Campaign Reform Act provisions, such as contribution limits, expenditure ceilings, and campaign restrictions and reporting requirements for candidates running for City office in the 2018 election.

In addition, the Commission published three Public Trust newsletters as part of its efforts to timely educate readers about City laws, hot topics, and Commission activities.

The newsletter has a distribution reach of about 1,136 individuals who are Commission subscribers, and is also routinely distributed to all City staff and officials, as well as members of the public and Oaklanders attending Commission “roadshow” events.
DISCLOSE AND ILLUMINATE

The Commission’s Disclosure Program aims to help Oaklanders easily access campaign finance and ethics-related data and information that is accurate, user-friendly, and understandable so that the public and Commission staff may monitor filings, view information, and detect inconsistencies or noncompliance. This program utilizes a collaborative transparency approach, which reaches beyond the traditional minimum of providing copies of filings. The Commission proactively shares data in user-centered formats, invites participation and feedback, and facilitates shared discussion around community needs.

ENSURING CAMPAIGN REPORTING COMPLIANCE

Pursuant to the City Charter changes of 2014, the Commission became the City’s official filing officer for campaign statements on January 1, 2017. This means that candidates and committees raising and spending money for Oakland candidates or campaigns must file their campaign finance forms with the Commission instead of the City Clerk’s office, facilitating the Commission’s ability to ensure that filers receive education and assistance with filing responsibilities and that filers are complying with the law. In 2017, Commission staff focused on establishing communications with filers through email, GovDelivery, and social media, raising awareness of the PEC’s filing officer role and available resources, providing technical assistance to filers, conducting facial review of statements filed, and reaching out to non-filers to obtain timely compliance. In total, Commission staff reviewed 122 campaign statements in 2017 and assessed $4,465 in late fees against 10 filers. Commission staff referred non-filers to the Commission’s Enforcement Unit, resulting the opening of five enforcement cases.

As of December 2017, the City of Oakland has 98 active committees required to file periodic campaign disclosure statements, 35 candidate and officeholder committees, 37 major donor committees, 17 general purpose committees, 5 primarily-formed ballot measure committees, and 4 independent expenditure committees.

ILLUMINATING DISCLOSURE DATA

Lobbyist Registration – As of December 2017, Oaklanders can now search, view and download lobbyist registration and quarterly activity reports online through a portal hosted by the City’s e-reporting vendor Netfile. Commission staff worked with Netfile to implement this feature, at no additional cost to the City, which enhances public access and streamlines maintenance of lobbyist information. The goal of the lobbyist registration disclosure project is to facilitate compliance with the Lobbyist Registration Act and to share information about lobbyist activities with the public. In 2017, 61 lobbyists submitted lobbyist reports to the City disclosing over $1,821,000 in compensation received by lobbyists to influence City officials and $17,600 in solicited contributions to Oakland officials. This is an increase of 14 lobbyists compared with 2016 filings.
Charitable Contributions Made at the Request of Elected Officials (Behested Payments) – The Commission now provides public access to disclosure reports that share payments made to a non-profit organization at the request (or “behest”) of an elected official. These “Behested Payments” are reported by the elected official on an FPPC Form 803 filed with the Commission and available for public inspection. Commission staff educated officials about this report requirement in recent years, and the first of these forms was submitted in 2014. Commission staff further initiated a project in 2017 to create an electronic filing system in coordination with the City’s Information Technology Department to simplify filing and eventually make the data easily accessible and searchable online for the public.

Campaign Finance Disclosure – In 2016, Commission staff worked with OpenOakland volunteers to redesign and expand the Open Disclosure website, www.opendisclosure.io, to show the City’s campaign data for all Oakland candidates and ballot measures online through an interactive and user-friendly interface. Although 2017 was a non-election year, Commission staff continued to collaborate with OpenOakland volunteers to improve the website’s features, including adding daily automatic updates, a contributor search tool, and mapping contribution patterns by district.

ONLINE ENGAGEMENT AND OUTREACH

In 2017, Commission staff experimented with best practices in marketing to create content to improve the PEC’s social media engagement. Staff highlighted PEC policy areas, activities, or client groups each month to maximize reach, resulting in far more social media activity in 2017 than prior years in terms of posts, tweets, new followers, and engagement with PEC content. Social media posts generated 79,145 impressions (views of PEC content), and 1,293 user engagements (likes, shares, retweets, clicks on links, and new followers). The PEC now has nearly 1,000 followers of its social media accounts, a 25 percent increase from 2016 and a 46 percent increase from 2015.
Commission staff continued to augment the Commission’s website to enhance the quality of information for the Commission’s clients. Visitors to the Commission’s webpages in 2016 and 2017 almost doubled in the number of users in 2014 and 2015 combined, and the number of user sessions on PEC pageviews increased 63 percent during that same timeframe.

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<td>3,092</td>
<td>2,220</td>
<td>5,069</td>
<td>5,232</td>
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**USER-CENTERED DESIGN**

PEC staff initiated a user needs assessment project in collaboration with the OpenOakland Civic User Testing (CUT) group to assess the quality of its website. Information gathered through user surveys and client interviews has been incorporated into the Commission’s share of the Citywide website redesign to go live in 2018.
ENFORCEMENT

The Commission conducts investigations, holds public hearings, issues subpoenas, and imposes fines and penalties as provided for by ordinance. City ordinances give the Commission the authority to impose penalties for violations of ethics laws, campaign finance laws, and lobbyist registration requirements. The Commission also can mediate or recommend “cure and correction” for violations of public records and open meetings laws, respectively.

PROACTIVE ENFORCEMENT

The Commission’s enforcement team has significantly increased the number and complexity of proactive (staff-initiated) investigations opened – both ethics and campaign finance – resulting in proactive cases constituting 36% of all cases opened in the past 4 years, compared with .04% over the 1997-2013 timeframe.

NEW COMPLAINTS AND INVESTIGATIONS OPENED

The Commission received 16 formal complaints in 2017 alleging violations of campaign finance, conflicts of interest, open meetings, public records, and other ethics-related laws; 3 of those 16 complaints resulted in the opening of an investigation. In addition, Commission staff opened 6 cases proactively based on hearing or reading of suspicious activities, receiving anonymous tips, or obtaining information from third parties. The Commission also received one referral from the California Fair Political Practices Commission that led to the opening of an investigation.

As a result, Commission staff reviewed or initiated a total of 23 allegations of potential violations in 2017. This compares to 41 in 2016, 14 in 2015, 29 in 2014, nine in 2013, 14 in 2012, and five in 2011.

Commission investigative staff issued seven subpoenas, including bank subpoenas for the first time, for documents related to its investigations in 2017.
CURRENT FOCUS ON MORE COMPLEX ETHICS CASES

After City Council approved the Commission’s proposed Government Ethics Act in 2014, which codified and strengthened ethics laws locally while equipping the Commission with authority to enforce ethics laws, ethics-related cases are becoming far more prominent among the Commission’s enforcement caseload. This is an important step forward for the Commission and the City, as ethics cases such as bribery, misuse of public resources, conflicts of interest, unlawful gifts, and failure to report gifts, tickets, or outside income typically are more serious, more complex, and more impactful than cases in other issue areas. The graphic below shows the types of cases that have been resolved each year, with pre-2014 ethics cases noted in blue with white dots. These pre-2014 cases were not actionable by the Commission without a local ethics ordinance and were therefore automatically dismissed without action.

Of the Commission’s 34 pending cases in December 2017, 17 involve ethics-related matters, 12 cases are campaign finance-related, four are Sunshine issues, and one is a lobbyist registration issue.

BROADER ARRAY OF ENFORCEMENT TOOLS

By the end of 2017, the Commission resolved 21 cases and imposed $1,331 in penalties. The 21 cases the Commission closed in 2017 were resolved as follows:

- Three fines (2 streamlined)
- Four warning letters
- Two mediations completed (Public Records Requests)
- Two cases closed after an investigation and legal review found no violation
- Ten complaints dismissed following a preliminary review, with Commission staff finding no cause of action within the Commission’s jurisdiction

Compared to past years, the enforcement team’s work this year reflects a broader spread of enforcement tools utilized, with more warning letters, first-time use of streamlined penalties (small, quick fines for low-level violations), and two findings of probable cause showing the Commission ready and able to proceed to an administrative hearing where necessary. This array of enforcement actions, combined with expanded ethics enforcement authority, demonstrates a stronger, more diverse, and more agile enforcement program than in past years.

**ENFORCEMENT PRIORITIES**

The Commission continued to prioritize enforcement activities based on the following considerations to determine priority level: 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. The Commission also prioritized all backlogged cases that were received by the Commission prior to 2014, all of which were resolved by staff in 2017.
ADMINISTRATION

BUDGET

The adopted budget for the Commission was $917,989 for Fiscal Year 2016-17, and is $934,746 for Fiscal Year 2017-18. The Commission’s budget tripled because of the City Charter amendment in 2014, with funding effective July 2015 for six full-time positions.

STAFFING

Following the July 2015 budget augmentation, the Commission worked with the Department of Human Resources to recruit and hire staff into the five new positions, with hiring completed by August 2016. This makes 2017 the first year in which the Commission was fully-staffed for the entire year.

Commission staff are responsible for the Commission’s day-to-day operations, including investigations and enforcement casework, education and advice, data collection and illumination activities, and law and policy projects. Staff continue to participate in ongoing professional development, including opportunities through the Council of Government Ethics Laws, Code for America, the National Institute on Money in State Politics, and the League of California Cities. Commission staff also hosted staff from each state and local ethics commission in California in the first-ever Local Ethics Commissions Summit in Oakland in August 2017 to share best practices and collaborate on issues of mutual interest.
2017 COMMISSIONERS

Marc Pilotin, Chair
City Attorney Appointee 3/5/2015 - 1/21/2018

Marc Pilotin is a trial attorney with the Office of the Solicitor for the U.S. Department of Labor. Previously, he was an associate at Lieff Cabraser Heimann & Bernstein LLP, where he represented consumers and employees, and a law clerk to a federal district judge in Oakland. Prior to law school, he worked as a fourth-grade teacher in the Los Angeles Unified School District and as the administrative director for the UCLA Center for American Politics and Public Policy.

Mr. Pilotin received his bachelor’s degree in Political Science and Psychology and his master’s degree in education from UCLA. He received his law degree from the University of California, Berkeley, School of Law (Boalt Hall). In addition to serving on the Public Ethics Commission, Mr. Pilotin serves on the board of directors for the Filipino Bar Association of Northern California.

Krisida Nishioka, Vice-Chair
Commission Appointee 1/22/2016 - 1/21/2019

Krisida Nishioka is a retired Mental Health Hearing Officer for Alameda County and Santa Clara County. Prior to that appointment, she worked as an attorney in the Office of the County Counsel for Alameda County and as a Deputy City Attorney for the City of Oakland. Ms. Nishioka was born in Louisiana and moved to California during the migration of African Americans from the segregated South during the 1960’s. Ms. Nishioka began her college education while awaiting the birth of her 5th child. She completed her studies in 4 years and began her law school education at Boalt Hall, University of California School of Law, Berkeley. While in law school, Ms. Nishioka clerked at the Neighborhood Legal Services Office in Berkeley California.

After graduation, Ms. Nishioka worked for various federal agencies while remaining active in neighborhood organizations near her homes on East 27th Street and later on Hanover Avenue. Ms. Nishioka has been a member of the Committee of Bar Examiners, serving on the Moral Character subcommittee. She served as a member of the State Bar Committees on Professional Responsibility and Conduct, Human Rights and Public Employment. Ms. Nishioka was on the Board of Directors for the California Association of Mental Health Hearing Officers, Oakland Youth Chorus, Family Builders by Adoption, Black Women Lawyers, Law and Government Academy for the Oakland Unified School District, and Sisters 3, a breast cancer advocacy group for African American women, among others.

Lisa Crowfoot
Mayoral Appointee 1/22/2017 - 1/21/2020

Lisa Crowfoot is an attorney who has practiced law and been engaged in California for almost 2 decades. She currently enjoys doing legal work for an international solar and storage company that is a leading innovator in the space. Previously, she was a partner at a national law firm where her litigation practice focused on representing and counseling design professionals, builders and developers. In that practice, Mrs. Crowfoot gained experience regarding the various rules, regulations and limits that apply to both public servants and those seeking to do business with public entities. She also gained an appreciation for the importance of transparency and openness in governance. She joined the Public Ethics Committee with the hope of strengthening Oakland by helping to ensure fairness, openness, honesty and integrity in government. Mrs. Crowfoot obtained her B.A. degree in English Literature from the University of Colorado, Boulder and her J.D. degree from Whittier Law School. She is an active volunteer who is dedicated to supporting her community. She and her husband enjoy raising their daughter near beautiful Lake Merritt.
Dana King
Commission Appointee 1/22/2015 - 1/21/2018

Dana King traveled the world during her 25-year career as a broadcast journalist. She reported from Afghanistan, Iraq, Israel, Jordan, Turkey, Taiwan, Kosovo, Central America, Ghana, and Rwanda. Ms. King is the recipient of 5 Emmy Awards. She also earned an Edward R. Murrow Award for her reporting on the aftermath of the Rwandan Genocide.

In 2012, Ms. King announced she would be leaving San Francisco's KPIX-TV to pursue her lifelong passion for creating art. She is currently working on a commemorative sculpture for the City of Berkeley of civil rights leader and former California Assemblyman Byron Rumford, whose significant legislation changed the landscape for minorities in California with regard to housing and employment. Ms. King volunteers with "Rites of Passage", a program for young men jailed in the Alameda County Juvenile Justice Center's maximum-security units. She is the Distinguished Journalist in Residence at Dominican University of California.

Gail Kong
Commission Appointee 1/22/2017 - 1/21/2020

Gail Kong is a retired nonprofit and government executive. Most recently she was founding President of the Asian Pacific Fund, a community foundation serving the San Francisco Bay Area dedicated to increasing philanthropy among Asians. As President she was responsible for raising more than $28 million, primarily from Asian donors and designing and executing grants, education, and cultural programs. Prior to her return to the West Coast in 1990, Ms. Kong was Executive Director of the City Volunteer Corps, a demonstration program that was the precursor to AmeriCorps, and head of the New York City foster care and child protective services agency. She also held executive staff positions in the New York City Human Resources Administration. She has served on several nonprofit boards including Asian Americans Advancing Justice and the Diversity in Health Training Institute.

A graduate of Stanford University with graduate studies at Hunter College School of Social Work and the Harvard Kennedy School of Government, Ms. Kong was born and raised in Gilroy, California and is a third-generation Chinese American. She has lived in Oakland for 21 years.

Jodie Smith
Commission Appointee 6/22/2017 - 1/21/2020

Jodie Smith is an attorney with Moscone Emblidge & Otis LLP in San Francisco. She specializes in resolving civil disputes, especially public law issues. She was a fellow in the California Attorney General’s Civil Law Division, a clerk in the Oakland City Attorney’s Office, and an extern for the Honorable Joseph C. Spero, U.S. District Court, Northern District of California. Prior to practicing law, Jodie worked in and around state government as the Public Policy Director for Texans Care for Children, an analyst in the Texas House of Representatives, a public servant in two agencies, and an adjunct instructor in Government at Austin Community College.

Ms. Smith graduated from Texas Christian University in political science and continued on to the Harvard Kennedy School of Government for a Master of Public Policy degree. She later moved to California, where she obtained her law degree from U.C. Hastings College of the Law. Ms. Smith chairs the Civic & Judicial Appointments Committee of the Queen’s Bench Bar Association and represents young people in school expulsion matters with Legal Services for Children.
Jonathan Stein
City Auditor Appointee 1/22/2016 - 1/21/2019

Jonathan Stein is head of the voting rights program at Asian Americans Advancing Justice - Asian Law Caucus and was formerly a voting rights attorney at the ACLU of California. His work is focused on increasing access to California's democracy for historically disenfranchised communities, including communities of color, low-income communities, people with disabilities, young people, and the formerly incarcerated. He is the Chair of the Board of Directors of the government reform nonprofit organization California Common Cause.

While studying to receive his master's in public policy and J.D. from UC Berkeley, Mr. Stein served as the Student Regent on the University of California's Board of Regents, advocating for the interests of 230,000 student constituents across the UC system. At Berkeley Law, Mr. Stein was a member of the Men of Color Alliance and the South Asian Law Student Association. Prior to graduate school, Mr. Stein spent four years at Mother Jones magazine as a researcher, assistant editor, blogger, and campaign correspondent during the 2008 presidential elections.
STRATEGIC PLAN AND PERFORMANCE MEASUREMENTS

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

2017-2020
MISSION

The Public Ethics Commission (PEC) ensures compliance with the City of Oakland’s government ethics, campaign finance, transparency, and lobbyist registration laws that aim to promote fairness, openness, honesty, and integrity in city government.

ACTIVITIES

Lead/Collaborate – Lead by example and facilitate City policy, management, and technological changes to further the PEC’s mission.

Educate/Advise – Provide education, advice, technical assistance, and formal legal opinions to promote awareness and understanding of the city’s campaign finance, ethics, and transparency laws.

Outreach/Engage – Interact with Oaklanders and PEC clients to spread the word about PEC work, resources and tools, hear input on client and community needs, and identify opportunities to innovate and partner on projects.

Disclose/Illuminate – Facilitate accurate, effective, and accessible disclosure of government integrity data, such as campaign finance reporting, conflicts of interest/gifts reports, and lobbyist activities, all of which help the public and PEC staff monitor filings, view information, and detect inconsistencies or noncompliance.

Detect/Deter – Conduct investigations and audits to monitor compliance with the laws within the PEC’s jurisdiction.

Prosecute – Obtain compliance and impose fines or penalties for violations of the laws within the PEC’s jurisdiction through administrative or civil remedies.
LEAD/COLLABORATE

**DESIRED OUTCOME:** Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies.

**PROGRAM GOAL:** PEC facilitates changes in City policies, laws, systems, and technology, and leads by example to ensure fairness, openness, honesty, integrity, and innovation.

**Lead/Collaborate Program Activities:**

A. Advocate for legislative and policy change to incorporate best practices.
B. Identify problems or vulnerabilities and take action to improve or solve.
C. Partner with other agencies or organizations to leverage opportunities to innovate and try new practices or approaches to ethics commission work.

<table>
<thead>
<tr>
<th>Indicators of Program Success</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>PEC actions leading to substantive changes in legislation, policy or operations by the PEC or City government.</td>
<td>2</td>
<td>2</td>
<td>+Ticket Policy Report and recommended revised policy and process +Lobbyist Registration Act Amendments</td>
</tr>
<tr>
<td>Consultations/joint projects with other agencies, jurisdictions, or community partners</td>
<td>2</td>
<td>2</td>
<td>+Hosted Ethics Commissions Summit in Oakland +Public Financing Project – collab with Maplight to present data to CF Subcommittee</td>
</tr>
</tbody>
</table>

**Timeline of Specific Goals 2017-2022:**

(✓ = completed)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ City-wide Ticket Policy Rewrite ✓</td>
<td>▪ CF/PF Policy Redesign (cont.)</td>
<td>▪ Oakland Sunshine Ordinance (policy and PEC enforcement authority)</td>
</tr>
<tr>
<td>▪ Lobbyist Registration Act – clarifying amends and filing officer shift ✓</td>
<td>▪ Ticket Policy adoption</td>
<td></td>
</tr>
<tr>
<td>▪ Campaign Finance/Public Financing Acts – Policy Redesign</td>
<td>▪ Lobbyist Registration Act revise</td>
<td></td>
</tr>
</tbody>
</table>
EDUCATE/ADVISE

**DESIRED OUTCOME:** PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues fostering and sustaining ethical culture throughout City government.

**PROGRAM GOAL:** Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with city campaign finance, ethics, and transparency laws.

**Educate/Advise program activities:**

A. Conduct outreach to alert public servants to the rules and PEC education and enforcement, including announcements, newsletters, and email notifications.
B. Provide trainings on campaign finance, public finance, ethics, lobbyist registration, and Sunshine ordinance.
C. Conduct pre- and post-training learning assessments.
D. Provide advice, technical assistance, and formal legal opinions.
E. Offer educational materials online and in hard copy.

### Indicators of Program Success

<table>
<thead>
<tr>
<th>Indicators of Program Success</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Targeted outreach actions to regulated community such as announcements, newsletters, and emails.</td>
<td>20 actions</td>
<td>40 actions</td>
<td>Audience: All subscribers 2,459</td>
</tr>
<tr>
<td></td>
<td>18 emails</td>
<td>26 emails</td>
<td>Candidates/Campaigns 5,1041</td>
</tr>
<tr>
<td></td>
<td>2 newsletters</td>
<td>2 newsletters</td>
<td>City Staff/Officials 3,19</td>
</tr>
<tr>
<td></td>
<td>2 announcements</td>
<td>8 announcements</td>
<td>Youth Commissioners 1,20</td>
</tr>
<tr>
<td></td>
<td>4 other</td>
<td></td>
<td>Lobbyists 3,150</td>
</tr>
<tr>
<td></td>
<td>Total Reach: 8,578</td>
<td>Total Reach: 17,337</td>
<td>Press 1,319</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Residents (NextDoor) 2,39</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Public libraries 1,16</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Agenda Subscribers 20,13,278</td>
</tr>
<tr>
<td>Training reach – number of participants attending trainings</td>
<td>1,604 persons</td>
<td>1,216 persons</td>
<td>New Employee Orientation 383</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Online GEA training 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Boards and Commissions 35</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>OPRYD Employee Orientation 300</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Supervisor's Academy 69</td>
</tr>
<tr>
<td>Advice requests fulfilled</td>
<td>99 requests</td>
<td>251 requests</td>
<td>78 – info requests</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>173 – informal advice</td>
</tr>
</tbody>
</table>

**Timeline of Specific Goals 2017-2022:**

(√ = completed)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Create Online Ethics Training for Form 700 filers √</td>
<td>▪ Launch Ethics Course – Staff, Board members, Consultants</td>
<td>▪ Online Sunshine Training</td>
</tr>
<tr>
<td>▪ Candidate Education – 2018 election</td>
<td>▪ Ethics educ materials for lobbyists, persons doing business with City</td>
<td>▪ Ethics in government marketing campaign</td>
</tr>
<tr>
<td>▪ Ethics education web content</td>
<td>▪ Lobbyist Training, Lobbying info card</td>
<td></td>
</tr>
</tbody>
</table>
OUTREACH/ENGAGE

DESIRED OUTCOME: 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.

PROGRAM GOAL: 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.

Engage program activities:

A. Interact with PEC clients and citizens to listen, share PEC mission and activities, and seek opportunities for collaboration.
B. Ensure PEC policies and prior case information are clear and accessible to the public.
C. Publicize and conduct outreach regarding PEC resources and tools disclosing government ethics, campaign finance, or transparency data.
D. Conduct user testing, surveys and other methods to assess satisfaction and make improvements.

### Indicators of Program Success

<table>
<thead>
<tr>
<th>Participation in outreach and speaking events with Commissioners or staff</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>338 residents</td>
<td>153 residents</td>
<td>11 Roadshow events</td>
<td>7 Roadshow events</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Online engagement via PEC website sessions</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,069 users</td>
<td>5,232 users</td>
<td>13,827 page views</td>
<td>16,858 page views</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Social media engagement</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>740 engagements</td>
<td>1,293 engagements</td>
<td>192 new followers</td>
<td>1,293 engagements</td>
</tr>
</tbody>
</table>

### Timeline of Specific Goals 2017-2022:

(√ = completed)

**Short Term (2017-18)**
- Raise social media outreach √
- Enhance enforcement case info available online √
- PEC website redesign
- Expand use of Govdelivery for agenda, news distribution √

**Intermediate Term (2018-19)**
- 2018 Candidate support
- Public financing admin
- PEC Communications Plan
- Lobbyist outreach
- Roadshow (cont.)

**Long Term (2020+)**
- Sunshine education
- Outreach to high schools – ethics in government
DISCLOSE/ILLUMINATE

**DESIRED OUTCOME:** Government ethics, campaign finance, and transparency data is easily submitted and accessed in an accurate, complete, user-friendly, and understandable format.

**PROGRAM GOAL:** PEC website, filing and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to submit and view government integrity data.

**Disclose/Illuminate Program Activities:**

A. Collect, maintain and prepare data for Open Data portal and public dissemination.

B. Facilitate development of web applications, digital tools and resources to enhance disclosure and use of government ethics, campaign finance, and transparency data.

C. Illuminate government ethics, campaign finance, and transparency data by sharing analysis and data visualizations to enhance public discourse.

D. Disclosure e-filing systems are instituted and maintained.

E. Technical assistance is provided to filers and users of disclosure data.

<table>
<thead>
<tr>
<th>Indicators of Program Success</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disclosure data collected, updated and published online (PEC website/Open Data portal) in</td>
<td>20 datasets</td>
<td>20 datasets</td>
<td>1 organization (Maplight) used CF data for analysis, published summary online</td>
</tr>
<tr>
<td>machine-readable, downloadable formats.</td>
<td></td>
<td></td>
<td>5 inquiries by press doing research for articles (CF and Lobbyist data)</td>
</tr>
<tr>
<td>Data or disclosure tools utilized by media, users, and ethics community.</td>
<td>2</td>
<td>6 mentions</td>
<td>Members of the public or press calling to ask about data or note discrepancies</td>
</tr>
<tr>
<td>Complaints or public inquiries initiated based on published data or disclosure tools.</td>
<td></td>
<td>9 inquiries</td>
<td>Members of the public or press calling to ask about data or note discrepancies</td>
</tr>
<tr>
<td>Filing/disclosure tools created or improved.</td>
<td>2</td>
<td>2</td>
<td>+Lobbyist filings added to searchable online database via NetFile +Form 803 e-filing in development</td>
</tr>
</tbody>
</table>

**Timeline of Specific Goals 2017-2022:**

(√ = completed)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Campaign Statement Filing Officer duties/e-filing system management/facial review √</td>
<td>▪ CF filing compliance – screening, alerting filers</td>
<td>▪ Advice database for internal and external use</td>
</tr>
<tr>
<td>▪ Data inventory, open data assessment √</td>
<td>▪ Online Lobbyist Registration</td>
<td>▪ Lobbyist data illumination</td>
</tr>
<tr>
<td>▪ Open Disclosure expansion</td>
<td>▪ Expand public integrity data publishing – Form 803</td>
<td>▪ Serve as filing officer for Form 700’s</td>
</tr>
<tr>
<td>▪ Filer Advisories √</td>
<td>▪ PEC Performance Dashboards</td>
<td></td>
</tr>
<tr>
<td>▪ Lobbyist Registration Filing officer √</td>
<td>▪ Initiate contractor database project</td>
<td></td>
</tr>
<tr>
<td>▪ Track PEC data for SP √</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
DETECT/DETER

DESIRED OUTCOME: Public servants, candidates, lobbyists, and city contractors are motivated to comply with the laws within the PEC jurisdiction.

PROGRAM GOAL: PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC jurisdiction.

Detect/Deter Program Activities:

A. Conduct complaint and PEC-initiated investigations. Gather information, conduct interviews, and prepare investigative reports.

B. Consult/collaborate with other government and law enforcement agencies.

C. Review reports and articles, observe meetings and activities to assess compliance and initiate cases.

D. Proactive, routine review of government ethics, campaign finance, and transparency activities including audits/screening.

<table>
<thead>
<tr>
<th>Indicators of Program Success</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investigations initiated proactively by PEC</td>
<td>16</td>
<td>6</td>
<td>(8 of the 16 cases in 2016 arose out of the City ticket issue)</td>
</tr>
<tr>
<td>Investigations completed</td>
<td>9</td>
<td>11</td>
<td>Need to track dates investigations completed in complaint database for tally</td>
</tr>
<tr>
<td>Complexity of investigations completed</td>
<td></td>
<td></td>
<td>Need to implement complexity rating system (1-3)</td>
</tr>
</tbody>
</table>

Timeline of Specific Goals 2017-2022:

(√ = completed)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Initiate proactive cases of substantial violations with an emphasis on ethics √</td>
<td>▪ Track investigative process, timing of case status changes</td>
<td>▪ Ongoing partnerships with other law enforcement agencies</td>
</tr>
<tr>
<td>▪ Streamline case processing – move low-level cases quicker, focus more time on high-level cases √</td>
<td>▪ Develop audit program</td>
<td>▪ Institutionalize investigative process, manuals, and templates</td>
</tr>
<tr>
<td>▪ Collaborate with other government law enforcement agencies √</td>
<td>▪ Utilize databases to conduct comparative analysis to detect violations</td>
<td></td>
</tr>
<tr>
<td>▪ Establish investigative systems, templates (IT searches, bank subpoena process, etc.) √</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PROSECUTE

**DESIRED OUTCOME:** Obtain compliance with government ethics, campaign finance and transparency laws, and provide timely, fair and consistent enforcement that is proportional to the seriousness of the violation.

**PROGRAM GOAL:** Enforcement is swift, fair, consistent, and effective.

Prosecute Program Activities:

A. Review facts, conduct legal analysis, prepare and develop recommendations.
B. Contact respondents, obtain compliance and negotiate case settlements.
C. Present case resolution recommendations, including settlement agreements, and obtain Commission approval.

### Indicators of Program Success

<table>
<thead>
<tr>
<th>Indicators of Program Success</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases closed categorized by final action:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advisory letters</td>
<td>29 cases resolved</td>
<td>21 cases resolved</td>
<td>Advisory letter 0</td>
</tr>
<tr>
<td>Warning letters</td>
<td>Advisory letter 2</td>
<td>Warning letter 2</td>
<td>Warning letter 4</td>
</tr>
<tr>
<td>Streamline fines</td>
<td>Warning letter 2</td>
<td>Fine 3</td>
<td>Streamline fine 2</td>
</tr>
<tr>
<td>Fines</td>
<td></td>
<td></td>
<td>Set hearing/fine 1</td>
</tr>
<tr>
<td>Set for hearing/fine</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Criminal referrals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compliance obtained before/without referral to enforcement (PEC staff notifies filer of error, provides technical assistance to correct)</td>
<td>3</td>
<td>13</td>
<td>10 non-filers brought into compliance 2 amendments required and submitted 1 major donor required to e-file</td>
</tr>
<tr>
<td>Late fees assessed for failing to timely file campaign statements (PEC not yet filing officer)</td>
<td>N/A</td>
<td>10 late filers</td>
<td>$4,465.00</td>
</tr>
</tbody>
</table>

### Timeline of Specific Goals 2017-2022:

(✓ = completed)

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>▪ Focus on resolving high-impact GEA cases</td>
<td>▪ Update Complaint Procedures</td>
<td>▪ Review Penalty Guidelines</td>
</tr>
<tr>
<td>▪ Conduct administrative hearing preparation process, develop templates ✓</td>
<td>▪ Draft enforcement ops manual</td>
<td>▪ Regulations to further define OCRA, GEA, LRA provisions</td>
</tr>
<tr>
<td>▪ Develop Sunshine complaint mediation process ✓</td>
<td>▪ Create manual for Sunshine mediation process, law clerk</td>
<td></td>
</tr>
<tr>
<td>▪ Create compliance and late fee process for CF filings ✓</td>
<td>▪ Resolve all cases from 2014</td>
<td></td>
</tr>
<tr>
<td>▪ Resolve all backlogged cases from 2013 ✓</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PERFORMANCE MANAGEMENT

DESIRED OUTCOME: PEC ensures stakeholders see value of program activity and progress towards outcomes.

PROGRAM GOAL: PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.

Performance Management Activities:

A. Identify performance goals and utilize performance management system to track activities and outputs
B. Share performance results with stakeholders and public via website, publications, community engagement, etc.
C. Identify performance goals for each employee to align with organizational goals
D. Develop staff, create new systems and procedures, and incorporate new practices to enhance performance

<table>
<thead>
<tr>
<th>Indicators of Program Success</th>
<th>Results 2016</th>
<th>Results 2017</th>
<th>Details</th>
</tr>
</thead>
</table>
| Performance data shared with target audiences | N/A (Not yet created) | 5 | Published select indicators on PEC webpage
|                                  |             |            | Published in newsletter article |
|                                  |             |            | Posted select indicators via social media |
|                                  |             |            | Published in annual report |
|                                  |             |            | Used for City Council presentation |
| Performance information utilized during decision making and planning processes | N/A (Not yet created) | 6 | Annual retreat, Staff retreat
|                                  |             |            | Used to inform website redesign process, updates to website content, guide revisions (advice questions) |
|                                  |             |            | Ongoing staff discussions about project activities and completion |
| Staff development completed      |             | 28 | Trainings include: Courses provided by the City (Civic Design, Oracle, Hyperion), Granicus, League of CA Cities, FollowtheMoney.org, Arbinger Institute, Articulate, UC Berkeley Data Science certificate program, Code for America conference, MCLE courses, and CA Ethics Commissions Summit |
| Performance feedback from stakeholders |             | 1 | Positive tweet from candidate about our education process and candidate resource binder |

Timeline of Specific Goals 2017-2022:
(V = completed)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Refine program area goals and indicators</td>
<td>• Review data to adjust activities</td>
<td>• Review performance measures to determine whether changes to the process or criteria are needed</td>
</tr>
<tr>
<td>• Solidify tracking of data for each measurement</td>
<td>• Create website dashboards</td>
<td>• Institute surveys to better measure outcomes/ethical climate changes</td>
</tr>
<tr>
<td>• Publish performance goals and data on PEC website</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Introduction

The purpose of this memorandum is to provide information to the Public Ethics Commission (Commission) to discuss and determine an appropriate process for handling the review of complaints against the Commission for violations of the laws within the Commission’s jurisdiction.

Background

The Commission currently has two outstanding complaints alleging violations of the Sunshine Ordinance by the Commission. The Commission’s practice for resolving these types of complaints has been to request a formal, public written opinion from the City Attorney’s office providing a full legal analysis of the alleged violation, and to present the City Attorney’s independent analysis and finding to the Commission, along with a logistical recommendation by Commission staff. However, Commissioners in past years have expressed concerns about the optics of handling complaints against itself as a body, and it requested a legal opinion to understand the legal issues with handling such complaints.

On January 12, 2018, the City Attorney issued an opinion regarding the legal issues related to the Commission reviewing complaints that allege a violation of ethics or transparency laws by the Commission, its staff, or its Commissioners.

As a practical matter, the Commission or an individual member of the Commission or its staff could be a named respondent in either a Sunshine Ordinance complaint (open meetings or public records), or, as of December 2014, an individual Commissioner or staff member could be the subject of a Government Ethics Act (GEA) complaint. In addition, it is less likely, but possible, that an individual Commissioner could be the subject of an Oakland Campaign Reform Act (OCRA) complaint. Given the scope of the provisions in the remaining PEC-related laws, neither

1 PEC Nos. 14-11 and 15-11.
2 Attachment 1: Legal Opinion from the City Attorney’s Office, Ethics Complaints Against Public Ethics Commission.
a Commissioner nor staff likely would be the subject of a complaint under any of the other Commission laws.

The issue for consideration is how the Commission should respond if it receives a Sunshine Ordinance, GEA, or OCRA complaint against the Commission, a member of the Commission, or its staff.

**Commission Authority**

City Charter section 603 establishes the Commission to be responsible for, among other things, “enforcement of laws, regulations and policies intended to assure fairness, openness, honesty and integrity in City government, including compliance by the City of Oakland, its elected officials, officers, employees, boards and commissions, and other persons subject to the laws within the jurisdiction of the Commission.” Laws within the Commission’s jurisdiction include GEA and the Sunshine Ordinance, among others. The Commission has the authority to conduct investigations according to the Commission’s complaint procedures and can impose penalties, remedies, and fines as provided for by each ordinance. A Commission decision is appealable to the Alameda County Superior Court by writ of mandamus.

City Charter section 603(f)(6) further provides a private right of action to any Oakland resident to file suit to enforce GEA or the Sunshine Ordinance, among others, when the City does not impose or stipulate to a penalty or file suit for a particular violation, as proscribed by each ordinance.

**Oakland Sunshine Ordinance**

Pursuant to the Sunshine Ordinance, the Commission is charged with the responsibility to “develop and maintain an administrative process for review and enforcement of the Sunshine Ordinance, among which may include the use of mediation to resolve disputes arising under” the ordinance.

There are two mechanisms for Commission “enforcement” of a Sunshine Ordinance complaint, depending on the type of complaint:

1. Complaints regarding an unfulfilled request for public records – The Commission can mediate between a public records requestor and the City entity denying the request.

2. Complaints alleging an open meetings violation – If the Commission, upon conclusion of a formal hearing conducted pursuant to its Complaint Procedures, determines that a material violation occurred, the local body found to be in violation shall agendize the item to determine whether to correct and cure the violation. “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.”

---

3 Oakland City Charter § 603(b)(1)(ii).
4 Oakland City Charter § 603(f)(1)(v).
6 OMC § 2.20.270(C).
7 OMC 2.20.270(D)(2).
The Commission does not have the authority issue a fine for a violation of the Sunshine Ordinance.

Upon the conclusion of the Commission’s administrative review of a complaint alleging a violation of the Sunshine Ordinance, any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in court for such violation. This includes individuals as well as the City Attorney or District Attorney.8 The District Attorney also has jurisdiction over California Brown Act (open meetings) laws, with attorneys’ fees available to prevailing plaintiffs.

The Commission’s jurisdiction over the Sunshine Ordinance, and its limited enforcement capabilities, is unique. By way of comparison, most other ethics commissions, such as in Los Angeles, San Diego, and the State Fair Political Practices Commission (FPPC), do not have jurisdiction over public records or open meetings laws. San Francisco has a local Sunshine Ordinance, and the San Francisco Charter established a separate Sunshine Task Force which conducts the initial review of Sunshine violations before submitting the matter to the San Francisco Ethics Commission (SFEC) for investigation. If the Task Force finds that the SFEC violated the Sunshine Ordinance, the Task Force can forward the complaint to the City Attorney or District Attorney, both of which have concurrent jurisdiction to enforce Sunshine laws.

**Recommended Process for Sunshine Ordinance Complaints**

Given the limited penalties available under the Sunshine Ordinance, as well as the general framework of the law which promotes correction and mediation,9 Commission staff believes the best course of action in response to Sunshine Ordinance complaints (public records or open meetings) is the following:

1. Upon receiving a complaint against the Commission, its members, or its staff, Commission staff should review the complaint and determine whether staff should take the opportunity to provide a response to the allegation. Such an optional response could include a staff-written description of the facts, a legal analysis provided by the City Attorney’s Office, and a recommendation to the Commission at a public meeting for specific action consistent with the staff response (i.e., cure and correction). If Commission staff and the Commission takes such action, Commission staff will report back via letter to the complainant, either separate from or in the same letter as the referral in step 2 below.

2. Within 90 days, Commission staff should, at a minimum and regardless of whether action may be taken per the above two steps, reply to the complainant with the name and address of the entities that have concurrent or overlapping jurisdiction – in this case the City Attorney and District Attorney – and inform the complainant that they have the right to file a civil action.

This process would allow the Commission the opportunity to proactively address the concerns of a complainant while ensuring that Commission staff notifies the complainant of their alternative options available for seeking a remedy.

---

8 OMC § 2.20.270(B)(1).
9 OMC § 2.20.270.
Government Ethics Act and Oakland Campaign Reform Act

GEA and OCRA provide far stronger enforcement authority for violations under its provisions than the Sunshine Ordinance.

A person who violates GEA or OCRA is subject to criminal, civil, administrative, and other penalties provided for in the ordinance. The Commission can bring a civil or administrative action against any person who violates either law, following an investigation and complaint process as laid out in the Commission’s Complaint Procedures. In addition, the City Attorney can bring a civil action against any person who intentionally or negligently violates GEA or OCRA, and the City Attorney can sue for injunctive relief to enjoin violations or to compel compliance with the substantive provisions of either law. Similarly, an Oakland resident may sue for injunctive relief to enjoin violations or compel compliance with GEA or OCRA provisions, after first submitting a complaint to the Commission and waiting 90 days with no Commission or City Attorney action. Lastly, the District Attorney also can bring a civil or criminal action for a violation of GEA or OCRA.10

Unlike the Sunshine Ordinance, most of the provisions of GEA and many of the provisions of OCRA mirror state ethics laws and are therefore within the jurisdiction of the FPPC, which can bring civil or administrative action, and/or the California Attorney General. A complainant can submit a complaint to the FPPC, which provides the same type of administrative review process as the Commission, or request action by the California Attorney General’s office.

A survey of other ethics commissions in California found that those commissions typically refer ethics complaints to other independent authorities that had concurrent jurisdiction:

1. The **San Francisco Ethics Commission** would refer a complaint against its staff or Commissioners to the City Attorney or District Attorney, or the FPPC.
2. The **San Diego Ethics Commission** has never received a complaint against its staff or Commissioners. If it were to receive one, they would refer the matter to the FPPC since the vast majority of their ethics laws are based on state law. If it involved one of the rare provisions that is not mirrored in state law, they would likely refer the complainant to the City Attorney.
3. The **Los Angeles Ethics Commission** had a past case in which a Commissioner was accused of violating a local provision that prohibited ethics commissioners from contributing to a candidate while serving as a member of the Commission. Commission staff conducted the investigation and then presented the report to an alternate City board that is designed to convene when action by the original board is not in the best interests of the City.11
4. The **FPPC** would forward a specific complaint against a Commissioner or staff to the California Attorney General’s Office, which has concurrent jurisdiction over all of the laws within that Commission’s jurisdiction.

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10 OMC § 2.25.080; OMC § 3.12.270, 280; California Constitution Article 11, Section 7.
11 Los Angeles City Charter § 222 establishes a “Board of Referred Powers,” an ad hoc committee comprised of five councilmembers (a subset of the 15 councilmembers in LA), that can convene and take action when action by the original board is not in the best interests of the City.
Recommended Process for Ethics and Campaign Finance Complaints

Because there are alternative entities that have similar administrative enforcement process and/or legal jurisdiction, Commission staff recommends that, in general, a complainant who alleges a violation of the Government Ethics Act or Campaign Reform Act be referred to the FPPC or Attorney General’s Office and be provided with specific contact information for the relevant entity. For complaints alleging violations that are unique to Oakland’s local laws and are not mirrored in state law, Commission staff recommends that staff refer the complainant to the City Attorney or District Attorney and include notification that the complainant may file for civil action.

Commission staff makes this general recommendation to refer matters to other entities in order to avoid any actual or perceived bias and does not suggest that the Commission is automatically conflicted-out on every matter that includes a commissioner or staff as a respondent.

As a practical matter, it would be more likely that an ethics or campaign finance complaint would be filed against an individual Commissioner or staff member rather than against the Commission as a whole, given that the provisions of these laws mostly pertain to individual rather than group actions (as opposed to open meetings violations that could include a group of people). Therefore, staff notes that nothing in this memorandum is intended to imply that the Commission would be prohibited from taking an alternative approach on a given case. The Commission should reserve the right to handle a matter in which a single respondent commissioner or staff can be walled off entirely from the investigation and approval process, such as when staff recently brought multiple, similar campaign reporting matters against a few respondents, one of whom included a sitting Commissioner who recused herself and left the room for the entirety of the discussion and decision.

Conclusion

As described in more detail above, upon receipt of a complaint alleging a violation of Sunshine, ethics, or campaign finance laws by the Commission, one of its members, or its staff, Commission staff recommends generally referring complainants to the other entities that have jurisdiction over the laws that pertain to the complaint. In addition to the referral, Commission staff further recommends that, upon receiving a Sunshine Ordinance complaint against the Commission, its members, or its staff, Commission staff should consider responding to the complaint with a factual and legal analysis, as well as any appropriate Commission action to address the complainant’s concerns, while still referring the complainant to the appropriate alternate entity.

While it may be possible for the Commission to adjudicate a complaint against one of its members or staff in certain situations, in general, Commission staff believes that referring complainants to other entities with legal jurisdiction provides the best course of action to ensure a fair process, prevent any perceptions of bias, and protect the credibility of the Commission.
CITY OF OAKLAND
OFFICE OF THE CITY ATTORNEY
PUBLIC LEGAL OPINION

TO: WHITNEY BARAZOTO, EXECUTIVE DIRECTOR
PUBLIC ETHICS COMMISSIONERS

FROM: BARBARA J. PARKER
CITY ATTORNEY

DATE: January 11, 2018

RE: Ethics Complaints Against Public Ethics Commission

I. INTRODUCTION

The Oakland Public Ethics Commission (the “PEC” or “Commission”) seeks advice regarding whether the PEC may investigate and adjudicate complaints lodged against the Commission, individual members of the Commission, or Commission staff. The Commission also seeks advice on the scope of representation of the Commission by the City Attorney’s Office, including who determines when the City Attorney’s Office has a conflict in representation, and how the Commission may request a second legal opinion. This is a public opinion as it addresses the relative powers, roles and responsibilities of different Charter-created entities. Like other public opinions, this opinion will be posted on our website.

II. QUESTIONS AND BRIEF ANSWERS

Question No. 1:

May the Commission, its members or its staff investigate and adjudicate complaints made against the Commission, its members or its staff involving allegations of non-compliance with procedural, ethics and other laws within the jurisdiction of the Commission?

Brief Answer:

No. The PEC is a quasi-judicial body; it has authority to conduct investigations and hearings, issue rulings and impose fines. Accordingly, the PEC has a legal duty to provide all respondents and parties that appear before it a fair, neutral and impartial
body, free from bias for or against any party. This includes when there is evidence of bias or even the appearance of bias. The participation of the Commission, Commission members, and/or Commission staff in investigating and hearing complaints against the Commission, Commission members or Commission staff could raise procedural due process issues and undercut the legal validity of the Commission’s final determinations; there also would be issues regarding an appearance of bias and potential challenges to the decisions.

**Question No. 2:**

Who may investigate complaints against the Commission, its members or its staff involving allegations of non-compliance with ethics and other laws within the Commission’s jurisdiction?

**Brief Answer:**

The City and the Commission have several options: (1) enter into agreements with other local Ethics Commissions to conduct investigations in these circumstances; (2) contract with an outside entity to investigate, conduct hearings, and make formal determinations; or (3) decline jurisdiction altogether. When the Commission declines jurisdiction, aggrieved parties may file a civil suit seeking injunctive relief\(^1\) or file a complaint with the state's ethics watchdog, the Fair Political Practices Commission.

**Question No. 3:**

Who determines when the Office of the City Attorney has a legal conflict of interest that would preclude the Office’s representation of the Commission on a particular matter?

**Brief Answer:**

City Charter section 401(6) provides that the City Attorney shall administer the Office of the City Attorney and mandates that the City Attorney serve as counsel to City boards and commissions, unless otherwise specified in the Charter. The City Attorney serves as legal counsel to the PEC and is responsible for advising the PEC on investigations and matters that come before the Commission. In addition, the City Attorney represents City boards and commissions, including the PEC, when they are named as defendants in a lawsuit.

\(^1\) See, Oakland’s Municipal Code (OMC) §2.25.080(C)(4).
As the charter-designated legal counsel for City boards and commissions, the City Attorney is responsible for determining when the Office has a conflict of interest in representation and conflict counsel is needed. A conflict in representation would occur only if the City Attorney’s Office is required to simultaneously or successively advise or represent two or more City elected or appointed officials or employees in their official capacities or City entities (e.g., the municipal corporation and a board) who have adverse interests. In the foregoing circumstances, the City Attorney, would select and retain conflict counsel. Practically speaking, we can see no circumstance in which a conflict in representation would occur for the City Attorney in connection with a complaint against the PEC.

Question No. 4:

Under what circumstances is the Commission entitled to a second opinion; and how does the Commission request a second opinion?

Brief Answer:

The Commission may request a second opinion from the City Attorney; however, the Commission is not entitled to a second opinion. Pursuant to City Charter Section 401(6), the City Attorney is legal counsel to the Mayor, City Council, City departments, City officers, boards and commissions and other agencies of the City. As legal counsel

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2 Attorney conflict in representation is not the same as bias under procedural due process requirements. Cal. Professional Conduct Rule 3-310 prohibits an attorney from simultaneously representing more than one client in any matter in which the interests of the clients actually or potentially conflict, without disclosure to the clients of the actual foreseeable adverse consequences of continued joint representation and the clients’ written consent to the representation. In contrast, due process applies to adjudicatory or quasi-adjudicatory bodies and requires that all such bodies be fair and impartial.

3 Oakland City Charter §§401(6), 700 et seq., Cal. Rules of Prof. Conduct Rules 3-310, 3-600 Cal. There are other instances that would operate to prevent individual members of the City Attorney’s Office from representing a City Department. These conflicts are different from adverse client representation in that they are personal to a member of the City Attorney’s Office, such as conflicts of interest involving the financial interests of a particular attorney, unfairly pursuing prosecution, seeking outside counsel in a discriminatory manner, or failing to account for gifts from outside counsel. These personal conflicts of interest are not discussed in this Opinion, however, as they would never necessitate the City Attorney’s Office as a whole to recuse itself based upon a legal conflict, nor are these personal financial conflicts governed by the Rules of Professional Conduct for attorneys. See Cal. Gov. Code sections 1090, 89503-89505.5 and 87100 et seq.

4 Except for those City departments that the City Charter mandates have their own counsel, such as the Port Department. See, Charter Section 706(20).
for the foregoing parties, the City Attorney has discretion to determine whether to provide a second opinion.

III. ANALYSIS

A. Due process principles prohibit the PEC from adjudicating its own complaints.

At its core, due process requires reasonable notice and opportunity to be heard before governmental deprivation of a significant interest.\(^5\) Procedural due process principles apply to administrative bodies that perform quasi-judicial functions.\(^6\) Embedded within the opportunity to be heard is the requirement that all quasi-judicial bodies be fair and impartial.\(^7\) In a quasi-judicial action, a court will determine whether, after considering the totality of the circumstances, the due process requirements of a hearing before a "reasonably impartial, noninvolved reviewer" have been met.\(^8\) Specific requirements for procedural due process vary depending upon the situation under consideration and the interests involved.\(^9\) Biased decision makers are constitutionally impermissible.\(^10\)

In Cohen v. City of Thousand Oaks, the California Court of Appeal, Second District, found that the City had violated the plaintiffs' procedural due process rights when its Council acted as both a party (appellant) and a neutral adjudicator when the Council heard an appeal to a planning commission decision.\(^11\) The Cohen plaintiffs spent 15 years obtaining planning commission approval of a mixed residential and commercial development project that was highly unpopular with adjacent residents. During a Council meeting, several residents spoke against the commission’s decision during the public comment portion of the agenda, prompting the Council to hear an

appeal immediately, relying on an emergency exception to the Brown Act.\textsuperscript{12} The Council overturned the planning commission's approval and plaintiffs sued. The Court held that the "cumulative effect" of the Council's actions resulted in a violation of the plaintiffs' due process rights; the Court's ruling was based in part on the Council's self-initiated appeal in the middle of a meeting in progress, when its own rules did not permit such an action.

As noted in \textit{Cohen}, courts will accept evidence of either actual bias or the occurrence of a particular combination of circumstances that create an unacceptable risk of bias.\textsuperscript{13} Impartiality also requires that adjudicators must be free from financial or personal interest.\textsuperscript{14} It is important to note, though, that courts do not demand a showing of actual bias; for example, a state appellate court found an "unacceptable probability of bias" was enough to find that a planning commissioner should have recused himself because he authored a newsletter in his private capacity that disparaged a proposed development project and misrepresented having had direct contact with the party opposing the project.\textsuperscript{15} In \textit{Nasha v. L.L.C. v. City of Los Angeles}, Commissioner Lucente authored an opinion piece about a multiunit development project, where he clearly advocated a position against the project, which he characterized as a "threat to wildlife corridor."\textsuperscript{16}

Under the Charter, the PEC is responsible for enforcing ethical laws in City government with respect to City employees, City officials and City boards and commissions.\textsuperscript{17} The Commission’s Charter sections, enabling legislation, operating policies or complaint procedures do not prohibit the PEC from hearing complaints against the Commission, nor do they require that the PEC hear such complaints. However, the PEC must exercise its enforcement authority within the bounds of the law. At the very least, the PEC’s investigation, hearing and/or adjudication of complaints against the Commission would raise the specter of an appearance of bias in violation of due process principles, since the PEC would not be a neutral or impartial adjudicator in those situations.

\textsuperscript{12} \textit{Ibid.} (Council relied on Government Code §54954.2, which reads in part, "...there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a)."

\textsuperscript{13} \textit{Drakes Bay}, supra, 4 Cal.App.5\textsuperscript{th} at 1175(citing \textit{Morongo Bay}, 45 Cal.4\textsuperscript{th} at 741.).

\textsuperscript{14} \textit{Morongo Band of Mission Indians v. State Water Resources Control Bd.}, 45 Cal.4\textsuperscript{th} 731, 741 (2009).

\textsuperscript{15} \textit{Nasha v. L.L.C. v. City of Los Angeles}, 125 Cal.App.4\textsuperscript{th} 470, 484 (2004).

\textsuperscript{16} \textit{Id.}

\textsuperscript{17} Oakland City Charter, Section 603(a) and (b).
B. **The PEC should establish alternative methods of handling complaints against the PEC**

To comport with due process principles, the PEC should establish procedures to formally recuse itself from hearing complaints against the Commission and, in accord with PEC regulations, designate another forum(s) to conduct hearings and make determinations. The PEC has authority to retain outside administrative hearing officers to investigate and adjudicate matters that involve the Commission itself.\(^\text{18}\) The PEC also could consider entering into an agreement with another ethics commission to handle each other’s matters when a complaint involves their commission. The San Francisco Ethics Commission has such arrangements with ethics commissions in nearby jurisdictions. Alternatively, depending on the allegations, the PEC could decline jurisdiction and refer matters to the District Attorney or the California Fair Political Practices Commission (FPPC), the state administrative agency that administers and oversees compliance with the California Political Reform Act which regulates campaign financing, conflicts of interest, lobbying and governmental ethics.\(^\text{19}\)

C. **The City Charter authorizes the City Attorney, within her sole discretion, to determine when a legal conflict exists and whether to retain outside counsel.**

Oakland is a Charter city; this means that the City Charter is the City’s constitution and is the supreme law of the City, subject only to conflicting provisions in the state or federal constitutions and preemptive state or federal law.\(^\text{20}\) A charter city may not act in conflict with its charter.\(^\text{21}\) And only the voters have the power to amend the Charter.

City Charter section 401(6) provides in pertinent part that the City Attorney shall administer the Office of the City Attorney and mandates that the City Attorney serve as counsel to City boards and commissions:

> The City Attorney shall serve as counsel to the Mayor, City Council, and each and every department of the City, except departments specifically enumerated by this Charter as an independent department of the City, in their official

\(^\text{18}\) PEC Complaint Procedures, Sections II(C)(3) and IV(A): PEC may refer a complaint to an outside administrative investigator, pp. 3 and 5 respectively

\(^\text{19}\) Id., Section II(C)(3).


\(^\text{21}\) Domar Electric, Inc., 9 Cal.4th at 171.
capacities pursuant to state law and the Charter, and as counsel, shall assert and maintain the attorney-client privilege pursuant to state law. He or she shall advise all officers, boards, commissions, and other agencies of the City on legal matters referred to him or her and shall render written legal opinions when the same are requested in writing by the Mayor or a member of the Council or the City Administrator or any other officer, board or commission of the City . . . (Emphasis added.)

Neither Section 401(6) nor any other provision of the Charter authorizes any attorney, except the City Attorney, to provide legal representation to boards and commissions, with the exception of the Board of the Port of Oakland. 22

Accordingly, the City Attorney has sole discretion to determine when the services of outside counsel are warranted, including determining when to provide a second opinion. This also includes legal analyses of any conflicts that would necessitate conflict counsel.

We also note that at a minimum, all attorneys in California, including public lawyers, must comply with the California Rules of Professional Conduct. Specifically, Rule 3-600 addresses when an organization is the client, and in such cases provides that the client is the organization itself, acting through its highest authorized officer, employee, body or constituent. 23 Rule 3-310 prohibits the simultaneous or successive representation of adverse interests. Based upon the nature of their work, public lawyers are held to a higher ethical standard than private lawyers. 24 This Rule is independent of the City Attorney’s other legal and ethical obligations.

Specifically, Rule 3-310 prohibits an attorney from simultaneously representing more than one client in any matter in which the interests of the clients actually or potentially conflict without (1) disclosing to the clients the actual foreseeable adverse consequences of continued joint representation and (2) the clients’ written consent to the representation. 25 This type of conflict also can occur when an attorney is asked to represent successive clients with potential adverse interests, e.g., representing an environmental group suing a former client oil company.

22 Charter section 706(20); In addition, the Charter provides the successor agency to the Citizen’s Police Review Board, the Community Police Review Agency, with one non-City Attorney legal counselor who is selected by the City Attorney. See, Charter section 604(e)(1).
Similarly, an attorney may not accept or continue representation of a client whose interests are adverse to another of the attorney’s clients unless the attorney receives the client’s informed written consent, and in some instances written disclosures by the attorney. It is important to note that conflicts may be imputed to an entire firm or entity, and not just the individual attorney. Accordingly, it is within the province of the City Attorney under the Charter to determine when there is the potential for a legal conflict in a litigation matter.

IV. CONCLUSION

The PEC’s investigation and adjudication of complaints against the Commission would violate due process requirements. The PEC may develop reciprocity agreements with other local ethics commissions to investigate and hear complaints against the Commission. Alternatively, the PEC could either decline jurisdiction and refer the matter to the District Attorney or FPPC, or retain an administrative hearing officer to investigate and adjudicate the matter.

The City Attorney’s duty to act as PEC counsel would not change with respect to representing the PEC if a lawsuit is filed against the Commission. The City Attorney would defend the PEC against complaints challenging PEC actions or determinations.

Very truly yours,

BARBARA J. PARKER
City Attorney

Attorney Assigned: Tricia Hynes

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26 Rules of Professional Conduct Rule 3-310.
## Public Ethics Commission Communications Plan

**Goal:** The Public Ethics Commission communicates about its projects, activities, educational and disclosure resources, and enforcement work to ensure compliance with the laws within the Commission’s jurisdiction, promote fairness, openness, honesty, and integrity in City government, and keep the public informed of the Commission’s progress.

<table>
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<tr>
<th>Program</th>
<th>Topic/Item to Communicate</th>
<th>Timing</th>
<th>Audience</th>
<th>Vehicle</th>
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<td>New Law Passed</td>
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<td>New rules are in effect Show PEC shaping policy</td>
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<td>PEC Report or Policy Rec’s Issued</td>
<td>Upon release</td>
<td>City Councilmembers Public Press PEC community Interested org’s</td>
<td>Email and hand deliver Agenda list Press list Email to interested contacts/orgs Publish for sharing GovDelivery</td>
<td>Share PEC information Show PEC shaping policy Build interest/momentum for change</td>
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<td>Educate/Advise</td>
<td>Newsletter</td>
<td>Semi-annually</td>
<td>Regulated clients Press Public PEC community</td>
<td>Client lists Agenda list Publish for sharing GovDelivery</td>
<td>Share PEC news Educate readers on specific issues</td>
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<td>Training Announcement</td>
<td>Periodically</td>
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<td>Client lists GovDelivery</td>
<td>Notify clients of training opportunities</td>
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<td>Monthly+</td>
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<td>Client lists GovDelivery</td>
<td>Educate clients re: rules, reporting deadlines, key information</td>
<td>Lead Analyst/Education Analyst</td>
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¹ Regulated “clients” include City staff and officials, candidates for City office (including OUSD Board members), lobbyists, people doing business with the City, and members of the public who interact with the City.
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