



## Item 10 - Executive Director's Report

Ryan Welch, Chair  
Francis Upton IV, Vice Chair  
Alea Gage  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
Jelani Killings, Lead Analyst, Education and Engagement  
DATE: September 26, 2024  
RE: Executive Director's Report for the October 9, 2024, Meeting

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This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities not included in other program reports since the last regular meeting. The attached overview of Commission Programs and Priorities also includes the ongoing goals and key projects for 2023-24 for each program area.

### **Enforcement Staffing**

On September 20, 2024, Enforcement Chief Simon Russell submitted his resignation from the PEC, effective October 25. As Enforcement Chief, and as an investigator with the PEC before that, Chief Russell has played a critical role in investigating and prosecuting the Commission's most important cases. In addition, Chief Russell led recent efforts to modernize the PEC's Complaint Procedures and Penalty Guidelines; strengthen the Commission's case tracking process; increase the internal checks and balances on enforcement decisions; implement a training program for new investigators; improve coordination with outside enforcement agencies; and launched the Commission's more robust enforcement of Form 700 filings in response to a grand jury report. The Commission is grateful to Chief Russell for his years of exceptional work to the Commission.

Staff has begun the process of posting a job announcement to recruit for the Chief of Enforcement position, which is expected to go out in early October. In the interim, some duties of the Enforcement Chief will be taken on by the Executive Director. Staff is also evaluating potential options for bringing on additional, temporary staff while the position is vacant and reassigning Enforcement Chief responsibilities.

In the short-term, it is inevitable that the vacancy in the Enforcement Chief position will significantly slow down the Commission's ability to investigate and prosecute the majority of its new and ongoing cases, further exacerbating the growth of a backlog of cases due to severe understaffing of the Commission's Enforcement Unit.

### **Ramachandran/Jenkins Contribution Limit Proposal**

Following its September 16, 2024, meeting, Chair Micik submitted a letter on the Commission's behalf (attached) providing the Commission's comment on Councilmembers Ramachandran and Jenkins's proposal to increase campaign contribution limits from \$600 to \$900 for general contributors and \$1,200 to \$1,800 for broad-based political committees. Executive Director Heidorn also attended the September 19, 2024, City Council Rules Committee meeting to share the Commission's perspective.

At that September 19 meeting, the proposal was amended to change the proposed increase in general contribution limits to \$800 (from the original proposal of \$900) and to \$1,500 for broad-based political committees (from \$1,800). Consistent with the PEC's recommendation, the proposal was also amended to require that, for candidates running for office in 2026, the candidate be required to accept expenditure limits to be eligible to receive the higher contribution limit amount. The proposal, as amended, was voted out of Committee on a 3-1 vote.

The amended proposal will be heard by the full Council on October 1 for first reading and, if it passes, on October 7 for second reading. Because the ordinance has an urgency clause, if enacted by a six-vote supermajority, it will go into effect on October 7. If the proposal is enacted on a non-urgency basis, it will go into effect 7 days later, on October 14.

### **Limited Public Financing Program (LPF)**

Commission staff administers the LPF program and provides training and ongoing interaction with candidates to facilitate program requirements and distribute the maximum amount of available public funds.

The deadline for candidates to opt-in to the LPF program was September 8, 2024. 13 candidates opted-in to receive public financing. Their next step was to submit their LPF application (LPF Form 2) demonstrating that they met the program's qualification requirements along with their initial reimbursement request (LPF Form 3) by September 20.

Seven candidates met the September 20 deadline, demonstrating program eligibility, and will move forward with public financing for the 2024 election. Commission staff will now reallocate the available funding per the Commission's two-phased approach, resulting in an increase of \$10,219 for each participating candidate. Participating candidates are now eligible for a maximum of \$22,142 in public financing. The table below lists the participating candidates and their respective districts:

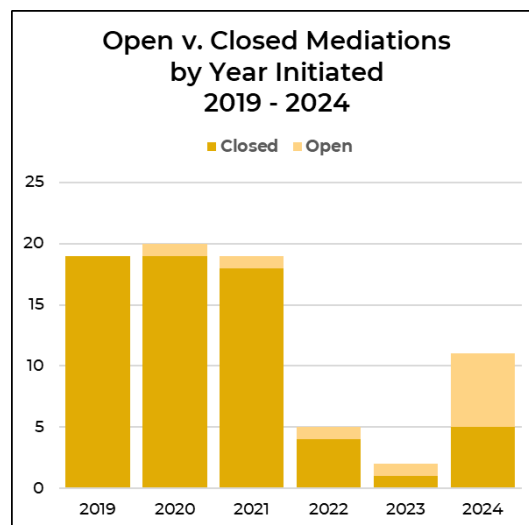
<b>Candidate</b>	<b>District</b>
Zac Unger	1
Carroll Fife	3
Warren Logan	3
Noel Gallo	5
Erin Armstrong	5

<b>Ken Houston</b>	7
<b>Iris Merriouns</b>	7

Commission staff is in the process of verifying submitted documentation and processing reimbursement claims. Over the next several weeks, Commission staff will work closely with each participating candidate and their treasurer to facilitate claim submission and payments to campaigns.

## Mediation Program

Pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediation of public records requests made by members of the public to City departments for records within the department's control. The PEC currently has 11 open mediations. One new mediation has been opened since the last meeting.



**Additional Attachment:** Commission Programs and Priorities.

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## PUBLIC ETHICS COMMISSION

### Programs and Priorities 2023/24 (new additions in **bold**)

Program	Goal	Desired Outcome	Regular Program Activities	2023/24 Projects
<b>Lead/ Collaborate (Policy, Systems, Culture)</b>	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity, and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ul style="list-style-type: none"> <li>○ Lead Measure W implementation</li> <li>○ Engage in review of laws PEC enforces</li> </ul>	<ul style="list-style-type: none"> <li>✓ Lobby Registration Act amendment to incorporate new fees and waiver policy</li> <li>✓ Ordinance for one-time LPF for 2024 elections</li> <li>○ Voter Guide Pilot – <b>on hold</b></li> <li>✓ Mayor Salary Setting Guidance</li> <li>✓ Charter Review Options</li> <li>○ Policy Review: Lobbyist Registration Act– <b>on hold</b></li> <li>✓ Ethics Commission Network</li> <li>✓ Invite Department Presentations on Records Request Responses</li> </ul>
<b>Educate/ Advise</b>	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ul style="list-style-type: none"> <li>● Regular ethics training</li> <li>● Information, advice, and technical assistance</li> <li>● Targeted communications to regulated communities</li> <li>● New trainings as needed for diversion</li> </ul>	<ul style="list-style-type: none"> <li>○ Collaboration with Clerk and HR on process improvements for ethics onboarding/exit and Form 700 compliance - <b>ongoing</b></li> <li>✓ Public Records training</li> </ul>
<b>Outreach/ Engage</b>	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ul style="list-style-type: none"> <li>● Public Records mediations</li> <li>● Commissioner-led public outreach</li> <li>● Outreach to client groups – targeted training and compliance</li> <li>● PEC social media outreach</li> </ul>	<ul style="list-style-type: none"> <li>✓ Update OCRA, LPF, and LRA guides</li> <li>✓ Update public and stakeholders on Democracy Dollar postponement</li> <li>✓ Update Lobbyist Registration Act educational materials and share with Council</li> <li>✓ Recruit for PEC vacancy</li> <li>✓ Publicize Enforcement Needs</li> <li>○ Publicize PEC campaign finance tools</li> <li>○ Publicize how to file complaints</li> </ul>

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Program	Goal	Desired Outcome	Regular Program Activities	2023/24 Projects
<p style="text-align: center;"><b>Disclose/ Illuminate</b></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>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ul style="list-style-type: none"> <li>• Monitor compliance (campaign finance/lobbyist/ticket use)</li> <li>• Proactive engagement with filers</li> <li>• Technical assistance</li> <li>• Assess late fees/refer non-filers for enforcement</li> <li>• Maintain data assets</li> </ul>	<ul style="list-style-type: none"> <li>○ Democracy Dollars Admin System:               <ul style="list-style-type: none"> <li>✓ Approval to Contract</li> <li>✓ Vendor Selected</li> <li>○ Contract Entered</li> <li>○ Work Begun</li> </ul> </li> <li>○ Updates to Ticket Distribution (Form 802) database – <b>on hold</b></li> <li>✓ Implement LRA Changes</li> <li>○ Integrate Lobbyist App with Payment System</li> <li>○ Public Records Performance Dashboard – <b>on hold</b></li> <li>✓ Update Open Disclosure 2024</li> <li>✓ Update Show Me The Money</li> <li>○ Digitize Schedule O Form – <b>on hold</b></li> </ul>
<p style="text-align: center;"><b>Detect/ Deter</b></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"> <li>• Process and investigate complaints</li> <li>• Initiate proactive cases</li> <li>• Collaborate/coordinate with other government law enforcement agencies</li> </ul>	<ul style="list-style-type: none"> <li>○ Digital complaint form/ mediation request – <b>on hold</b></li> <li>✓ Improve Enforcement database</li> </ul>
<p style="text-align: center;"><b>Prosecute</b></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"> <li>• Prioritize cases</li> <li>• Conduct legal analyses, assess penalty options</li> <li>• Negotiate settlements</li> <li>• Make recommendations to PEC</li> </ul>	<ul style="list-style-type: none"> <li>○ Resolve 2016 and 2017 case backlog</li> <li>○ <b>Review</b>/revise policies for release of public information and election-related complaints</li> <li>✓ <b>Develop internal Enforcement staff manual</b></li> <li>✓ Expand streamline &amp; diversion</li> </ul>
<p style="text-align: center;"><b>Administration/ Management</b></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"> <li>• Annual Report</li> <li>• Budget proposal</li> <li>• Ongoing professional development and staff reviews</li> <li>• Fill staff vacancies</li> <li>• Commissioner onboarding</li> </ul>	<ul style="list-style-type: none"> <li>✓ 2023 – 2025 strategic plan preparation/retreat</li> <li>✓ Develop process for City Attorney and City Auditor Salary Adjustment and adopt resolution for Council</li> <li>○ Increase enforcement capacity</li> </ul>

**CITY OF OAKLAND**  
**Public Ethics Commission**

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(510) 238-3593



September 18, 2024

Honorable City Council  
City Hall  
1 Frank H. Ogawa Plaza  
Oakland, CA 94612

**RE: Ramachandran/Jenkins Contribution Limits Proposal**

Dear Council President Bas and Members of the City Council,

On September 12, 2024, Councilmembers Ramachandran and Jenkins introduced legislation which would amend the Oakland Campaign Reform Act (OCRA), a law the Public Ethics Commission (Commission) enforces, to temporarily increase campaign contribution limits in City of Oakland and Oakland Unified School District (OUSD) elections from \$600 to \$900 as to most contributors, and from \$1,200 to \$1,800 as to broad-based political committees. The change would go into effect immediately upon adoption, including for the November 2024 elections, and would sunset on January 1, 2027, or earlier on January 1, 2026, as to candidates running for offices for which Democracy Dollars are available, as specified.

Under Charter Section 603(h), “amendments to laws that the Commission has the power to enforce ... shall be submitted to the Commission for review and comment, prior to passage of the amendments.”<sup>1</sup> Consistent with its charter mandate, on September 16, 2024, the Commission met to review the proposed changes.

The Commission takes no position on supporting or opposing the proposal.<sup>2</sup> However, commissioners voted unanimously to convey the following points to the City Council:

- Commissioners share the authors’ concern that candidates should be able to raise sufficient funds to get their campaign message out while Democracy Dollar funding is unavailable.

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<sup>1</sup> Oakland City Charter Section 603(h) provides in full: “Amendment of Laws. Prior to enacting any amendments to laws that the Commission has the power to enforce, the City Council shall make a finding that the proposed changes further the goals and purposes of the ordinance or program in question and provide specifics substantiating the finding. Absent an urgency finding akin to suspending compliance with the Sunshine Ordinance, amendments to laws that the Commission has the power to enforce and proposed ballot measures that would amend such laws shall be submitted to the Commission for review and comment, prior to passage of the amendments or approval of the proposed measures for the ballot by the City Council.”

<sup>2</sup> At the September 16 meeting, commissioners were split on the proposal. One motion to support the proposal failed for lack of a second. Another motion to support the proposal if amended to require that 2026 candidates accept expenditure limits, and recommending that the effects of increasing limits in the 2024 cycle be studied, failed on a 3-2 vote (Ayes: Gage, Steele, Tilak; Noes: Micik, Upton). The Commission has 7 seats, so 4 votes are needed for a motion to pass.

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- Commissioners are concerned about the timing of the proposal, which, for the 2024 election cycle, would change campaign finance rules in the last month of an election, and divert Commission staff resources during a period of peak demand for Commission services.
- The Commission recommends that, if there are higher limits for the 2026 election cycle, candidates should have to accept expenditure limits as a precondition to fundraising at those higher limits. This was previously the rule under OCRA through the 2022 election, until a single lower limit was adopted with the passage of Measure W (2022).
- Under this proposal, if Democracy Dollars are available for an office in the 2026 election cycle at a sufficient funding level, contribution limits as to that office will return to the lower levels currently in effect (as adjusted for inflation) beginning on January 1, 2026. One consequence of this is that candidates who enter a race in 2025 are advantaged over candidates who only enter that race in 2026, as the former candidates could for several months raise funds at the higher contribution limits. The Commission recommends that the Council look at alternative ways to structure the proposed policy so that early-entry and late-entry candidates are treated similarly, but for administrative reasons the Commission has concerns about requiring that early-entry candidates reimburse funds raised at higher limits if the limits are later lowered.
- The Commission recommends, if this proposal is adopted, that the effects of any change in contribution limits for the 2024 election cycle be evaluated so that policy changes for the 2026 election cycle may be considered later this year or early in 2025.

You may review video of the Commission's full discussion of this proposal at the Commission's website at <https://www.oaklandca.gov/boards-commissions/public-ethics-commission/meetings>. In addition, a copy of the Commission's staff report analyzing this proposal may be downloaded here: [https://cao-94612.s3.us-west-2.amazonaws.com/documents/05-Proposal-to-Increase-Contribution-Limits-Packet-H\\_2024-09-13-212026\\_xomg.pdf](https://cao-94612.s3.us-west-2.amazonaws.com/documents/05-Proposal-to-Increase-Contribution-Limits-Packet-H_2024-09-13-212026_xomg.pdf). (Please note, however, that the Commission did not adopt the staff report recommendation to oppose the proposal.)

Thank you for the opportunity to provide the Commission's perspective. If you have any questions or would like further information, please feel free to contact Executive Director Nicolas Heidorn at [nheidorn@oaklandca.gov](mailto:nheidorn@oaklandca.gov) or 510.604.1002.

Sincerely,

*Ryan Micik*

Ryan Micik

Chair

Oakland Public Ethics Commission