CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Monday, March 1, 2021
6:30 p.m.

<u>PUBLIC ETHICS COMMISSION (PEC or COMMISSION) MEETING</u>

NOTE: Pursuant to the Governor's Executive Order N-29-20 and City of Oakland Emergency Order dated March 23, 2020, suspending the Sunshine Ordinance, all members of the Commission and participating PEC staff will join the meeting via phone/internet audio conference, and the following options for public viewing and participation are available:

- **Television:** KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99, locate City of Oakland KTOP – Channel 10
- **Livestream online:** Go to the City of Oakland's KTOP livestream page here: https://www.oaklandca.gov/services/ktop-tv10-program-schedule click on "View"
- **Online video teleconference:** Click on the link below to join the webinar: https://us02web.zoom.us/j/88171471481?pwd=ODlQVFFUeVRsZUtHdFU3YU5XcHVadz09
  Password: 674732
  - To comment by online video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" is available at: https://support.zoom.us/hc/en-us/articles/205566129 - Raise-Hand-In-Webinar.
- **Telephone:** Dial (for higher quality, dial a number based on your current location):
  US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592
  Webinar ID: 881 7147 1481
  International numbers available: https://us02web.zoom.us/u/kcjNykyTac
  - To comment by phone, please call on one of the above listed phone numbers. You will be prompted to "Raise Your Hand" by pressing *9 to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions of how to raise your hand by phone are available at: https://support.zoom.us/hc/en-us/articles/201362663 - Joining-a-meeting-by-phone.

Members of the public may submit written comments to ethicscommission@oaklandca.gov. If you have any questions about how to participate in the meeting, please email ethicscommission@oaklandca.gov before or during the meeting.

CITY OF OAKLAND
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Monday, March 1, 2021
6:30 p.m.

Commissioners: Michael MacDonald (Chair), Jerett Yan (Vice-Chair), Avi Klein, Arvon Perteet, and Joseph Tuman

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

City Attorney Staff: Trish Shafie, Deputy City Attorney

PEC MEETING AGENDA

1. **Roll Call and Determination of Quorum.**

2. **Staff and Commission Announcements.**

3. **Open Forum.**

<u>**ACTION ITEMS**</u>

4. **Approval of Commission Meeting Draft Minutes.**
   a. February 1, 2021 Regular Meeting Minutes (Meeting Minutes)

5. **Public Ethics Commission Annual Report.** The Commission will review and consider approval of the annual report summarizing the PEC's activities in 2020. (PEC Annual Report 2020)

6. **Lobbyist Public Access Portal and Newly Published Datasets Demonstration.** Lead Analyst Suzanne Doran will provide a demonstration of the new Lobbyist Registration e-filing system public portal developed in partnership with the City's Department of Information Technology as well as newly published lobbyist datasets on the City's OakData open data platform. The new public access portal is available at https://apps.oaklandca.gov/pec/Lobbyist_Dashboard.aspx, and the open data platform can be found at https://data.oaklandca.gov/. Commission staff invites feedback on the availability of the data and what additional information or visualizations the public would like to see.

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DISCUSSION ITEMS

7. **Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission's last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission's work. Current or recent subcommittees include the following:

    a. **Sunshine Review Subcommittee** (*ad hoc*/temporary, created on May 8, 2020) – Michael MacDonald (Chair) and Joe Tuman

INFORMATION ITEMS

8. **Public Ethics Commission Report –** *Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race.* The Public Ethics Commission issued this report in September 2020 and republishes it here in anticipation of a presentation of the report to City Council in the coming weeks and within the broader context of the Citywide focus on equity as part of the 2021-23 Budget process. The report evaluates outcomes from Oakland's existing public financing program and overall campaign finance system, articulates the ways in which some Oaklanders lack political power, explores current trends and best practices across jurisdictions and subject-matter fields, and recommends a new approach for Oakland to expand and diversify participation and influence in the campaign process. (Project Report)

9. **Disclosure and Engagement.** Lead Analyst Suzanne Doran provides a report of recent education, outreach, disclosure and data illumination activities. (Disclosure Report)

10. **Enforcement Program.** Enforcement Chief Kellie Johnson reports on the Commission's enforcement work since the last regular Commission meeting. (Enforcement Report)

11. **Executive Director's Report.** Executive Director Whitney Barazoto reports on overall projects, priorities, and significant activities since the Commission's last meeting. (Executive Director's Report)

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

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

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

signature	2/19/2021

Approved for Distribution   Date

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Quý vị cần một thông dịch viên Ngôn ngữ KýhiệuMỹ (American Sign Language, ASL), tiếng Quảng Đông, tiếng Quan Thoại hay tiếng Tây Ban Nha hoặc bất kỳ sự hỗ trợ nào khác để tham gia hay không? Xin vui lòng gửi email đến địa chỉ alarafranco@oaklandca.gov hoặc gọi đến số (510) 238-3593 hoặc 711 (với Dịch vụ Tiếp âm) trước đó năm ngày.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
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Teleconference
Monday, February 1, 2021
6:30 p.m.   *DRAFT*

Commissioners: Michael MacDonald (Chair), Jerett Yan (Vice-Chair), Avi Klein, Arvon Perteet, Janani Ramachandran, and Joseph Tuman

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

City Attorney Staff: Trish Shafie, Deputy City Attorney

PEC MEETING MINUTES

1. **Roll Call and Determination of Quorum.**

   The meeting was held via teleconference.

   The meeting was called to order at 6:31 p.m.

   Members present: MacDonald, Yan, Klein, Perteet, Ramachandran, and Tuman.

   Staff present: Whitney Barazoto, Suzanne Doran, Kellie Johnson, and Ana Lara-Franco.

   City Attorney Staff: Trish Shafie

2. **Staff and Commission Announcements.**

   MacDonald welcomed new commissioner Perteet.

   Ramachandran announced her resignation.

3. **Open Forum.**

   There was one public speaker.

ACTION ITEMS

4. **Approval of Commission Meeting Draft Minutes.**
   a. January 4, 2021 Regular Meeting Minutes

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There were no public speakers.

Klein moved, and Tuman seconded to adopt the January 4, 2021 Regular Meeting Minutes.

Ayes: MacDonald, Yan, Klein, Ramachandran, and Tuman.

Noes: None

Abstain: Perteet (was not present at meeting)

Vote: Passed 5-0

5. *In the Matter of Thomas Espinosa (Case No. 16-14).*

Kellie Johnson, Enforcement Chief, presented this matter. The recommendation is to hold the matter in a hearing presided over by a volunteer hearing officer instead of the Office of Administrative Hearings, due to budget considerations.

Commissioners discussed the matter.

There was one public speaker.

Perteet moved, and Klein seconded to accept the recommendation from staff.

Ayes: Ayes: MacDonald, Yan, Klein, Perteet, Ramachandran, and Tuman.

Noes: None

Vote: Passed 6-0

DISCUSSION ITEMS

6. **Reports on Subcommittees and Commissioner Assignments.**
   a. **Sunshine Review Subcommittee** (*ad hoc*/temporary, created on May 8, 2020) – Michael MacDonald (Chair) and Joe Tuman

   MacDonald shared that the subcommittee will meet in February and continue working with IT for the data. The subcommittee is accepting new members.

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INFORMATION ITEMS

7. **Oakland Campaign Reform Act Contribution Limit and Expenditure Ceiling Annual Adjustment for 2021.**

   Whitney Barazoto, Executive Director, presented the report, which summarizes the process of adjusting contribution and expenditure ceiling limits annually per the Oakland Campaign Reform Act. The new limits were published in the staff report and will be made available online.

   Commissioners discussed and asked questions.

   There were no public speakers.

8. **Disclosure and Engagement.**

   Suzanne Doran, Lead Analyst, provided a report of recent education, outreach, disclosure and data illumination activities.   Ms. Doran shared that there are new updates on the Lobbyist app where you can sort by name.

   There were no public speakers.

9. **Enforcement Program.**

   Ms. Johnson reported on the Commission's enforcement work since the last regular Commission meeting.

   There were no public speakers.

10. **Executive Director's Report.**

    Ms. Barazoto reported on overall projects, priorities, and significant activities since the Commission's last meeting. She added that the Commission has opened recruitment to fill Commissioner Ramachandran's vacancy.

    There were no public speakers.

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The meeting adjourned at 7:18 p.m.

City of Oakland
Public Ethics Commission

ANNUAL REPORT
2020

Public Ethics Commission
1 Frank Ogawa Plaza (City Hall), Room 104
Oakland, CA 94612
www.oaklandca.gov/pec
ethicscommission@oaklandca.gov
(510) 238-3593

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CONTENTS

PEC ADAPTS AND INNOVATES THROUGH CHALLENGES

The COVID-19 global pandemic required people around the world to radically change how they work and interact with each other. Despite the unprecedented circumstances, the Public Ethics Commission (PEC or Commission) continued its core work in 2020 to ensure compliance with ethics, campaign finance, lobbying and transparency laws while developing new and innovative tools to promote more meaningful public disclosure and civic engagement.

2020 HIGHLIGHTS

- **Campaign finance reimagined** – The Commission released *Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race,* a review of Oakland's campaign finance system that offers a new paradigm for financing campaigns in a manner that promotes greater equity and broader participation across racial and socio-economic lines.

- **Campaign and lobbyist data illuminated** – The Commission launched three new tools for more meaningful public disclosure by consolidating ethics-related data in user-friendly, understandable formats: the 2020 edition of www.OpenDisclosure.io, an online application that consolidates campaign data for Oakland voters; Show Me the Money, an interactive tool that allows residents to map the source of campaign contributions; and an online Lobbyist Dashboard and Data Portal.

- **Advice and technical assistance calls reach record levels** – Staff responded to a record 460 telephone and email requests for advice and assistance related to campaign finance, ethics, and transparency compliance in 2020.

- **Campaign finance and ethics training go virtual** – Commission staff provided a live, online, comprehensive training on state and local campaign laws for candidates and committees participating in the 2020 election, as well as 17 live, online ethics trainings.

- **Disclosure filing processes streamlined and modernized** -- PEC staff launched a new e-filing system for lobbyist registration and reporting and streamlined campaign filing processes to simplify procedures and remove any need for in-person contact.

- **Enforcement Program sustains productivity** – The Enforcement Unit maintained its high productivity, resolving 44 cases, imposing $23,000 in penalties, and receiving and evaluating 39 alleged violations – a ten-year high.

While the COVID-19 pandemic brought change and challenges to the PEC in 2020, the Commission was able to sustain its productivity, complete major projects, and adapt core services and processes to better meet the needs of residents and the regulated community. This report summarizes the Commission's work in 2020, an election year in which the Commission continued to fulfill its role as educator, compliance officer, data illuminator, investigator, enforcer, and leader in furthering local discourse about how to expand and diversify civic engagement in the Oakland campaign process.

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.

EXPANDING EQUITY AND PARTICIPATION IN THE CAMPAIGN PROCESS

In September 2020, the Commission released a report on Oakland's system of campaign finance and public financing laws and outcomes, with an emphasis on who participates in Oakland City elections. The report, *Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race*, analyzes campaign finance data from the 2014, 2016, and 2018 elections to assess current participation in campaign contributions by factors such as race, income, and inside-versus-outside of Oakland.
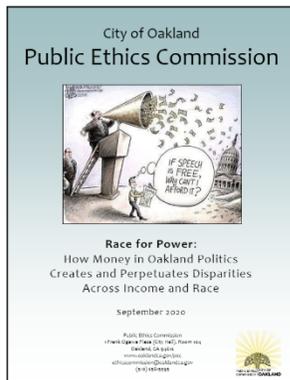
The report describes the weight of independent expenditures, how campaign donors influence policy outcomes, and how the system perpetuates distrust in government. It offers a new paradigm for financing campaigns, such as a restructuring of the system, with Oaklander input, in a manner that promotes greater equity and broader participation across racial and socio-economic lines.

PUBLIC FUNDS FOR CANDIDATES

The Limited Public Financing (LPF) program provides District City Council candidates with some public funds by way of reimbursements for certain qualified expenditures to be used for campaign expenses. The goal of the program is to help ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The 2020 program began with a training in August and ongoing interaction with candidates in facilitating program requirements and distributing public funds. Seven candidates participated and received some or all of the $21,857 that was available to them, for a total disbursement of $137,485 for the 2020 election.

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 is guided by the provisions outlined in the City Charter, as amended in 2014, as well as in each relevant ordinance, listed as follows:

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

The Commission's activities, and the six-person staffing structure are organized by 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.

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 2020, Commission staff responded to a record 460 requests for information, advice or assistance regarding campaign finance, ethics, lobbyist registration or public records issues. Campaign finance questions again topped all other issues among requests for advice and assistance (54 percent), mostly from treasurers, candidates, and law firms seeking to comply with campaign finance laws. Other questions come from City staff and officials, lobbyists, and members of the public regarding misuse of public resources, gift restrictions, conflicts of interests, and lobbying rules, to name a few.

CAMPAIGN FINANCE TRAINING

Commission staff proactively connected with candidates and committees early, often, and ongoing throughout the election season, including orientations for candidates as they initiated their campaign filings, as well as monthly reminders and trainings.
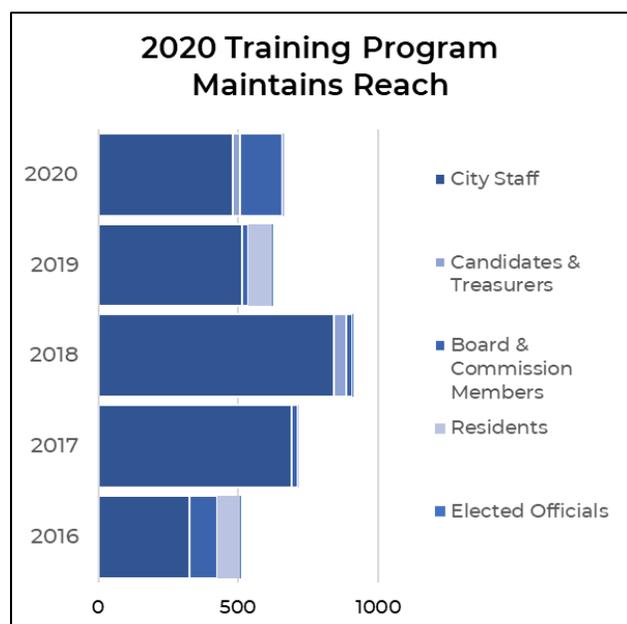
PEC staff partnered with the Fair Political Practices Commission in May 2020 to provide a joint, comprehensive candidate and treasurer training on on both state and local campaign rules, reaching 26 local candidates/committees.

Commission staff also provided public financing training to candidates and their campaign staff in August to promote participation in the 2020 Limited Public Financing (LPF) program for District City Council candidates. Sixteen candidates and/or campaign representatives

460 requests for information, advice or technical assistance

666 training participants

1,432 views of PEC online training content

Campaign Finance Tops 2020 Requests for Info, Advice and Technical Assistance

■ Advice ■ Information
■ Public records ■ Technical

2020 Training Program Maintains Reach

■ City Staff
■ Candidates & Treasurers
■ Board & Commission Members
■ Residents
■ Elected Officials
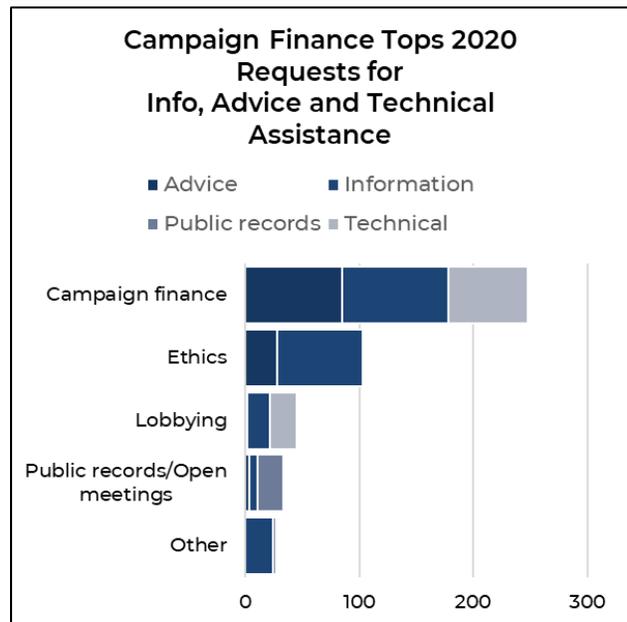
attended the training, representing 16 of the 17 City Council candidates certified to appear on the 2020 ballot.

ETHICS TRAINING

Commission staff provided ethics training through various avenues to reach the following target audiences:

- Newly elected officials during the first 90 days of taking office (State-required AB 1234 training and Oakland Government Ethics Act training);

- New employees participating in monthly orientation sessions provided by the City, for a total of eight presentations and 270 new employees in 2020;

- City staff supervisors (40 in total) received a more specialized, higher-level ethics training at the City's Supervisor Academy, which covers City policies and procedures, internal City systems, and leadership skills relating to day-to day-supervision;

- Board and Commission Members and staff received introductory ethics trainings, for a total of three Commissions and 100 board members and staff;

- City employees took the PEC's one-hour online Ethics Training for Form 700 Filers, available in the City's learning management system, Target Solutions, for a total of 148 in 2020. PEC staff also held three live, online trainings attended by 60 employees covering the same content; and

- 1,100 YouTube viewers watched the PEC's 10-minute ethics introductory video, and another 109 viewers watched the one-hour Ethics Training for Form 700 Filers in video format; another 75 viewers watched ethics training segments on specific topics such as Gift rules, conflicts of interests, misuse of City resources, and post-employment restrictions.

OUTREACH AND PUBLICATIONS

The Commission made substantial revisions to two comprehensive guides to assist the regulated community in complying with local laws: the Oakland Campaign Reform Act Guide and the Limited Public Financing (LPF) Guide. A new brochure outlining rules for lobbying Oakland City officials was also published to increase awareness of the Lobbyist Registration Program among potential lobbyists and City staff. PEC staff also published the ninth edition of its *Public Trust* newsletter highlighting the Commission's activities to keep the regulated community and the general public informed about the Commission's work. The PEC newsletter was distributed to 935 email subscribers and shared widely via social media and the Commission's website.

Before the shelter-in-place order, Commissioners and staff participated in two in-person events in January: a community roundtable with the City Auditor and a keynote presentation to the Alameda County Grand Jury Association on the PEC's five-year progress since the new City Charter amendment was adopted by Oakland voters in 2014.

DISCLOSE AND ILLUMINATE

The Commission's Disclosure Program aims to help candidates submit required data and ensure Oaklanders can easily access campaign finance and ethics-related data and information that is accurate, user-friendly, and understandable. The goal is for the public and the PEC to be able to 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.

1,200+ campaign and lobbyist disclosure reports processed

Over 67,000 views of disclosure content or data online[1]

10,000+ users of online disclosure tools

ILLUMINATING ETHICS DATA

The Commission collects, reviews, and provides public access to ethics-related data. As part of this responsibility, Commission staff works to put the information into formats that can be searched and displayed in easy-to-use data visuals made available for public viewing. Commission staff implemented three new tools to provide more meaningful public disclosure:

- **Lobbyist Disclosure Data –** As of 2020, Oakland residents have immediate online access to lobbyist disclosure data for the first time. In December, the Commission's public lobbyist dashboard and data page went live providing a searchable directory of Oakland lobbyists and enabling users to access lobbyist activity reports from the City's OakApps platform.

- **Show Me the Money App** – Commission staff implemented the interactive "Show Me the Money" application on the City's open data platform, OakData. The tool allows users to view the location of campaign contributors on a map and enables side-by-side comparisons of candidates' funding sources.

- **Open Disclosure** – Commission staff and Open Oakland volunteers launched the newly updated 2020 OpenDisclosure campaign finance app showing the flow of money in Oakland's March and November elections in an easy to understand, interactive format. New features implemented for the 2020 elections included an expanded donor search tool and election overview pages with key metrics. OpenDisclosure users increased 156 percent in 2020 over 2018 (8,166 compared to 3,192) and generated 36,099 pageviews.

FILING PROCESSES STREAMLINED

The Commission serves as filing officer for campaign finance and lobbyist disclosures. As part of this responsibility, Commission staff also work to move from paper-based to electronic filing systems to make the process easier for those who must submit the data and vastly improve internal and public access to the data contained within the reports. Modernizing filing processes to allow campaign and

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[1] Source: Google Analytics. Includes pageviews of the Public Ethics Commission Public Portal for Campaign Finance Disclosure, www.opendisclosure.io, and Show Me the Money application.

lobbyist filings to be submitted without any in-person contact became particularly important during the COVID-19 pandemic. Two major 2020 projects were:

- The new Lobbyist Registration and Reporting application went live in July 2020 on the City's OakApps platform. The application was developed by Commission staff in partnership with the Information Technology Department (ITD). The system is designed to make compliance with the disclosure requirements of the Oakland Lobbyist Registration Act simpler and more convenient for the regulated community and enables lobbyists to submit and manage all aspects of their registration and reporting requirements online.

- Staff worked with filing system vendor NetFile to implement a completely paperless, simplified submission process for campaign finance disclosure in time for the first major filing deadline in July. In addition, digital forms are now available for all local campaign disclosure forms.

ONLINE ENGAGEMENT AND OUTREACH

In 2020, Commission staff continued highlighting specific PEC policy areas, activities or client-groups via social media and saw a positive increase in followers and engagement with PEC-content ending the year with 1,462 followers. Social media generated more than 1,000 user engagements (likes, shares or retweets, clicks on links, and new followers).

Commission staff conducted user research in collaboration with the City's Digital Services department to improve discoverability of core PEC services on the City's service menu page without prior knowledge that the PEC is the service provider.

DISCLOSURE COMPLIANCE AND DATA

As Filing Officer, the Commission collects, reviews, and provides public access to ethics-related data.

Campaign Finance data includes candidate and ballot-measure campaign committee information, including contributions to and expenditures made by the committee during the election cycle. Oakland had 98 active political committees as of December 2020. Two Oakland elections were conducted in 2020, a special election on March 3 and the general election on November 3, 2020. As a result, there were six scheduled campaign statement deadlines this year. In all, staff processed and reviewed close to 1,000 campaign-related filings during 2020.

Political Contributions Solicited by City Officials – Effective July 1, 2019, any Oakland public servant required to file a Statement of Economic Interests (Form 700) who successfully solicits a political contribution of $5,000 or more from any person or entity that contracts or proposes to contract with the official's department must disclose the solicitation to the Public Ethics Commission within 30 days. Two solicited contributions were disclosed in connection with the November 2020 election. Both contributions were to the Committee for an Affordable East Bay and totaled $107,500.

Lobbying activity reports identify who is lobbying City officials and for what purpose. In 2020, 63 lobbyists registered with the City of Oakland representing over 100 clients. Oakland lobbyists reported $1,314,123 in payments from clients1 and a total of 678 contacts with City officials during the first three quarters of 2020. PEC staff provides targeted outreach and assistance to lobbyists to ensure compliance with registration and reporting requirements. Staff processed 200 quarterly lobbyist activity reports in 2019.

Behested Payments reports (Form 803) show who is donating to a nonprofit organization at the request or solicitation of an elected official. Elected officials who solicit such payments are required to file a Form 803 to report these payments if they amount to $5,000 or more. In 2020, the Commission received 38 filings reporting $16,541,009 in solicited contributions.

Statements of Economic Interests (Form 700) are filed with the City Clerk's office but are of high interest to the PEC in ensuring compliance with ethics laws that require reporting of personal financial information by City officials. Commission staff checks for elected official compliance with filing deadlines and provides education and advice regarding Form 700 filing.

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.

ENFORCEMENT OUTCOMES

By the end of 2020, the Commission resolved 44 cases and imposed $23,000 in fines (penalties). The 44 cases the Commission closed in 2020 were resolved as follows:
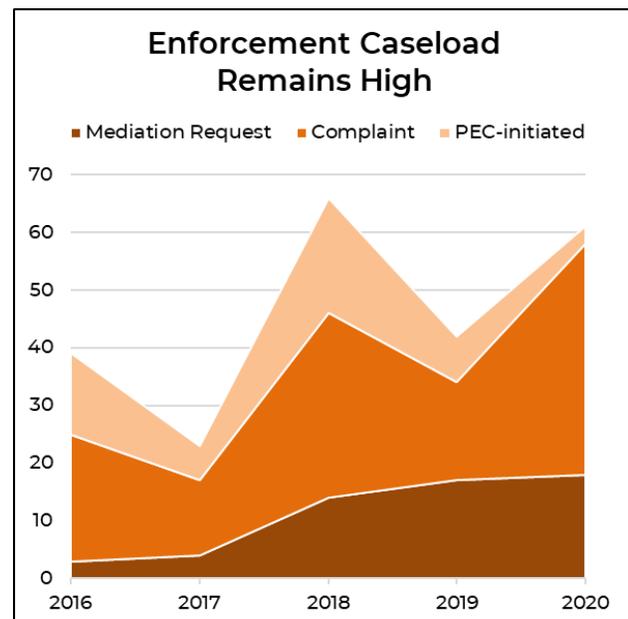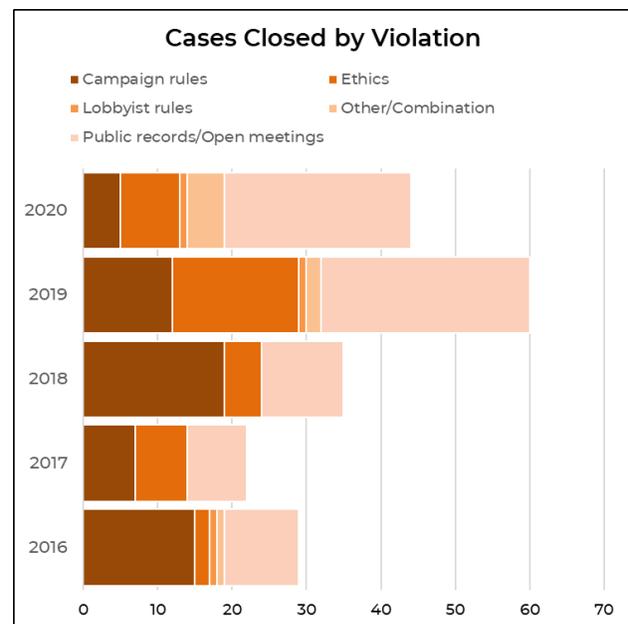
- Three fines, $23,000 in total penalties
- Five mediations completed (Public Records Requests)
- 36 complaints dismissed for lack of PEC jurisdiction, insufficient evidence that suggests any violation, or no violation following an investigation.

INCOMING CASES

Commission staff received or initiated a total of 42 allegations of potential violations in 2020. The total number of allegations reviewed or initiated in 2020 breaks down as follows: Commission staff received 39 formal complaints submitted by members of the public alleging violations of campaign finance, conflicts of interest, open meetings, public records, and other ethics-related laws; PEC staff opened 3 cases proactively based on hearing or reading of suspicious activities, receiving anonymous tips, or obtaining information from third parties.

MEDIATION CASES

The Commission's Mediation program seeks to resolve matters between any person whose request to the City of Oakland to inspect or copy public records has been denied, delayed or not

37 active investigations

44 cases resolved

$23,000 in fines imposed

Cases Closed by Violation

Enforcement Caseload Remains High

completely fulfilled. In year 2020, Enforcement received a total 19 requests for mediation and closed a total of five mediation cases.

While the Commission's Enforcement Unit maintains high productivity despite lack of staffing, the trend for the last several years shows an increase in incoming complaints and caseload. PEC staffing established by the 2014 Charter amendment was based on 2013 case levels. In the intervening years, staffing has remained the same while the PEC caseload has doubled[2], an issue that needs to be addressed to ensure the sustainability of a timely, effective enforcement program.

MAJOR ENFORCEMENT ACTIONS IN 2020

In the Matter of Michael Colbruno; Case No. 16-01. In January 2020, the Commission found that Mr. Colbruno failed to timely file lobbyist registration forms and quarterly reports in 2012, 2013, 2014 and 2015 in violation of the Oakland Lobbyist Registration Act. The matter had gone to a full administrative hearing back in November 2019, after which the Commission accepted the hearing officer's findings of facts and increased the fine from the proposed $5,250 to the final fine of $10,000 paid to the City General Fund.

In the Matter of Haydel and Lane Partners (Complaint No. 19-24). In March 2020, the Commission imposed a fine against Andrew Haydel and Lane Partners for making a $1,000 contribution to the Lynette Gibson-McElhaney Defense Fund at a time when they were subject to the City's ban on contributions from City contractors to candidates, in violation of Oakland Municipal Code section 3.12.140. Commission staff had initiated a pro-active investigation after Mr. Haydel's lawyer called to report the violation; staff initially proposed a $2,000 penalty by settlement but the Commission rejected the amount and voted to increase the fine to $5,000 paid to the City General Fund.

In the Matter of Dorian Gray; (Case No. 18-03). In July 2020, the Commission imposed a fine against Dorian Gray who offered to pay City Councilmember Larry Reid $10,000 and provide an all-expense paid trip to Spain for City employee Gregory Minor to secure a canabis permit for a business associate. City ethics ordinances prohibit anyone from offering a city employee or political candidate a gift "when it is reasonably foreseeable that the public servant or candidate could be influenced by the gift in the performance of an official act." The Oakland Government Ethics Act also bars anyone doing business or seeking to do business with the city from offering gifts to public servants. The Commission and the District Attorney entered into a joint settlement with the Gray, imposing criminal and administrative penalties, including an $8,000 fine paid to the City General fund.

In the Matter of Anthony Harbaugh (Case No. 18-11). In Novemer 2020, PEC staff brought to an administrative hearing evidence of a bribery and misuse of position scheme that involved Anthony Harbaugh, a City building inspector. Between January 2015 and December 2016, Mr. Harbaugh committed, participated in, or aided and abetted a fellow building inspector in committing multiple violations of the Oakland Government Ethics Act, including soliciting and receiving bribes; making, and seeking to use his official position to influence governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; and misusing his City position to induce/coerce others to provide him with and failing to report significant income from individuals with matters before him as a City building inspector. Following the November administrative hearing, the Commission imposed a fine of $55,000 payable to the General Fund. (Note: This fine was imposed in January 2021, so the amount is not included in the total fines imposed for 2020 as summarized in this report.)

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[2] Caseload counts encompass all matters handled by enforcement staff, which currently include complaints, proactive investigations, and public records request mediations.
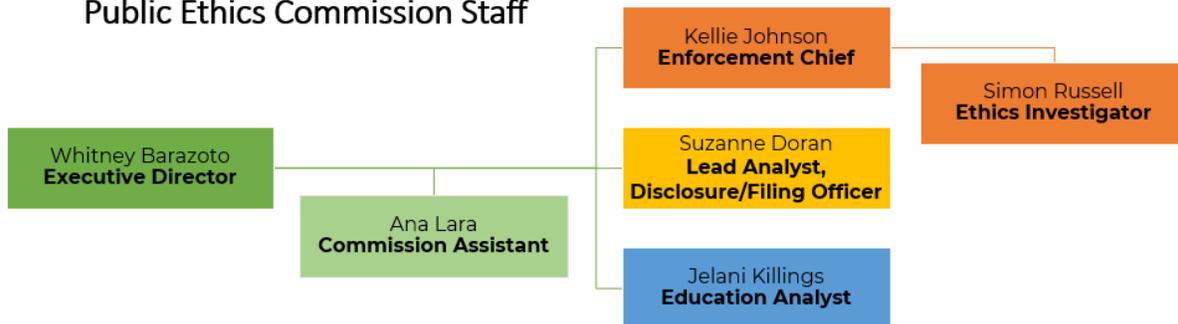
ADMINISTRATION

STAFFING

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. The COVID pandemic brought significant changes to the way staff and Commissioners interacted and conducted Commission business, including adjusting to working from home and providing services without in-person contact. Staff continue to participate in ongoing professional development, including opportunities through the Council of Government Ethics Laws, U.C. Berkeley, Alameda County Law Library, International Association for Public Participation, the City of Oakland, and Code for America.

7 volunteer Commissioners

6 fulltime staff

$1,300,237 2020-2021 budget

Public Ethics Commission Staff

Whitney Barazoto **Executive Director**

Ana Lara **Commission Assistant**

Kellie Johnson **Enforcement Chief**

Simon Russell **Ethics Investigator**

Suzanne Doran **Lead Analyst, Disclosure/Filing Officer**

Jelani Killings **Education Analyst**

BUDGET

The adopted budget for the Commission was $1,160,831 for Fiscal Year 2019-20 and $1,300,237 for Fiscal Year 2020-21. The latter includes a one-time augmentation of $100,000 for election-related services that was added for Fiscal Year 2020-21 in response to and in lieu of the additional two positions requested by the Commission for investigative and policy functions that cannot be addressed within current staffing capacity. This allowed the PEC to hire a temporary part-time investigator to join the enforcement team in November 2020 through June 30, 2021, and begin to recruit for a part-time analyst. However, in December the City Administrator announced a $62 million shortfall for the current fiscal year as well as hiring freezes on vacant positions, furloughs, and deferrals of salary increases for department heads, and a moratorium on temporary employees, among other reductions. As a result, the PEC had to forego filling the part-time analyst position.

2020 COMMISSIONERS

James E.T. Jackson, Chair
Commission Appointee 1/22/2018 - 1/21/2021

With more than 25 years in healthcare administration, James Jackson is the Chief Operating Officer of Seton Medical Center & Seton Coastside, part of the Verity Healthcare System. Prior to this role, he served as Chief Administrative Officer of San Leandro & Alameda Hospitals, as well as the Administrator of Fairmont Hospital, both part of the Alameda Health System. Previously, Mr. Jackson was a Support Services Assistant Administrator with Kaiser Foundation Hospitals in the Diablo Service Area and the Chief Operating Officer of Saint Francis Memorial Hospital in San Francisco, California. Prior to joining Saint Francis, he held several positions at Children's Hospital and Research Center in Oakland, California, where he ultimately served as the Vice President of Ancillary and Support Services. His career in healthcare administration began with his service in the United States Navy at the Naval Hospital in Oakland, California.

Mr. Jackson has served his community as a Big Brother, was the Chair of the African American Outreach program for the local American Diabetes Association chapter, and was named Volunteer of the Year. He served as the Chair of the Blind Babies Foundation, is a director with the San Leandro Chamber of Commerce, and serves on the Alameda Chamber of Commerce as well. A Bay Area native, Mr. Jackson holds a Master's Degree in Public Health from the University of California in Berkeley and a Bachelor's Degree in Economics from Morehouse College in Atlanta, Georgia. He lives in Oakland with his wife and two children.

Jill M. Butler, Vice Chair
City Attorney Appointee 11/13/2018 - 1/21/2021

Jill Butler is a Manager of System wide Human Resources at the University of California (UC) Office of the President. In this role, she manages a system-wide compliance policy that ensures Senior Management executives' outside activities do not pose a reputational risk nor Conflict of Interest or Commitment to the University. She is responsible for enforcing the policy and educating Senior Management executives, UC Regents and Human Resources staff at the University's ten campuses and medical centers.

Ms. Butler has over 10 years of public policy and legal experience having held Counsel and Legislative Affairs positions in the United States Congress, Social Security Administration and the American Federation of State, County and Municipal Employees (AFSCME). She graduated from U.C. Berkeley with a B.A. in Political Science, and she earned her J.D. from Seattle University School of Law.

Joseph Tuman
Mayoral Appointee 1/22/2020 – 1/21/2023

Joseph Tuman is a full-time university professor at San Francisco State University in First Amendment law, public speaking, critical thinking and argumentation, and debate. He has also taught at St. Mary's, the New School for Social Research in New York, and Paris II Law School in France.

Mr. Tuman received his B.A. in Political Science from UC Berkeley with Great Distinction and Highest Honors, his J.D. from Boalt Law, and was a McBane Moot Court Award winner. His law work included comprehensive evidence review and sorting of internal documents produced by tobacco companies re-advertising and marketing campaigns targeting children for class-action lawsuits filed by different states. His law work also included being the primary drafter of a successful Amicus Curiae brief to US Supreme Court in Reno v. ACLU in 1997.

He currently serves as an academic advisor to the North Atlantic Treaty Organization (NATO) regarding terrorist use of social media, symbolism a, nd counter-messaging as counter-terrorism. Mr. Tuman advises NATO senior staff (Generals and Admirals) 1-2 times a year. He has also served as a political analyst for all major television networks, and many of the largest newspapers in the US since 1984. He co-authored with Professor Douglas Fraleigh "Freedom of Expression in the Marketplace of Ideas (St. Martins, New York: 1998), and the second edition "Freedom of Expression in the Marketplace of Ideas," (Sage, Atherton: 2010). He is an author and senior editor of numerous books and academic journals, which include "Political Communication in American Campaigns," (Sage, Atherton: 2004) and "Communicating Terror: The Rhetorical Dimensions of Terrorism" (Sage, Atherton: 2003 and 2011).

Mr. Tuman was born in Dallas, Texas, and raised in the San Joaquin Valley. He has lived in Oakland since 1984 and ran twice for Mayor of Oakland.

Nayeli Maxson Velázquez
Commission Appointee 1/22/2019 - 1/21/2022

Maxson Velázquez is the Chief Executive Officer of the Alliance for Community Development, an Oakland-based not-for-profit dedicated to economically empowering local residents, increasing access to capital for underrepresented entrepreneurs and small business owners across the Bay Area.

Prior to joining the Alliance, Ms. Maxson Velázquez worked on political campaigns in California and Nevada, and worked for elected officials at the federal, state and local levels. She has completed the Coro Center for Civic Leadership's Public Affairs Fellowship and the Woodhull Institute for Ethical Leadership program. Ms. Maxson Velázquez formerly served on the Community Development Block Grant Board for Oakland's Central District and currently serves on the Board of Directors for Resilient Wellness (a local organization focused on providing holistic, trauma-informed care through innovative healthcare models) and on the Advisory Board for Oakland Grown (a membership organization of Oakland small businesses and organizations who support them).

Ms. Maxson Velázquez holds a Juris Doctor in Government Law and Social Justice from UC Hastings College of the Law, a Bachelors Degree in Psychology from UC Santa Cruz, a Certificate of French Fluency from Universite de la Sorbonne, and a Certificate of Intermediate Spanish from Ixchel Spanish School.

Janani Ramachandran
Commission Appointee - 1/22/2020 - 2/2/2021

Janani Ramachandran is third-year law student at Berkeley Law. A native of Alameda County, she graduated from Stanford University in 2014, receiving honors from the Center for Democracy, Development, and Rule of Law. Janani began her career at a large community health clinic, working as a home-visiting case manager for low-income immigrant mothers. She later founded and managed the clinic's first domestic violence advocacy program, where she conducted trainings for staff and partner agencies, supervised crisis workers, and launched public outreach campaigns. Janani is currently a Board Director at two local nonprofits, Family Violence Appellate Project and Men Creating Peace.

During her time at Berkeley Law, Janani has externed for the Honorable Judge Tara Flanagan, and has worked with East Bay Community Law Center on eviction defense cases, and with Bay Area Legal Aid on representing survivors of domestic violence. She founded Berkeley Resistance Against Inter-Partner Violence (BRAIV), which advocates for survivors by conducting court-observations, and by hosting campus educational programs. Janani was previously a summer fellow at the Ford Foundation, and at the Hewlett and Flora Family Foundation, where she worked on-site with civil society organizations in Haiti, Gujarat, and Bangalore. Janani has also pursued her advocacy through performing arts, and has devised original theater productions and music with the goal of catalyzing community action on various social justice issues.

Jerett Yan
City Auditor Appointee 1/22/2019 - 1/21/2022

Jerett Yan is an attorney with Hanson Bridgett LLP in San Francisco where he provides litigation and advisory services to public entities. In that capacity, he currently serves as a deputy city attorney to the City of Millbrae and an investigator for the San Jose Board of Fair Campaign and Political Practices, where he advises on matter relating to public ethics, transparency, elections, and campaign practices. He also has particular expertise in public works contracting, public ethics, and civil rights compliance.

Mr. Yan has previously served as an an attorney adviser to the US Environmental Protection Agency's Office of Civil Rights, where he investigated claims of discrimination in environmental permitting practices, a law clerk with the Superior Court of California, County of Los Angeles, and an Americorp VISTA in Chicago as a tenant organizer with the Metropolitan Tenants Organization.

Mr. Yan holds degrees from UC Berkeley School of Law and Northwestern University.

City of Oakland
Public Ethics Commission

Race for Power:
How Money in Oakland Politics
Creates and Perpetuates Disparities
Across Income and Race

September 2020

Public Ethics Commission
1 Frank Ogawa Plaza (City Hall), Room 104
Oakland, CA 94612
www.oaklandca.gov/pec
ethicscommission@oaklandca.gov
(510) 238-3593

Public Ethics Commission CITY OF OAKLAND

Race for Power:

How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race
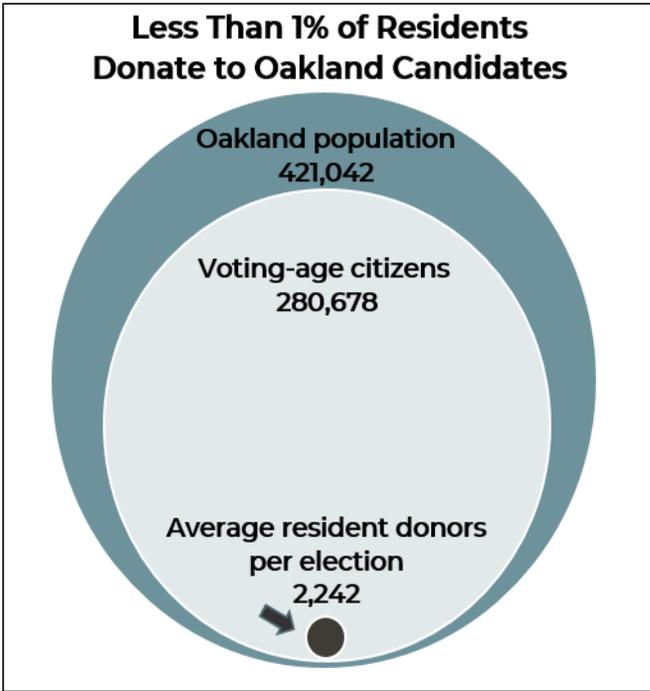
Contents

EXECUTIVE SUMMARY

As a leader in social justice and civic involvement, Oakland is, in many ways, rich in dialogue and action when it comes to authentic democracy. Yet the City lacks an effective approach to ensuring the campaign process is equally robust in providing Oaklanders with meaningful opportunities to participate in the process of selecting its City leadership. Big money is essentially a prerequisite for winning office; local candidates who have the most financial support typically win and must rely on donors to provide financial resources needed to run an effective campaign. This reliance on money as the driving force means winners are selected and policy may be shaped by those who can contribute to political campaigns. Campaign data shows that less than half of campaign funds come from Oakland residents, only a tiny fraction of Oaklanders make contributions to candidates for political office, and that fraction is more concentrated in the whitest and wealthiest neighborhoods within the City. This system results in clear inequities in participation for people of color and low-income communities.

In 1999, Oakland created a then-new system of providing funds to candidates seeking elective office with the goal of reducing the influence of money in politics and diversifying the pool of candidates running for office, among other aims. At that time, public funding of elections, combined with contribution limits and other restrictions, was the go-to solution to the concern that contributions can have a corrupting influence on candidates and officeholders.

More recently, with advances in civic engagement practices, heightened attention to user-centered design, and expansion of racial and socio-economic equity work, innovative Cities are adopting creative solutions to involve more of their residents in City government. In the campaign finance world, these new approaches to civic engagement and equity provide opportunities to engage and empower voices that historically have been left out of the political process and, ultimately, to diversify and equitably expand participation in campaign and civic life.

Less Than 1% of Residents Donate to Oakland Candidates

Oakland population
421,042

Voting-age citizens
280,678

Average resident donors
per election
2,242

This report evaluates outcomes from Oakland's existing public financing program and overall campaign finance system, articulates the ways in which some Oaklanders lack political power, explores current trends and best practices across jurisdictions and subject-matter fields, and recommends a new approach for Oakland to expand and diversify participation and influence in the campaign process. Oakland must intentionally disassemble its existing campaign finance system that results in disproportionate participation, leaving out people of color and low-income communities, and instead build a civic-engagement infrastructure and political leadership evaluation, recruitment, and selection process that facilitates broad, inclusive, meaningful, and equitable engagement by all Oaklanders.

OAKLAND CAMPAIGN FINANCE OUTCOMES

The Oakland Public Ethics Commission (PEC or Commission) is charged with, among other things, implementing and enforcing campaign finance, ethics, and transparency laws, and conducting reviews of these laws to determine whether changes to City ordinances are necessary. The Commission makes recommendations to City Council regarding changes in policy and law to ensure effective implementation and successful outcomes.

State and local campaign finance laws were designed to reduce the influence of money in politics by placing limits on contributions, requiring the disclosure of campaign contributions and expenditures on campaign forms, and ensuring that campaign materials include disclosure statements that identify who provided significant funding to pay for those materials, among other provisions. Oakland's existing system of public financing further provides limited financing to candidates running for City Council district seats, with the aim of achieving the goals listed in the sidebar on this page. These local laws, when passed, attempted to address the problem of money in politics:

1. First, the **Oakland Campaign Reform Act**, adopted in 1999, limits the amount of spending on City campaigns by allowing candidates to raise donations in substantially larger amounts if they agree to limit their overall campaign spending. It also imposes contribution limits on persons giving money to candidates running for local elective office and requires electronic filing of campaign contributions and expenditures to illuminate the flow of money through political campaigns.

2. Second, the **Limited Public Financing Act**, adopted in 2001, aims to lessen the fundraising burden on candidates and enhance competition by giving candidates some public funds for their campaigns in the form of reimbursements for campaign spending, so long as they meet certain criteria.

OAKLAND'S CAMPAIGN FINANCE POLICY GOALS

The stated purposes of the Oakland Campaign Reform Act and Limited Public Financing Act are as follows:

A. Ensure that all individuals and interest groups in our City have a fair and equal opportunity to participate in elective and governmental processes;

B. Reduce the influence of large contributors with a specific financial stake in matters under consideration by the City, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland;

C. Limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

D. Reduce the advantage of incumbents and thus encourage competition for elective office;

E. Allow candidates and elected City officials to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community;

F. Ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns; and

G. Help restore public trust in governmental and electoral institutions.

Oakland Campaign Reform Act, OMC Section 3.12.030; Limited Public Financing Act, OMC Section 3.13.030.

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The general framework for these laws was forward-thinking at the time they were passed; however, with advancements in laws and practices in cities and states across the nation, the Commission now reviews outcomes produced by the current system to assess whether changes are necessary to better meet Oakland's goals.

Existing Laws Produced Some Benefits

A PEC-initiated review of Oakland's Limited Public Financing (LPF) program conducted in coordination with the UC Berkeley Goldman School of Public Policy in 2013 concluded that, as of that time, the LPF program had not reduced the influence of large contributors in local elections. The program also had not reduced the pressure faced by candidates to fundraise, nor led to an increase in the number of candidates pursuing local office. It had, however, resulted in more competitive races – both in the number of contested races and incumbent margin of victory – and led to non-incumbent candidates who received public funds performing better across the board than non-incumbent candidates who did not receive public funds. The review further noted that Oakland's LPF program did not increase the number and power of small donors after it became a reimbursement program in 2010.[1] Lastly, the LPF program does not – and cannot – decrease the influence of large donors in local elections, due to the United States Supreme Court decision in Citizens United, which restricts government from limiting independent expenditures made by persons or committees not coordinating with a candidate.[2]

While the 2013 review evaluated whether the LPF program was meeting its stated goals, more recent reviews look at the other side of the power scale. Rather than focusing on reducing the influence of money in politics, these later assessments – to be discussed below – aim to understand how the system can increase power for all people to engage meaningfully in the process of selecting City leaders to enhance equity, expand civic participation, and create a more authentic democracy.

Campaigns Need Money, Seek out Wealthy Donors

Unfortunately, the current system requires candidates to raise a significant amount of money to pay for campaign costs such as campaign materials, signs, mailers, postage for mailings, campaign staff and consultants. As a result, campaigns seek out contributions from wealthy donors since those are the individuals who can afford to give money. This issue was explored in a second PEC-initiated review conducted in coordination with the UC Berkeley Goldman School of Public Policy in 2018 to evaluate the LPF program through an equity lens. The review sought to explore the demographics of those who participate in campaigns and identify barriers to political participation in the selection of City leaders.[3]

The 2018 review highlighted the source of contributions made to candidate campaigns (wealthier donors) as well as the target of candidates' campaign outreach (prior/high propensity voters), and it concluded that the result is a system that leaves out low-income communities and communities of color who donate and vote at lower rates than wealthier, whiter communities. This system is self-perpetuating, such that candidates are incentivized to continue to focus on engaging wealthier donors

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[1] *Evaluating Oakland's Limited Public Financing Act*, Greg Gonzales, Goldman School of Public Policy, UC Berkeley, Spring 2013. Up until 2010, the LPF program was a matching fund program in which the City matched, dollar-for-dollar, the first $100 of every Oakland-based contribution.
[2] See *Citizens United v. Federal Election Commission*, 558 U.S. 310 2010.
[3] *Enhancing Political Engagement in Oakland: Barriers and Solutions*, Dyana Mardon, Goldman School of Public Policy, UC Berkeley, Spring 2018.

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– who are already engaged in the political process and who have money to give – over communities with less access and lower engagement in the City's political process.[4]

The problem is that this need for money does not naturally "incentivize candidates to listen to their potential constituents; rather, it incentivizes candidates to seek out wealthy donors."[5] This is reflected in the advice that campaign consultants often provide to candidates to raise money in the hills of Oakland to pay for sending advertisements to residents in the flatlands.[6]

Not only is the system set up to prefer wealthy and high propensity voters, but the people who lead and manage campaigns also naturally play a role in deciding how to conduct campaign fundraising or marketing. Local candidates and campaign workers have voiced concern about campaign consultants who guide campaigns to spend the vast majority of energy and resources on high propensity voters – people who vote in every election every time – because, consultants say, that is how you win an election.[7]

FEEDBACK FROM CANDIDATES AND CAMPAIGN WORKERS IN THE FIELD

Candidates and campaign workers speak up about traditional campaigning:

"As a candidate for office in Oakland, sitting and former councilmembers and mayors alike advised me to secure a professional consultant who had experience consulting Oakland candidates who won their election," said Nayeli Maxson Velázquez, former candidate for City Council in 2018. "These consultants are expensive to hire. After I had secured one such consultant, the pressure to fundraise became overwhelming. Although my original vision was a grassroots door-to-door campaign, the pressure from consultants and from prospective endorsers to fundraise in order to establish viability made it difficult to protect time for me, the candidate, to knock on doors. My time was deemed by the experienced elected officials and professionals I spoke with as better spent on the phone raising money from those who had funds to donate than spent on speaking with prospective voters at the door. After months of prioritizing raising money over canvassing voters, I found it difficult to stay connected to the residents I was seeking to represent and had to push back on consultants, simply raise fewer funds, and had less money to spend on online ads and mailers during the final push of the campaign."

"This method of campaigning further disenfranchises voters who are Black and of color," said Elika Bernard, former Regional Organizing Director for a presidential campaign in Northern California. "What it does is maintain a system that keeps wealth and political power in white communities. In my almost five months of campaigning I made thousands of phone calls. In those thousands of phone calls, I only spoke with one Black woman. I questioned senior leadership as to why this kept happening. Their response was that if people don't engage with campaigns then their information won't be in [the campaign consultant vendor's voter information data system]."

Nationally, only one percent of campaign consultants are people of color, said Chuck Rocha, of Solidarity Strategies, upon the launch of the National Association of Diverse Consultants. "The lack of diversity among our elected officials and the top aides who help them win office impairs their ability to understand the diverse perspectives in their districts. If we are more intentional about the way that we ensure diversity in political campaigns, public offices and the rooms where decisions are made, it will transform the way that political leaders show up during moments of crisis. It is also how we can effect change that is inclusive and meaningful."

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[4] *Id.*
[5] *Enhancing Political Engagement in Oakland: Barriers and Solutions*, Dyana Mardon, MPP, Spring 2018, p. 4. Citing Lioz, Adam, "Stacked Deck: How the Racial Bias in Our Big Money Political System Undermines Our Democracy and Our Economy," Demos, 2014.
[6] Comments made by Dyana Mardon, summarizing interviews with local candidates during her research for *Enhancing Political Engagement in Oakland: Barriers and Solutions*, Dyana Mardon, MPP, Spring 2018.
[7] Comments provided to Commission staff by Nayeli Maxson Velázquez, candidate for Oakland City Council District 4 in the 2018 Election, along with other candidates throughout the course of the Commission's review.

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Campaign Data Reveals Racial and Income Disparities

Campaign finance data[8] shows that campaign donors are overrepresented in areas of the City that are disproportionately wealthy and white and non-representative of the racial and socioeconomic diversity of Oakland residents overall.[9]

Over half of contributions from Oakland residents (52 percent) come from neighborhoods in just four zip codes (94611, 94610, 94618, and 94612). Over 80 percent of Oaklanders live in zip codes that are ethnically and racially diverse.[10] However, campaign data from Oakland's 2014, 2016, and 2018 election cycles shows that 42 percent of contributions made to Oakland candidates came from the three Oakland zip codes that are comprised of residents with the highest median household income in the City. Additionally, the data shows that these same zip codes contain over a 50 percent white population.[11]

Election Cycles 2014, 2016 and 2018

Over Half of Oakland Campaign Donors Clustered in Four Zip Codes

Oakland Contributions — 1% to 18%

Campaign Donors Concentrated in Majority-White Neighborhoods

Non-white Residents — 31% to 96%

Campaign Donors Concentrated in Wealthiest Neighborhoods

Median Household Income — $38,591 to $156,116

DATA SOURCE: Campaign Statements filed with the City of Oakland for candidates on 2014, 2016 and 2018 ballots; U.S. Census Bureau; 2018 American Community Survey 5-Year Estimates, Tables B03002, B19001 and B19013; generated by PEC staff using https://api.census.gov; Last accessed 24 July 2020.

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[8] The Oakland campaign finance data used for this report comes from the City of Oakland Public Ethics Commission Public Portal for Campaign Finance and Lobbyist Disclosure, data from most recent filings for the years 2013 – 2019, last accessed 5/21/19. Oakland campaign committees submit campaign finance data according to the deadlines and reporting requirements of the California Political Reform Act.
[9] Oakland demographic data cited in this report comes from American Community Survey (ACS) 2018 5-Year Estimates. The ACS is an ongoing survey by the U.S. Census Bureau.
[10] For the purposes of this report, diverse zip codes are defined as U.S. Census Bureau Zip Code Tabulation Areas with 50 percent or more of the population identifying as "Hispanic or Latino" or a race other than "White Alone." DATA SOURCE: U.S. Census Bureau; American Community Survey, 2018 American Community Survey 5-Year Estimates, Tables B03002; generated by PEC staff using https://api.census.gov; Last access 24 July 2020.
[11] *Id.*

The three zip codes in Oakland, mentioned above, with a majority of white residents and the highest household incomes (94611, 94618, 94610) contributed over $1 million to candidates in the last three City elections, while residents in the City's three most diverse zip codes (94601, 94603, 94621) contributed just over $136,000. This data further highlights the fact that donors are concentrated in the wealthiest and whitest Oakland neighborhoods.

Moreover, zip code 94611, which includes Montclair and parts of the Oakland Hills, is home to just 9 percent of Oakland's total population but is the source of 18 percent of all contributors over $100 from Oakland residents (400 donors per election on average). Sixty-four percent of residents in that zip code are white, and the median household income is almost double that of Oakland households overall.[12]

In contrast, the similarly sized zip code 94603, which includes East Oakland, is comprised of a population made up of 96 percent people of color and households with a median income below that of Oakland overall. Here, the donors accounted for just 1 percent of all Oakland contributions of over $100 (21 donors per election on average). All told, zip code 94611 contributed 18 times the amount to City candidates as zip code 94603 did in the last three elections.

Non-Oaklanders Hold Political Power

Across the 2014, 2016, and 2018 elections, roughly half of all contributions to Oakland candidates came from outside of Oakland. Contributions coming from outside of Oakland are quite common across all campaigns, and some receive an even higher proportion of outside funds.

Candidates for Council District seats not only receive most of their funds from non-residents, most of their Oakland donors are not district residents,[13] and overall elections in districts with larger low-income communities of color, such as Districts 3, 6, and 7, receive more outside funding. During the 2016 District 7 election, for example, 65 percent of itemized contributions came from individuals, businesses, or committees based outside of the City. Just seven percent of contributions came from district residents.

Less Than Half of Contributions Come from Oakland Residents

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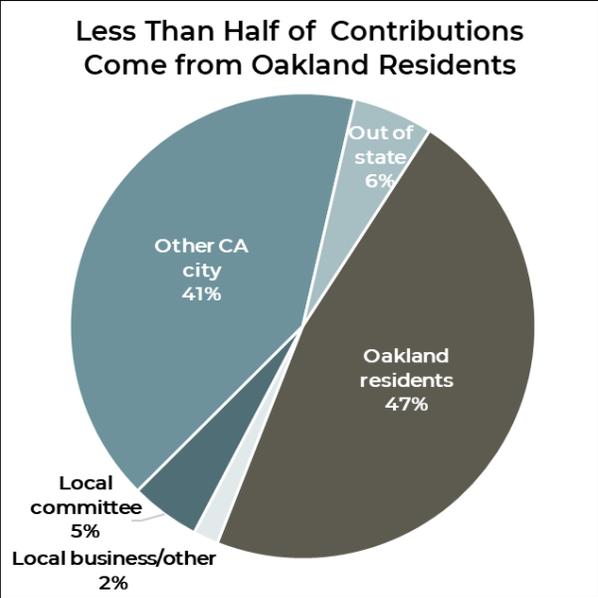
[12] *Id.* Median household income for Oakland residents was $68,442 in 2018.
[13] Geospatial analysis by PEC staff. Data for Oakland campaign contributions was geocoded using TAMU GeoServices, a service of the Texas A&M University Department of Geography, which provides free geographic information processing services to researchers to assist in geospatial-related research and data processing, analysis, and visualization. Goldberg DW. 2019. Last accessed 5/22/2019.

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Campaign Donors or Independent Spenders Choose Who Wins Elections

The fact that the donor class is not fully representative of Oaklanders is a problem because political giving can provide access and influence elected officials. In addition, candidates who raise the most money in campaign contributions almost always win in Oakland elections, meaning those who contribute to a candidate's campaign – and help their choice candidate win – are the ones who actually get to choose City leaders.
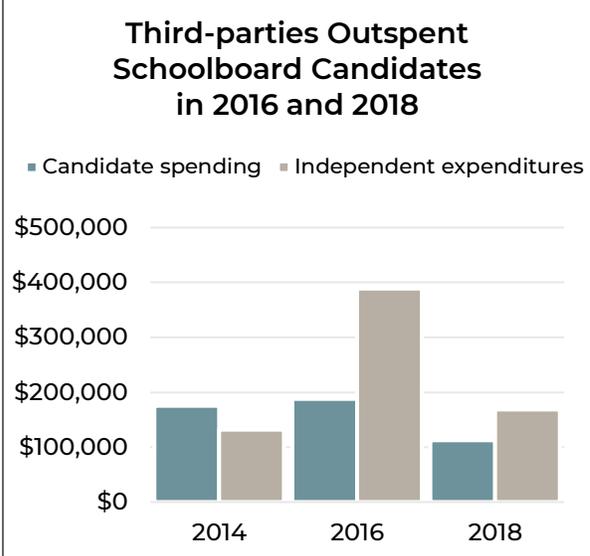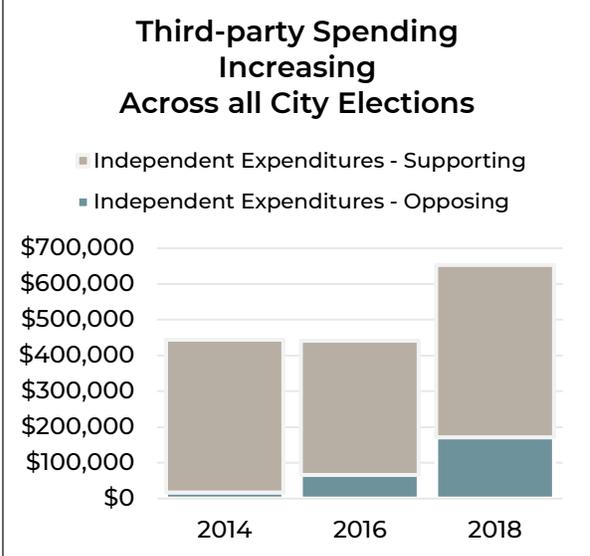
In Oakland, those who raise the largest amount of money in campaign contributions, or who receive the benefit of independent expenditures spent to support them or oppose their opponents, typically win their race for elective office.

Across the 2014, 2016, and 2018 elections, 92 percent of the seats were won by the candidate who received the most in contributions and/or had the most supporting independent expenditures.

Independent expenditures, or expenditures made in support of or opposition to a candidate running for office paid for by individuals or committees that are separate from a candidate's campaign committee, are increasing with each election cycle and have become particularly influential in Oakland Unified School District Board races. For example, a single political action committee outspent candidates, spending over $600,000 in independent expenditures during the 2014, 2016, and 2018 elections. During that time, six out of the nine candidates supported by the PAC won their respective races for the seven-member board.

Campaign Donors May Influence Policy Outcomes

The above dynamics result in certain groups having greater influence over campaigns; this in turn has substantive impact on government decisions such as policy outcomes, argues UC Berkeley Goldman School of Public Policy student Brooke Barron. Barron looked further at voting and contribution rates from low-income communities and people of color as part of her work for the American Civil

Winning Candidates Average Higher Total Contributions

- ■ Winning candidates
- ■ All candidates

Third-party Spending Increasing Across all City Elections

- ■ Independent Expenditures - Supporting
- ■ Independent Expenditures - Opposing

Third-parties Outspent Schoolboard Candidates in 2016 and 2018

- ■ Candidate spending
- ■ Independent expenditures

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Liberties Union (ACLU) of Northern California, in collaboration with Bay Rising, California Common Cause, Every Voice, and MapLight.[14] This 2018 review cited multiple authorities concluding that policy outcomes depend on who engages in the political process.[15]

While Barron describes political participation as inclusive of voting, donating, protesting, volunteering for a campaign, contacting elected officials, and running for office, her research found that elected officials and candidates for office are most responsive to two groups: voters and political donors. The latter group, political donors, is more influential, as research cited by Barron indicates that elected officials are more responsive to donors' interests and priorities than voters,[16] and that non-constituent donors have more influence on policymakers than constituent non-donors.[17]

Political scientist Martin Gilens shows that when federal policy preferences diverge by income level, "the views of the affluent make a big difference, while support among the middle class and the poor has almost no relationship to policy outcomes," and identifies the upper-income group's disproportionate status as donors as an explanation. "When people participate in the political process through voting and donating to political campaigns, they gain access to and influence over policymakers," Barron concludes. "Policy change requires political engagement."

Campaign Finance System Perpetuates Distrust in Government

The above disincentives and political realities are both exacerbated by and contribute to the level of distrust in government – which the Commission heard from community leaders is more prevalent in low-income neighborhoods and communities of color.

Political scientists studying racial efficacy, the perception that American institutions and society operate and disburse justice in a racially equitable manner, found that Black Americans with low feelings of racial efficacy are less likely to vote and feel less politically efficacious, more political mistrust, and greater feelings of alienation than do white people.[18]

"Trust is a luxury that many people of color do not enjoy."
—*Mary Li, Multnomah Idea Lab*

"Trust is a luxury that many people of color do not enjoy," said Mary Li of the Multnomah Idea Lab during a presentation on systems change through an equity lens.[19]

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[14] *Building Political Power through Policy Reform in Oakland*, Brooke Barron, MPP, August 2018.
[15] *Id.* Citing Martin, Paul and Michele Claibourn. "Citizen Participation and Congressional Responsiveness: New Evidence that Participation Matters." *Legislative Studies Quarterly*, January 2013. And Griffin, John and Brian Newman. "Are Voters Better Represented?" *Journal of Politics*, 2005. And Barber, Michael. "Representing The Preferences of Donors, Partisans, and Voters in the U.S. Senate," *Public Opinion Quarterly*, 2016.
[16] Barber, Michael. "Representing the Preferences of Donors, Partisans, and Voters in the U.S. Senate," *Public Opinion Quarterly*, 2016.
[17] Rhodes, Jesse and Brian Schaffner. "Economic Inequality and Representation in the U.S. House: A New Approach Using Population-Level Data." April 7, 2013. Canes-Wrone, Brandice and Nathan Gibson. "Senators Responsiveness to Donors versus Voters." Prepared for SSRC Anxieties in Democracy Conference. Princeton University. October 2016.
[18] Matt Barreto, Jonathan Collins, Gregory Leslie, Tye Rush. "Perceived Racial Efficacy and Voter Engagement Among African Americans: A Cautionary Tale from 2016." March 2018. Using date from the African American Research Collaborative survey. Also citing prior research by Hughes and Demo 1989, Bobo and Gilliam 1990.
[19] *Lessons in Systems Change Through and Equity Lens, Stanford Social Innovation Review Webinar, December 12, 2018. Verbal comments made by Mary Li.*

The Need for Change

To recap, Oakland's existing campaign finance system gives donors from outside of Oakland and Oakland residents in wealthier, whiter neighborhoods disproportionate influence in choosing elected officials and potentially shaping policy outcomes over everyone else. Campaign finance data shows nearly half of all donors to Oakland campaigns reside outside of the City while Oakland residents who do fund campaigns are usually from neighborhoods that are primarily wealthy and white. In a city like Oakland, where the candidate with the most funds behind them almost always wins, this means low-income residents and people of color are disproportionately missing from the political campaign decision-making process.

This is an equity issue.

For Oakland to live its values and embrace a local democracy built on principles of equity and inclusion, it must structure its campaign process so that candidates from all backgrounds can run for office and realistically win and so that the voices of low-income residents and people of color matter.

NEW PARADIGM NEEDED FOR EQUITABLE ENGAGEMENT

While Oakland's existing campaign finance and public financing laws focus mostly on the problem of big money in politics, modern trends in a variety of good government disciplines inspire new thinking about both the end goals as well as the methods used to achieve them. Rooted in theories of social justice, public participation, racial equity, and user-centered design, enhancing meaningful and productive civic engagement should be the focus of efforts to redesign our campaign process here in Oakland. The new system should be designed to ensure that the diverse array of Oaklanders are the ones who can influence the selection of City leaders and, potentially, policy outcomes.

Equity Demands Intentional Restructuring of Systems

Democracy in America was founded on principles of equality and equal representation, but in the 21st century, "one person, one vote" does not do justice to the individual, institutional, and structural racism that has occurred throughout our nation's history. The data discussed in prior sections of this report clearly show disparate political engagement outcomes based on race, geographic location, and socio-economic status.

Equity, not just equality, requires that we understand and resolve structural gaps so that race, income, or socio-economic status does not "predict success, and we have successful systems and structure that work for all."[20] Racial equity means "we no longer see disparities based on race and we improve results for all groups."[21] Equity practitioners advise that, in order to appropriately address racial inequities, we must identify racial barriers to participation and seek out input from those who have been marginalized in the current system.[22]

> *"We believe that in order to disrupt our nation's deep and pervasive inequality of opportunity and results, generate new possibilities for community ownership of government, and establish a new narrative for a truly inclusive democracy, it is essential to transform government."*
> —*Government Alliance on Race & Equity*

Oaklander Input

The Public Ethics Commission attempted to solicit input from Oaklanders in 2018 to gather preliminary information about potential barriers to participation in the political process. Commission staff partnered with U.C. Berkeley Goldman School graduate student Dyana Mardon in the Spring of 2018 to create an online survey of political participation beliefs and activities by Oaklanders.[23]

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[20] Advancing Racial Equity and Transforming Government: A Resource Guide to Put Ideas into Action, Local and Regional Government Alliance on Race & Equity, p. 15, www.racialequityalliance.org, accessed in 2017.

[21] Racial Equity: Getting to Results, Local and Regional Government Alliance on Race & Equity, p. 5, May 2017.

[22] Jacque Larrainzar, Policy Analyst with the City of Oakland's Department of Race and Equity, speaking to the Commission at its subcommittee meeting on June 11, 2018

[23] The link to the survey went out to all PEC email lists, website and social media platforms, including Twitter, and Facebook, as well as the City of Oakland's main NextDoor account. Individuals and organizations that asked to receive communications about the PEC's campaign finance project also received a direct email and invitation to send the survey link along to their friends and organization members.

By June 2018, the PEC received 526 online survey responses, reflecting a group of disproportionately white (69 percent of respondents), older (60 percent were 55 or older), and higher income individuals (45 percent reported incomes of over $100,000). By comparison, whites make up roughly 28 percent of Oakland's population, Oakland residents who are 55 and older comprise 24 percent of the population, and 35 percent of Oaklanders make over $100,000.[24] Only 12 percent of online respondents identified as Black/African American, 6 percent Asian, 6 percent Hispanic/Latino/Latina, less than 1 percent American Indian, and the rest reporting either Native Hawaiian/Pacific Islander, other, or two or more races.

Because this initial round of online outreach yielded responses from a predominantly-white, older and wealthier cohort, Commission staff then partnered with Open Oakland and California College of the Arts volunteers to conduct in-person surveys of people attending community events around Oakland that yielded a predominantly African American survey group. This second survey phase yielded 66 responses, reflecting 45 percent identifying as Black/African American, 30 percent white/Caucasian, 8 percent Asian, 3 percent Hispanic/Latino/Latina, 1.6 percent Native Hawaiian/Pacific Islander, and 11 percent identifying as two or more races. Twenty-nine percent of in-person respondents were in the 35-49 age bracket, 24 percent were 25-34, 21 percent were 50-64, 10 percent 45-54, 8 percent 65+, and 6 percent 18-24, and the rest were under 18. Income ranges were evenly split among all categories between 10-20 percent, except for the income range of $30-60,000 representing the most respondents at 25 percent.

These survey results, while not statistically representative, provide at least a glimpse of some of the sentiments of Oaklanders on the issue of participation in campaigns and elections. This was a helpful first step in hearing from Oaklanders; however, much more community engagement is needed to solicit input from a broader, more diverse range of residents.

Overview of Survey Responses

Of the online respondents, 45 percent said they have donated to an Oakland candidate's campaign and 35 percent have volunteered for a candidate's campaign. In-person respondents were similar, with 50 percent saying they donated to an Oakland candidate's campaign, and 31 percent saying they have volunteered for a candidate's campaign.

A hefty 86 percent of online respondents said they believe that money influences who is elected, 74% said that money influences political outcomes, and 72 percent said that money influences the amount of access a person might have to an elected official in Oakland. Of the online respondents, 28 percent of white respondents said candidates and elected officials do not care about their concerns, compared to 44 percent of online respondents who identified as people of color and said candidates and elected officials do not care.

In-person respondents agreed even more strongly with statements about the influence of money in elections, political decisions, and access to officials. Most notably, 89 percent of in-person respondents believed that money influences who is elected, 94 percent believed money influences how officials make political decisions in Oakland, and 83 percent believed money influences the amount of access someone might have to an elected official in Oakland.

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[24] U.S. Census Bureau; American Community Survey, 2018 American Community Survey 5-Year Estimates, Tables DP05 and B19001; generated by PEC staff using https://api.census.gov; Last accessed 24 July 2020.

Desire for More Information

In terms of potential solutions, the online survey posed a list of seven ideas to encourage broader and more diverse political participation, with respondents favoring the availability of more and better information about local candidates, including information about contributions and independent expenditures made to support or oppose candidates as well as information about how their elected official has voted on issues that are important to them. For example, 78 percent of online respondents were interested in seeing information that displays legislative vote history for incumbent City Council members, with 23 percent choosing this option as their first choice among a list of seven options, 31 percent as their second choice, and 24 percent as their third choice. Online responses also reflected significant interest in candidate debates to encourage broader and more diverse political participation.

The in-person surveyors altered this question to simplify it for easier consumption and instead asked whether the respondent agreed that the option would help them determine who to support in a local election. In-person responses showed similar interests in having access to better information about local candidates at their fingertips, being able to look up how their elected official has voted on issues that are important to them, and seeing who makes contributions and independent expenditures in support of candidates. In-person respondents also favored candidate debates as helpful to determine who to support.

This survey, while offering some idea of political involvement and feedback from Oaklanders, provides merely a small sampling of viewpoints regarding Oaklander's current practices and potential thoughts about barriers and potential advances in political engagement in Oakland. Certainly, more work should be done, particularly by local non-profit entities with a focus on reaching traditionally disenfranchised communities, to understand barriers and incorporate these realities into better design of our local democratic systems.

DESIGNING THE SYSTEM FOR EQUITY

The design of the political engagement system is paramount to ensuring successful outcomes toward our policy objectives. In light of the problems articulated above, and in consideration of the evolution of equity, public participation, and political reform work in recent years, this section aims to provide an overview of best practices and new ideas to inspire work that could move Oakland forward. The goal is to create a campaign process that actually produces a more equitable system and ensures all of Oakland's communities are involved in recruiting, evaluating, and selecting their City leadership.

Democracy Dollars Incentivize Broader Engagement in Seattle

What if every Oaklander received $100 from the City to contribute to a candidate of their choosing? Seattle residents overwhelmingly adopted such a measure in 2015 by approving a ballot measure to create a Democracy Voucher Program, the first program in the nation to provide public funds directly to citizens to spend on the candidate of their choice. Starting in 2017 for two at-large council seats and the City Attorney race, Seattle residents received four $25 checks from the city that they could give to their selected candidate(s). Participating candidates who want to redeem the City payments must meet certain requirements, such as agreeing to accept only contributions of $250 or less, gather a threshold number of signatures and small contributions, and limit their overall campaign spending.

So far, the following benefits have been reported from Seattle's new system:

- **Contributors Tripled** – Data from Seattle's first election cycle with vouchers in 2017 showed the number of campaign contributors tripled from the comparable election cycle for the same races in 2013, with more than 25,000 Seattle residents participating as campaign donors in 2017, three times the 8,200 resident donors in 2013.

- **New Contributors** – Roughly 84 percent of the 2017 election cycle's Seattle donors were estimated to be new donors; including about 20,900 individuals who

HONEST ELECTIONS SEATTLE

Initiative 122, passed by Seattle voters on November 3, 2015, declared that the "peoples' initiative measure builds honest elections in the City of Seattle" and "prevents corruption, by giving more people an opportunity to have their voices heard in our democracy" and "ensuring a fair elections process that holds our elected leaders accountable to us by strengthening voters' control over City government…" The measure further imposed contribution limits, revolving door rules, and disclosure requirements on candidates for elective office.

The initiative, now codified as Seattle Municipal Code Chapter 2.04, outlines the process for issuing and redeeming Democracy Vouchers and assigns the administration of the program to the Seattle Ethics and Elections Commission. Four $25 vouchers are to be delivered to each registered voter on the first business day of every municipal election year and may be completed and submitted by mail, in person, or electronically to the candidate, the candidate's designee, or the Seattle Ethics and Elections Commission.

For a candidate to be able to receive voucher funds, the candidate must register for the voucher program, participate in three public debates, comply with campaign laws and spending and contribution limits ($250 for Council and City Attorney candidates, $500 for Mayoral candidates), and may not solicit contributions to any committee making independent expenditures.

Using a Democracy Voucher is a public act, and information about the assignment, use, and tracking of vouchers is publicly available to prevent forgery, fraud, or misconduct.

had not contributed to city candidates in the 2015 or 2013 cycles. And 71 percent of these new donors were voucher donors.[25]

- **More Representative Contributors** – An academic review of Seattle's voucher program in 2018 found that "compared to cash contributors in the 2017 election, participants in the Democracy Voucher program were generally more representative of the Seattle electorate. Low and moderate-income residents comprise a substantially larger share of voucher users than cash donors. Voucher users are more likely than cash donors to come from the poorest neighborhoods in the city. Residents under 30 years old make up a larger share of voucher users than cash donors."[26]

- **Earlier and More Participation in 2019** – In the first two months that vouchers were distributed by the city between February and April 2019, with all seven Seattle city council seats up for election in November 2019, more than 11,000 Seattle residents had redeemed their vouchers, which is already more individual donors participating in city campaigns in all of 2015 before vouchers existed.[27] By the end of the 2019 election, 38,092 residents returned more than 147,128 Democracy Vouchers for a total disbursement of $2.5 million in public financing.[28]

Cash in the Hands of All Voters Changes Candidate Behavior

Candidates who ran in Seattle's first iteration of its voucher system experienced an entirely new framework for campaigning. Since every voter now had campaign "cash" to give to a campaign, all voters became the target of campaign outreach efforts. Under the new system, candidates were incentivized both to educate voters about how to use their own vouchers and to ask them to give their vouchers to support the candidate.

For example, Teresa Mosqueda, a former labor activist who is third-generation Mexican-American and the daughter of educators and social justice activists, ran under the new voucher system for the at-large district 8 City Council seat in 2017. She said the new system incentivized candidates to go out and talk to every voter, so that is how she focused her campaign.[29] "The democracy vouchers encourage candidates to spend time talking with actual residents, rather than asking wealthy donors to write large checks," said Mosqueda about her campaign experience. "I spent my evenings and weekends in neighborhoods around Seattle talking about the issues we care about." Mosqueda won her election to office with a 20-point lead and tipped the Seattle City Council toward a majority of people of color and a supermajority of women. "Candidates like me, who pledged to use democracy vouchers and refuse donations over $250, were more connected to the city's diverse population," she added. As a result, she said, she spent her "first eight months in office bringing forward legislation that comes directly from community — from domestic workers protections to affordable housing solutions."[30]

The new system also can change behavior for candidates who do not participate in the voucher program but who run against candidates who do. For example, one Seattle nonprofit leader shared

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[25] First Look: Seattle's Democracy Voucher Program, Reducing the Power of Big Money and Expanding Political Participation. Win/Win Network and Every Voice. P. 2. November 15, 2017.
[26] Jennifer Heerwig and Brian J. McCabe. Expanding Participation in Municipal Elections: Assessing the Impact of Seattle's Democracy Voucher Program. University of Washington, Center for Studies in Demography & Ecology. P. 1. April 3, 2018.
[27] Seattle's Democracy Voucher Program is Already Sparking a Lively Election Season. Margaret Morales. Sightline Institute. April 23, 2019.
[28] Seattle Ethics and Elections Commission. Democracy Voucher Program Biennial Report 2019. P. 5.
[29] Teresa Mosqeuda. Seattle City Councilmember. Speaking at the Bay Area Political Equality Collaborative Convening. January 23, 2018.
[30] Teresa Mosqueda. *I'm Still Paying Off My Student Loans — Here's How I Funded My Campaign (And Won)*. Bustle.com, August 14, 2018.

his observation that Jenny Durkin, the winning mayoral candidate in the 2017 election who did not use the voucher system to fund her campaign opted to join in candidate forums that started to pop up in communities that previously were not the target of campaign efforts, simply because the new voucher availability in those communities drew the voucher system candidates there and she needed to stay competitive by being in the room with the other candidates. Durkin won, and she later hired staff into her Mayoral administration that she met in those new communities which, without the voucher system in place pushing the other candidates to reach out to those communities, she would never have encountered.[31]

Outreach Efforts Are Critical to Building Community Engagement and Promoting Vouchers

While the voucher system was significant as the first of its kind in the country, also significant is the level of community outreach specifically intended to engage communities of color into the campaign finance process, conducted parallel to the implementation of the voucher system. These civic engagement programs – some woven into the voucher program and others separate from it – provided a strong network of infrastructure that helped bridge different communities in a way that enhanced success of the program and other organizations with shared civic participation goals.

As part of the voucher program implementation, the Seattle Ethics and Elections Commission (SEEC), charged with administering Seattle's Democracy Voucher Program, created an Advisory Committee to ensure a variety of local community organizations are involved in the implementation of the program – specifically, to provide staff with input on program and policy design, participation and access for diverse communities, outreach and education, and user testing.[32] With guidance from the Advisory Committee, staff conducted focus groups for user testing of the design of the voucher and the messaging and communications strategies of the program. Feedback from the focus groups went into the final design of the voucher and the informational material that went out to voters, as well as other communications elements.[33]

Community Liaisons Connect and Build Trust

The Seattle Ethics and Elections Commission partnered with the city's Department of Neighborhood Community Liaisons to implement outreach with communities of color to connect residents with City services and ensure that they have every opportunity to participate. Between August and October 2017, Community Liaisons conducted personal outreach at events, door-to-door, and via social media to Somali, Hispanic/Latino, African American, Chinese, and Vietnamese communities.[34] The City of Seattle had created Community Engagement Coordinators and Community Liaisons as part of a new strategy of bringing an equity focus to engaging communities – whether in civil rights advocacy or elections issues – that incorporated a people-centered approach to reaching communities through trusted sources or leaders at the neighborhood level who could help connect people to the City and

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[31] Aaron Robertson. Managing Director, Policy and Civic Engagement. Seattle Foundation. Interview August 17, 2018.
[32] Seattle Ethics and Elections Commission. Democracy Voucher Program Biennial Report 2017. P. 21. Advisory Committee member organizations included Sightline Institute, League of Women Voters, Chief Seattle Club, LGBTQ Allyship, The Seattle Public Library, Latino Community Fund, King County Elections, Asian Counseling and Referral Service, Washington Democracy Hub, Washington CAN (Community Action Network), Municipal League of King County, Washington State Public Disclosure Commission, Win/Win Network.
[33] Seattle Ethics and Elections Commission. Democracy Voucher Program Biennial Report 2017. P. 9-10.
[34] Seattle Democracy Voucher Program Evaluation, BERK Final Report for the City of Seattle Ethics and Elections Commission. P. 11. April 25, 2018.

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its services. These efforts included trainings, ambassador academies, and small stipends for liaisons, among others.[35]

In addition, Seattle's Neighborhood Service Centers and Customer Service Bureau, all of which act as "little city halls" in a variety of locations throughout the City, were convenient drop-off locations that also made City staff available to members of the public to answer questions and educate visitors about their vouchers and the program.[36]

Lastly, Seattle Ethics and Elections Commission staff also conducted general outreach to various communities, including distributing communications via website and social media, translating materials in 15 languages, and providing 47 presentations and 57 tabling events between July 2016 and November 2017.[37]

Nonprofit Sector Working to Empower and Raise Capacity of Individual and Community Influence

Concurrently to the SEEC Community Liaison work, the Seattle Foundation and King County Elections (King County includes the City of Seattle) partnered in 2017-18 to work with dozens of community-based organizations to increase the participation of under-represented communities in the broader democratic process. They partnered again to create the Voter Education Fund and other initiatives to invest over $400,000 in community-based organizations to help remove barriers to voting in diverse communities. Other initiatives included grants for peer learning and technical assistance to strengthen grantee abilities to have meaningful influence over systems and policies, as well as grants to fund partnerships that increase the civic voice and participation of underrepresented communities.[38] These programs, among others, grew out of the Seattle Foundation's rebuilding of their grantmaking model in the past several years to focus on racial equity, impacting upstream or "root cause" policy or systems rather than focusing on effects, and creating enabling systems for communities of color to have greater influence over decisions – and decision-makers – that impact them.[39]

While difficult to measure, the combination of these programs flourishing alongside Seattle's voucher system likely helped influence the outcomes experienced in Seattle and should be something Oakland should consider if the City adopts a voucher-style financing program.

Small Dollar Matching Programs Offer Another Alternative for Reform

A more common public financing model is a small-dollar matching funds system as adopted by New York City, Los Angeles, and more recently, Berkeley. Matching funds systems lift up the comparative power of small donors by using government funds to "match" contributions up to a certain amount from donors meeting certain criteria. For example, New York City operates a matching funds system for city elections that will match the first $175 raised from a city resident at a rate of six-to-one, i.e. with $1,050 in additional public funds to the candidate. That means spending time seeking a $100 donation

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[35] Jacque Larrainzar, Policy Analyst, City of Oakland Department of Race and Equity, former Policy Director, City of Seattle

[36] Seattle Democracy Voucher Program Evaluation, BERK Final Report for the City of Seattle Ethics and Elections Commission. P. 12. April 25, 2018.

[37] Seattle Democracy Voucher Program Evaluation, BERK Final Report for the City of Seattle Ethics and Elections Commission. P. 7. April 25, 2018.

[38] Seattle Foundation. https://www.seattlefoundation.org/communityimpact/Center-Community-Partnerships/vibrant-democracy. Accessed August 17, 2018.

[39] Aaron Robertson. Managing Director, Policy and Civic Engagement. Seattle Foundation. Interview August 17, 2018.

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from a city resident is just as valuable as spending time seeking a $700 donation from an out-of-state lobbyist.

Candidates participating in the New York City matching funds system must meet specific eligibility requirements and thresholds, such as a certain number of $10 donations, expenditure limits, and caps on the total amount of public funds received. The match is only provided for contributions raised within New York City, thus incentivizing candidates to fundraise from the people they will eventually represent.[40]

The system has effectively changed the incentives for New York City candidates when fundraising. Multiple studies have found that the system has (1) increased the number of small donors, (2) increased the proportion of candidates' fundraising that comes from small donations, and (3) increased the socioeconomic, geographic, and racial diversity of the donor pool.[41]

One Brennan Center study compared New York City's 2009 City Council elections (which used the matching funds system) with New York State's 2010 Assembly elections occurring in the same geographic location (New York state does not have matching funds), reasoning that this was the same political geography, the same constituents, and the same pool of potential donors. In New York City elections, almost 90 percent of the city's census block groups were home to at least one donor, showing residents were engaged in local politics across the city. By contrast, in the State Assembly elections, only 30 percent of the city's census block groups had a donor living in each home.[42]

FIGURE 4. DONORS WHO GAVE $1-175 TO CANDIDATES FOR THE NEW YORK STATE ASSEMBLY (2010) AND CITY COUNCIL (2009) BY CENSUS BLOCK GROUP.

The graphic to the right shows how donations were more distributed under the matching funds system, as reflected in the breadth depth of colors across the district.[43]

Matching funds are already in use across California. The City of Los

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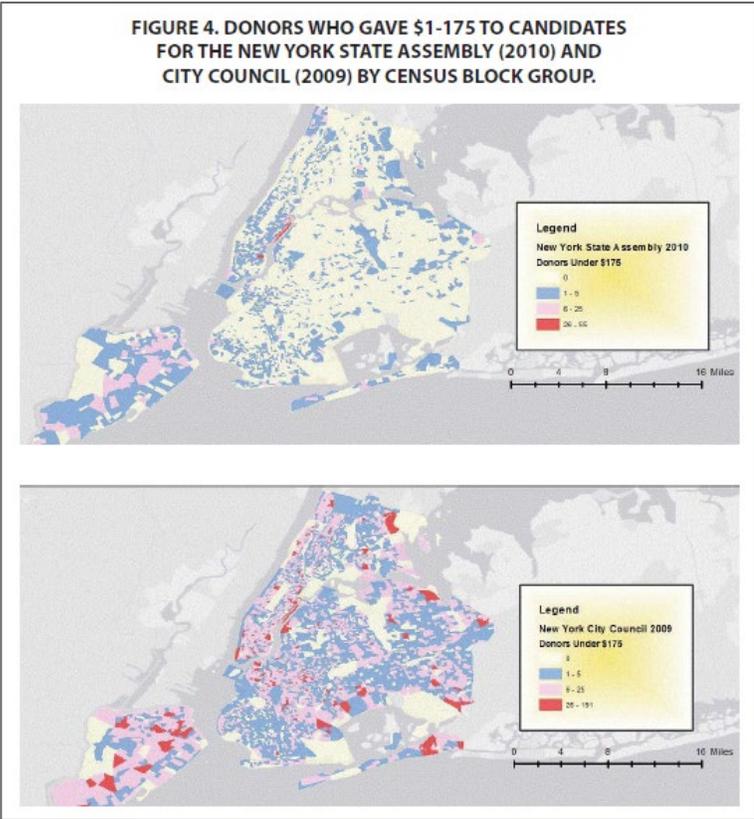
[40] The thresholds number of donations that must be raised and the spending limits that must be followed all differ by office sought.
[41] Michael Malbin, et. al., "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States," *Election Law Journal*, Volume 11, Number 1, 2012. Elisabeth Genn, et. al., "Donor Diversity Through Public Matching Funds," Brennan Center for Justice, May 2012. Michael Malbin, et. al., "Would Revising Los Angeles' Campaign Matching Fund System Make a Difference?" The Campaign Finance Institute, Sept. 2016.
[42] Elisabeth Genn, et. al., "Donor Diversity Through Public Matching Funds," Brennan Center for Justice, May 2012.
[43] Michael Malbin, "Citizen Funding For Elections," The Campaign Finance Institute, 2015.

Angeles operated a one-to-one matching system for years, which was increased in 2013 to a two-to-one match in primary elections and a four-to-one match in general elections, and is now a six-to-one match system.

In 2016, the City of Berkeley's voters adopted via initiative a matching funds system that closely mirrors New York City's six-to-one system, except that instead of requiring participating candidates to abide by an expenditure limit, Berkeley requires participating candidates to limit all donations accepted at $50, essentially making it impossible for a Berkeley candidate participating in the matching funds system to be influenced by a direct donor.

San Francisco, Sacramento, Long Beach, and Richmond all use some version of a matching funds system, but match at lower rates.[44] It does not appear that the results found in New York City elections are replicated when a city uses a low match, such as one-to-one.

Matching programs differ from voucher programs in that individuals still need to provide the initial contribution, albeit a small amount, in order to trigger distribution of additional funds to the candidate. Vouchers, by contrast, are provided to everyone in the City in a manner that intends to provide equity across the board.

Innovative Data and Information-Sharing Empowers Communities

The above reforms, and particularly the voucher system, aim to enhance participation by incentivizing candidates to seek out contributions from all residents, not just the wealthy. In addition, innovations in civic engagement and technology enhance participation by illuminating the activities in and around government in a way that provides information and access at one's fingertips so those who are participating can make informed decisions about who can best represent them. Mobile phone applications, online resources, community events, and in-person tutorials are some of the ways cities can provide more and better information about candidates, and in turn, invite and empower individuals to participate in the process in an easier and more effective manner.

Innovative online tools provide new ways of accessing information and data in user-friendly formats developed for easy viewing of what was previously unavailable online or in any electronic form. For example, Oakland's Open Disclosure application, designed by OpenOakland volunteer coders and designers in partnership with the Public Ethics Commission, displays local campaign funding data in a way that is easy to consume by an everyday resident. The application also links to VotersEdge, a broader state platform designed by Maplight and the League of Women Voters of California Education Fund that provides a comprehensive, nonpartisan online guide to elections covering federal, state, and local races across California. Oakland voters can therefore get consolidated information about candidates, ballot measures, and campaign finance information in one virtual place.

While Oakland leads other cities in its availability of campaign finance data, the City does not collect and publish City councilmember vote history data online. As mentioned earlier in this report, 78 percent of online survey respondents (and similar representation by in-person survey respondents)

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[44] For more information about public financing systems around California, see Nicholas Heidorn, "California Municipal Democracy Index," California Common Cause, December 2016.

expressed interest in such information as helpful in determining whether to support the incumbent candidate or a new candidate for that seat.

Empowering Communities Through Effective Public Engagement

Leading practitioners in public engagement note that traditional ideas about the "public square" are out of date. The traditional expectation was that information should go out first and that people needed to be educated and then they would become politically involved. "Instead of a linear progression from education to involvement," they argue, "public life seems to seethe and spark with connections and reactions that are often unexpected and always hard to map."[45] Practitioners now instead ask "how to bring 'new voices' – meaning young people, poor people, recent immigrants, and people of color – into the public square."[46]

It is important to consider different types of engagement, including "thick" engagement, which occurs mainly in groups – either face-to-face, online, or both – and consists of dialogue, deliberation, and action planning, versus "thin" engagement by individuals – usually online – that is easier, faster and potentially more viral.[47] The new online environment is seen as both transformative and yet still not equitable and empowering for people of color, low-income people, and other marginalized groups.[48]

In addition, more attention must be given to questions of infrastructure and how institutions ought to operate, including serving as potential intermediaries or platforms that can collect and organize big data, and curate and interpret that data for its community.[49] To help communities build new public squares that facilitate equitable technological interaction and meaningful personal network connections, thought leaders suggest focusing on the following four questions:[50]

1. What kinds of infogagement [information plus engagement] infrastructure and institutions at the community level would support the best flow of news, information, and engagement?

2. How can such an infrastructure support a high level of democratic engagement across the community, especially for people who have borne the brunt of past injustices and inequalities?

3. What should be the complementary, constructive, yet independent roles of journalists, public officials, and technologists?

4. What are the core democratic skills needed by people in each of these professions, and how can we provide them?

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[45] Infogagement: Citizenship and Democracy in the Age of Connection. Matt Leighninger. Philanthropy for Active Civic Engagement. September 2014. P. 1.
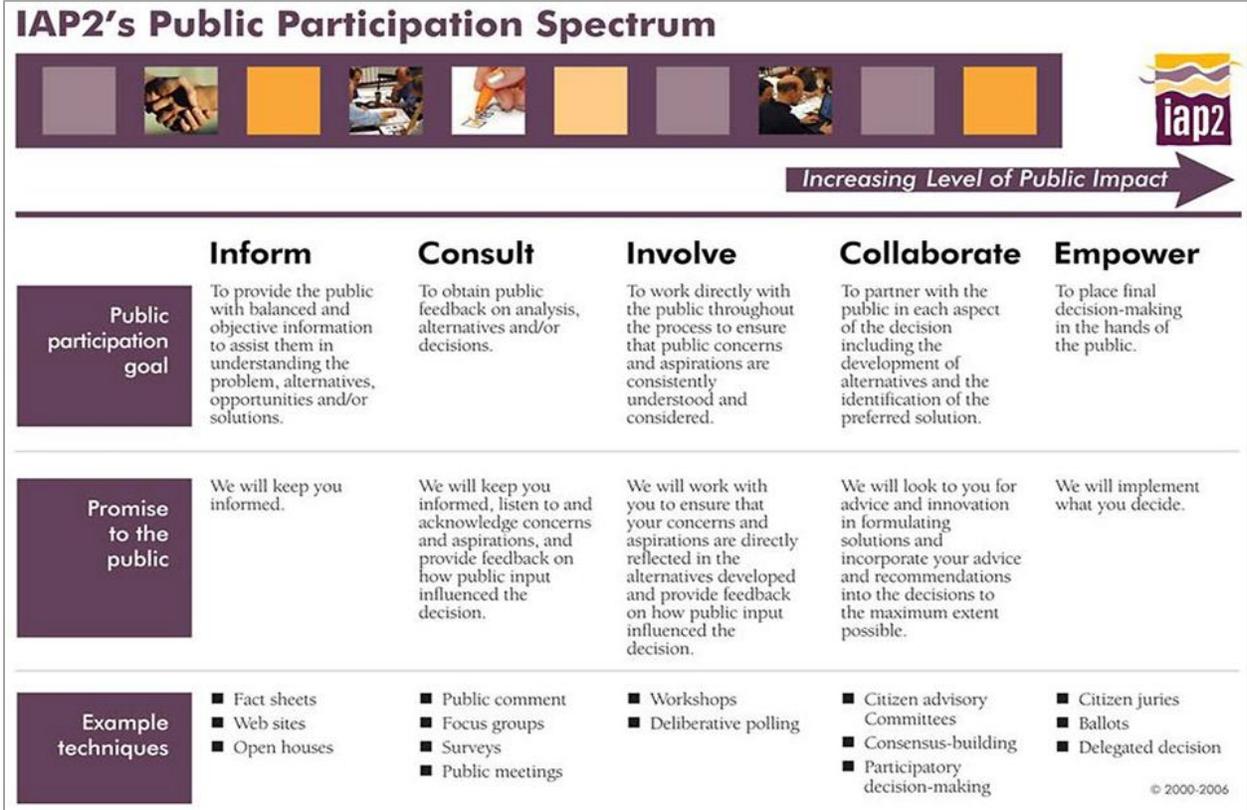[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.* P. 1, 2, 12.
[50] *Id.* P. 3.

The Public Ethics Commission published a collaborative transparency report in 2014 to help guide the City toward a more advanced approach to opening up City government, not just by making records more accessible but also by expanding the way the city proactively involves, collaborates, and empowers its residents. The Commission highlighted the International Association of Public Participation's spectrum of participation as follows:[51]

IAP2's Public Participation Spectrum

Increasing Level of Public Impact

	Inform	Consult	Involve	Collaborate	Empower
Public participation goal	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
Promise to the public	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
Example techniques	■ Fact sheets ■ Web sites ■ Open houses	■ Public comment ■ Focus groups ■ Surveys ■ Public meetings	■ Workshops ■ Deliberative polling	■ Citizen advisory Committees ■ Consensus-building ■ Participatory decision-making	■ Citizen juries ■ Ballots ■ Delegated decision

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Innovative cities are pushing the envelope on moving their organizations toward the "Empower" end as much as feasible, depending on the issue and level of public impact of a decision. Oakland should keep this empowerment-oriented framework in mind as it considers how best to design a new public financing system.

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[51] *Toward Collaborative Transparency,* January 2014, Public Ethics Commission, citing the International Association of Public Participation Spectrum, which was reprinted with permission from the IAPP.

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CONCLUSION

Oakland's system of campaign finance, which drives the selection of City government leaders, is ripe for redesign. The goal of this report was to identify areas where the City's current public financing system fails to achieve its intended objectives and to explore alternatives to the current system that could produce better outcomes for Oakland. Based on the above research, the Commission makes the following findings:

1. Outcomes produced by the current system show significant disparities in who has influence in the selection of City leadership and, potentially, the resulting decision-making process. While this concept of certain individuals and groups having outsized influence is nothing new, the data now provides clear evidence of the disparities and a foundational benchmark that can be used to measure improvement.

2. A system of providing Democracy dollars (like the Seattle Democracy Voucher Program) shows the most promise for bringing equity to the campaign finance process since it equips all voters with campaign "cash" to contribute to campaigns, thereby incentivizing candidates to engage across demographics regardless of wealth and history of prior engagement.

3. A Democracy dollar system must be accompanied by broad public engagement infrastructure-building efforts, similar to those created in Seattle, to ensure a fertile ecosystem of candidates and community leaders, connections between City liaisons and communities, effective communications and outreach, and other elements needed for successful integration of a new system of broader and more diverse participation.

In addition to the above findings, the Commission recommends the City explore the following ideas as part of reforms that could further develop a more authentically democratic process:
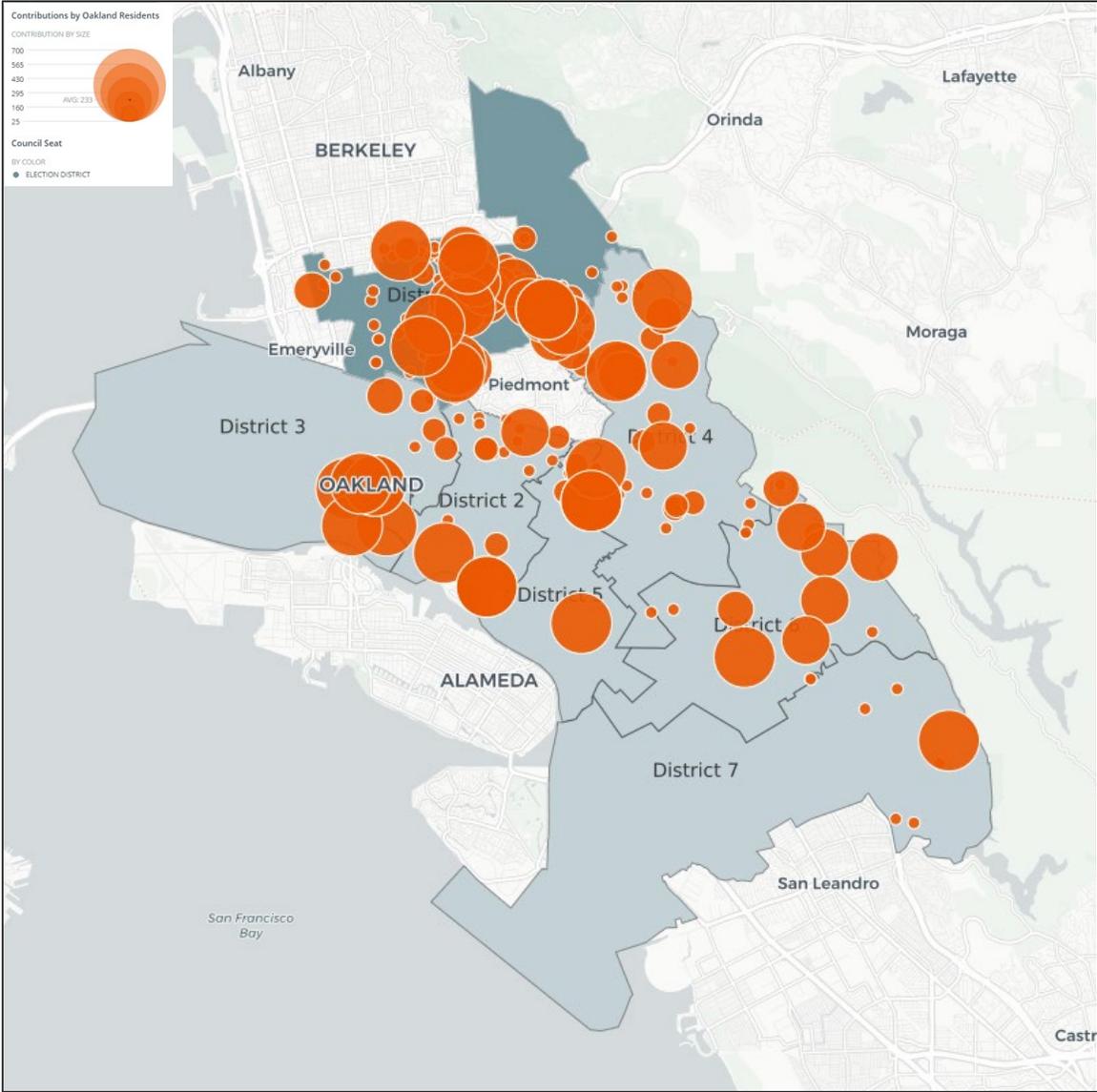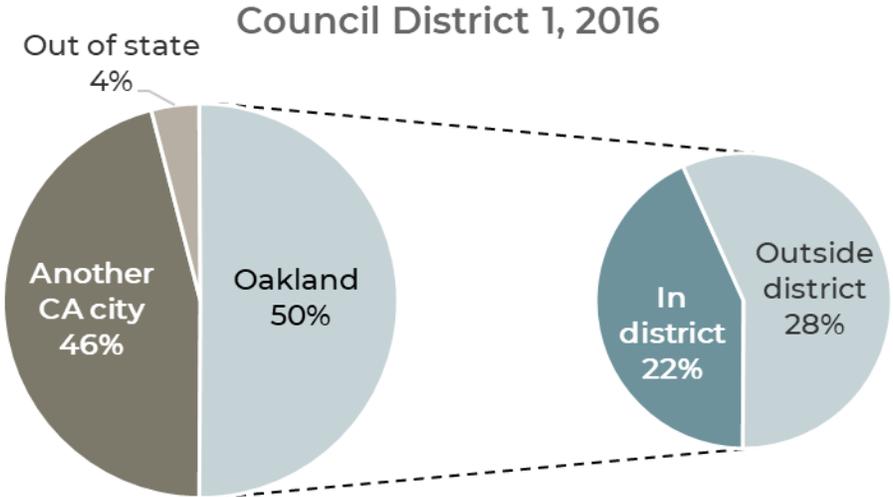
1. **Candidate support** – Providing candidates with more resources, support, and a platform for communicating would reduce a candidate's need to fundraise to pay for the costs of campaigning, thus lessening the big money side of the scale and lifting the public participation side. Resources and support may include offerings such as a "how to run for office" workshop for first-time candidates, a recording opportunity to make a 30-second campaign video through the City's KTOP recording studio, a 30-minute recorded interview option where a neutral moderator interviews each candidate with the same set of questions and the City posts all candidate interviews online, and a website platform available to each candidate, along with training on how to set up a campaign website and initiate fundraising. Alameda County also should consider providing voter data to candidates at no cost so candidates can initiate voter outreach without having to use campaign funds to pay the cost of acquiring this public information (or paying consultants to purchase it).

2. **Candidate information hub** – Survey respondents expressed interest in seeing more trustworthy information, from neutral sources rather than from campaigns themselves, regarding candidates running for office so they have the tools to assess a candidate's performance and potential as a City leader. The Commission currently partners with Open Oakland, the city's Code for America brigade of volunteer civic technology coders and designers, to provide a consolidated and easy-to-use website for information about who is funding and supporting candidate and ballot measure campaigns in Oakland. The City and its partners should consider how to produce, offer and share more content about candidates

running for office more widely and in a manner that is meaningful to residents, particularly low-income communities and people of color. Candidate forums should be video-recorded and made available for online viewing.
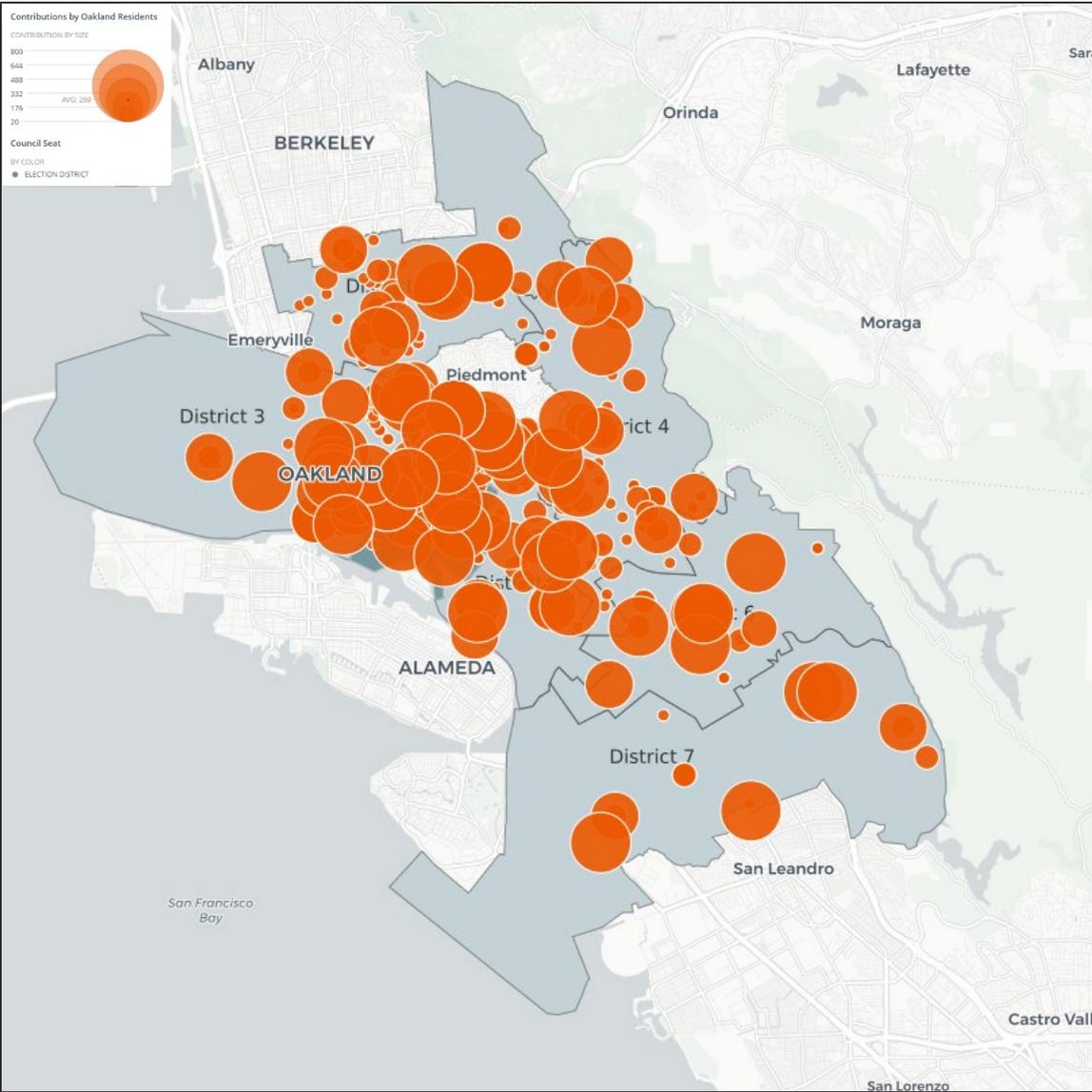
3. **Incumbency information and access** – To ensure fairness when an incumbent is in office, in a position to make and influence decisions on laws, policies, and contracts, and has access to City communication methods and target audience, there must be restrictions in place to maintain a level playing field. This might include stricter limits on the use of City resources to communicate to constituents, particularly during the 6-12 months before an election. In addition, the City should collect and provide easy public access to Councilmember vote history that shows how the incumbent has voted on legislation and other matters while in office so the public can further discern whether they want the incumbent to continue to stay in office.

4. **Additional restrictions** – The City should continue to explore and develop creative solutions that lift up the voices of Oaklanders from all demographics in contrast to allowing the system of big money, and particularly big money from outside of Oakland, flowing into local races that impact those who live and work here. This might include contribution restrictions placed on those who do not live or work in Oakland or incentives for seeking out locally-based contributions over those from outside of Oakland as a way to empower those who are affected by local decisions. Such restrictions could supplement a new public financing approach to cultivate trust by marginalized Oaklanders who may believe they have no chance at effective participation against well-funded interests.
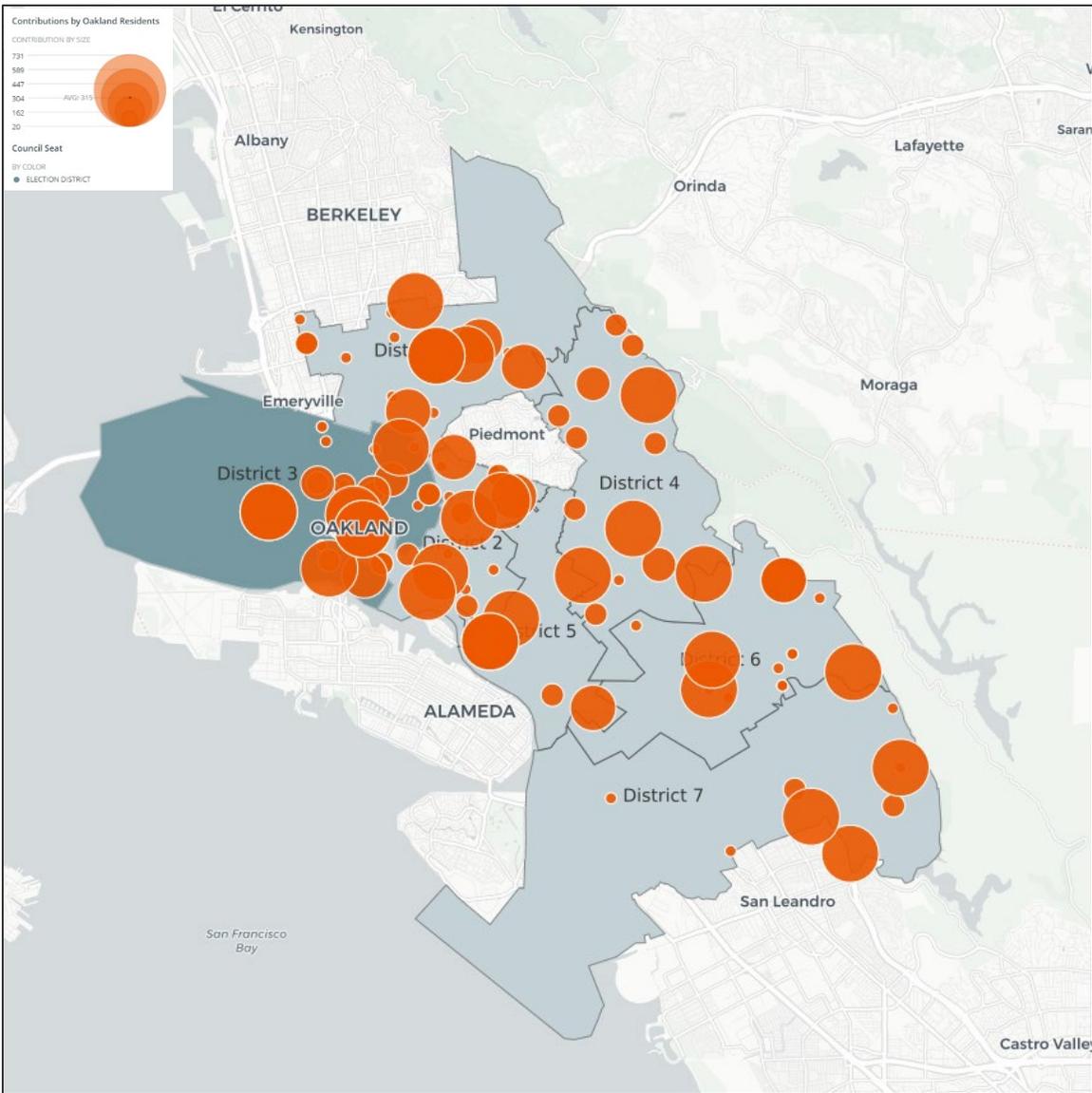
At this moment in our nation's history, Oakland has an opportunity to rethink its outdated campaign finance system and reshape it into a process that facilitates meaningful dialogue, widespread outreach and communication across all demographics, and expansive and diverse participation by all Oaklanders of all races and income levels. The above findings, including data showing outcomes for the past several elections, provide a benchmark from which we can build new programs and effect better outcomes toward the vision we want: widespread, inclusive, and equitable influence by Oaklanders in the political process, and specifically, the selection of City elected leaders.

APPENDIX 1: CONTRIBUTIONS TO COUNCIL RACES BY OAKLAND RESIDENTS, 2016 AND 2018

Council District 1, 2016

Council District 2, 2018

Council District 3, 2016

Council District 4, 2018

Out of state
7%

Another CA city
47%

Oakland
46%

Outside district
28%

In district
18%

Contributions by Oakland Residents

CONTRIBUTION BY SIZE

800
641
482
323
164
5

AVG: 238

Council Seat

BY COLOR
● ELECTION DISTRICT

Albany

Lafayette

Orinda

BERKELEY

Moraga

Emeryville

Piedmont

District 3

4

OAKLAND

District 6

ALAMEDA

District 7

San Leandro

San Francisco
Bay

Castro V

San Lorenzo

Council District 5, 2016
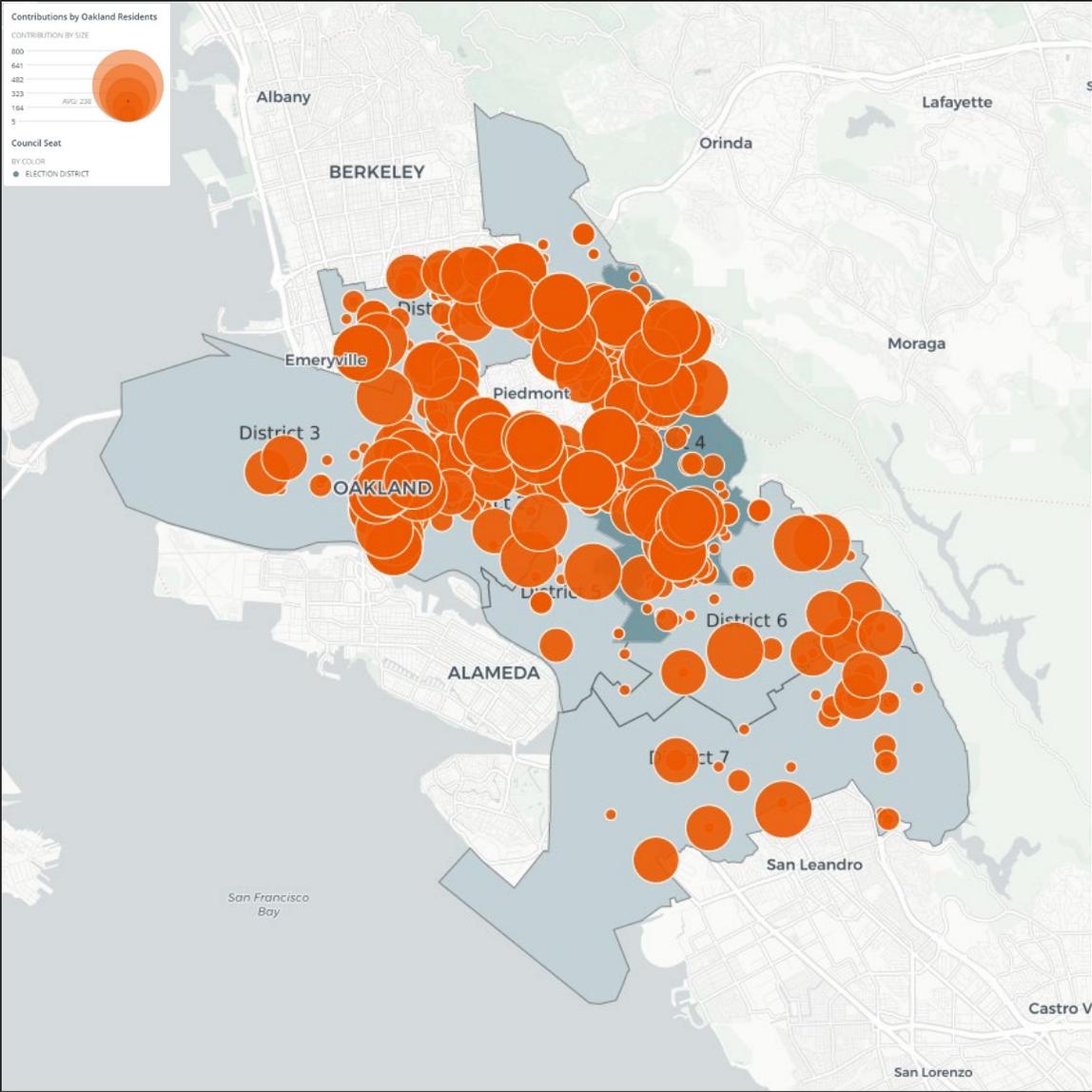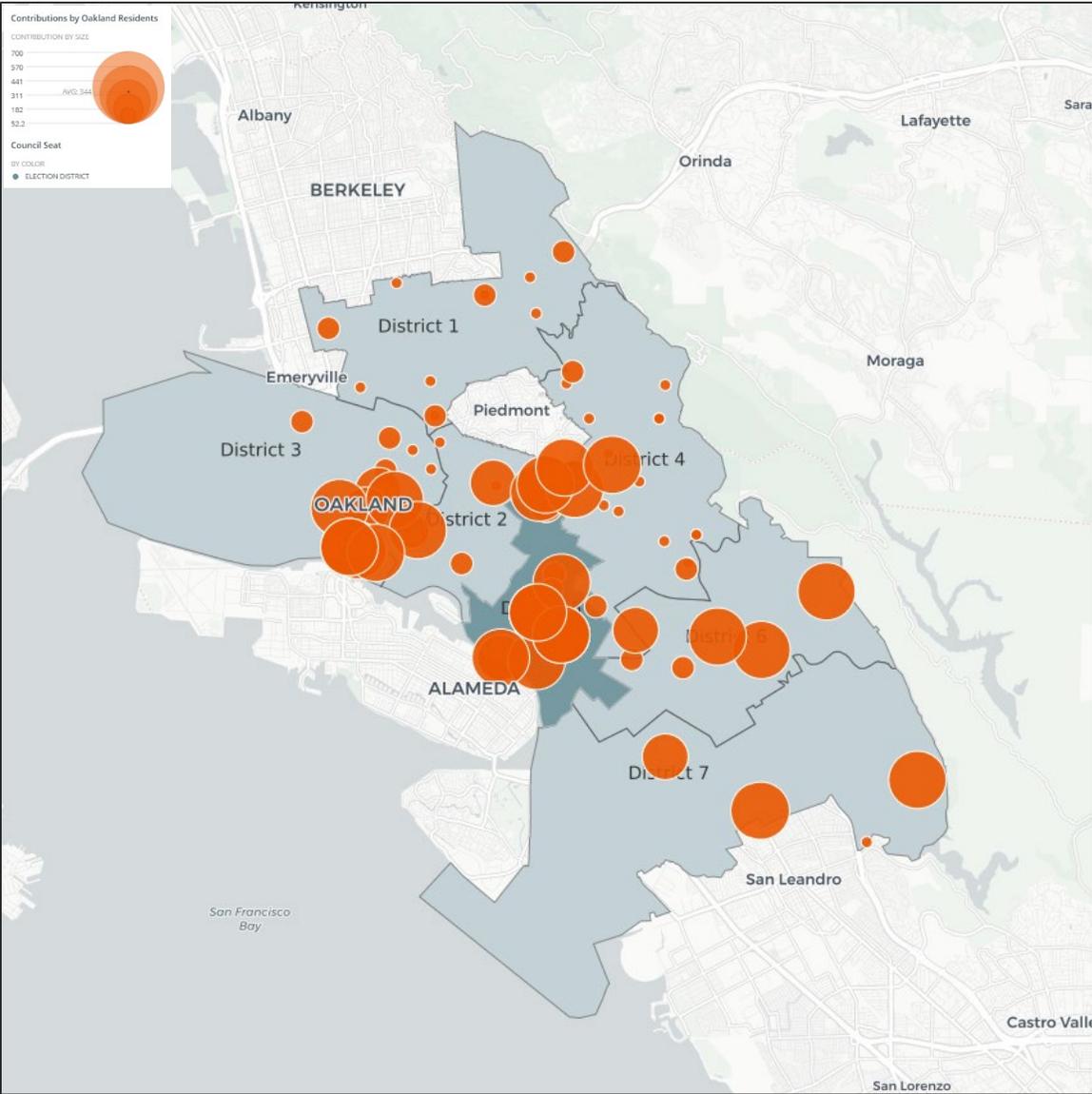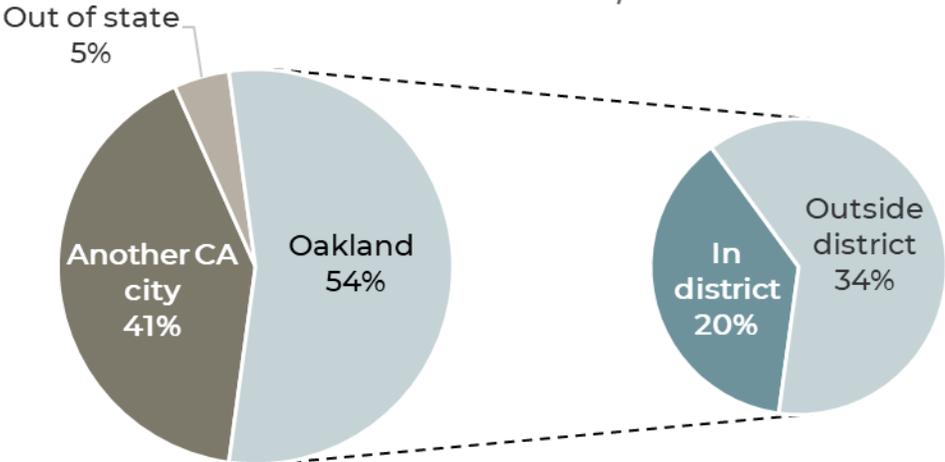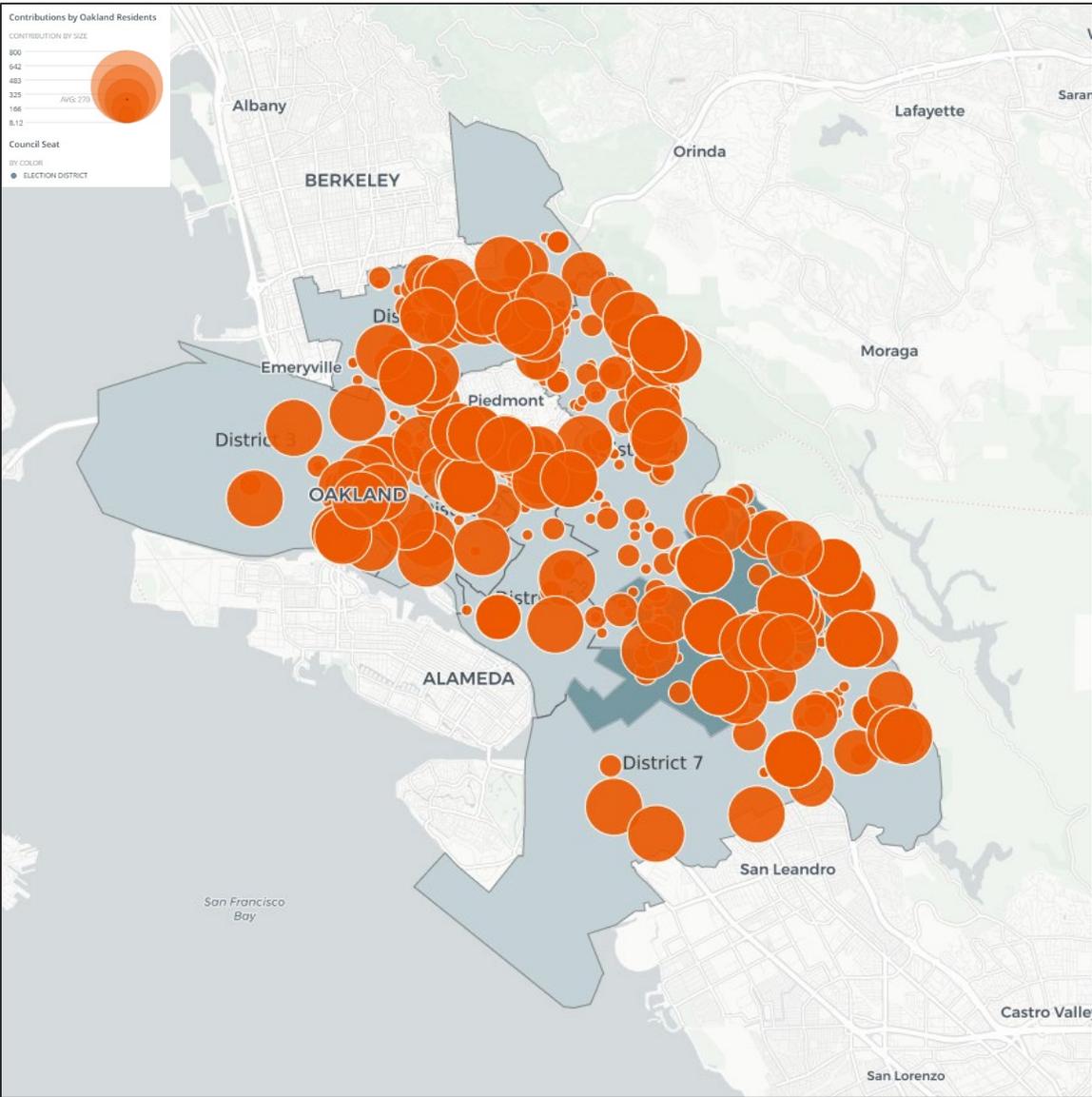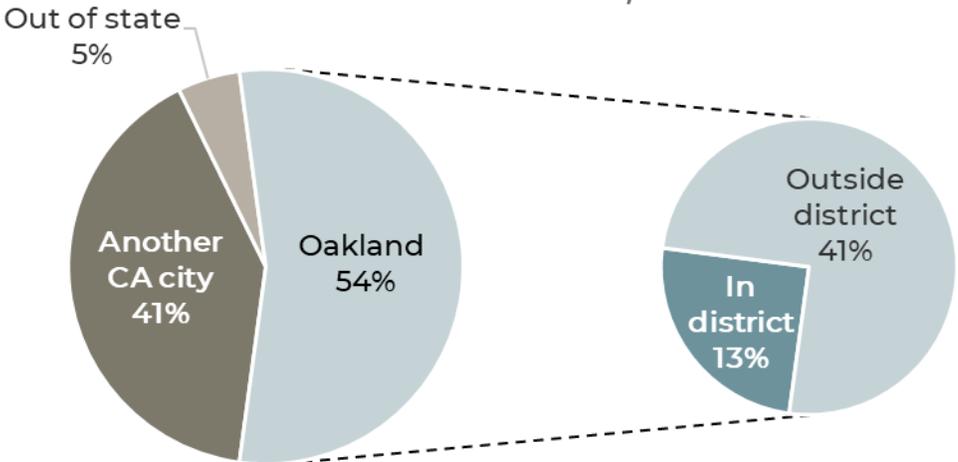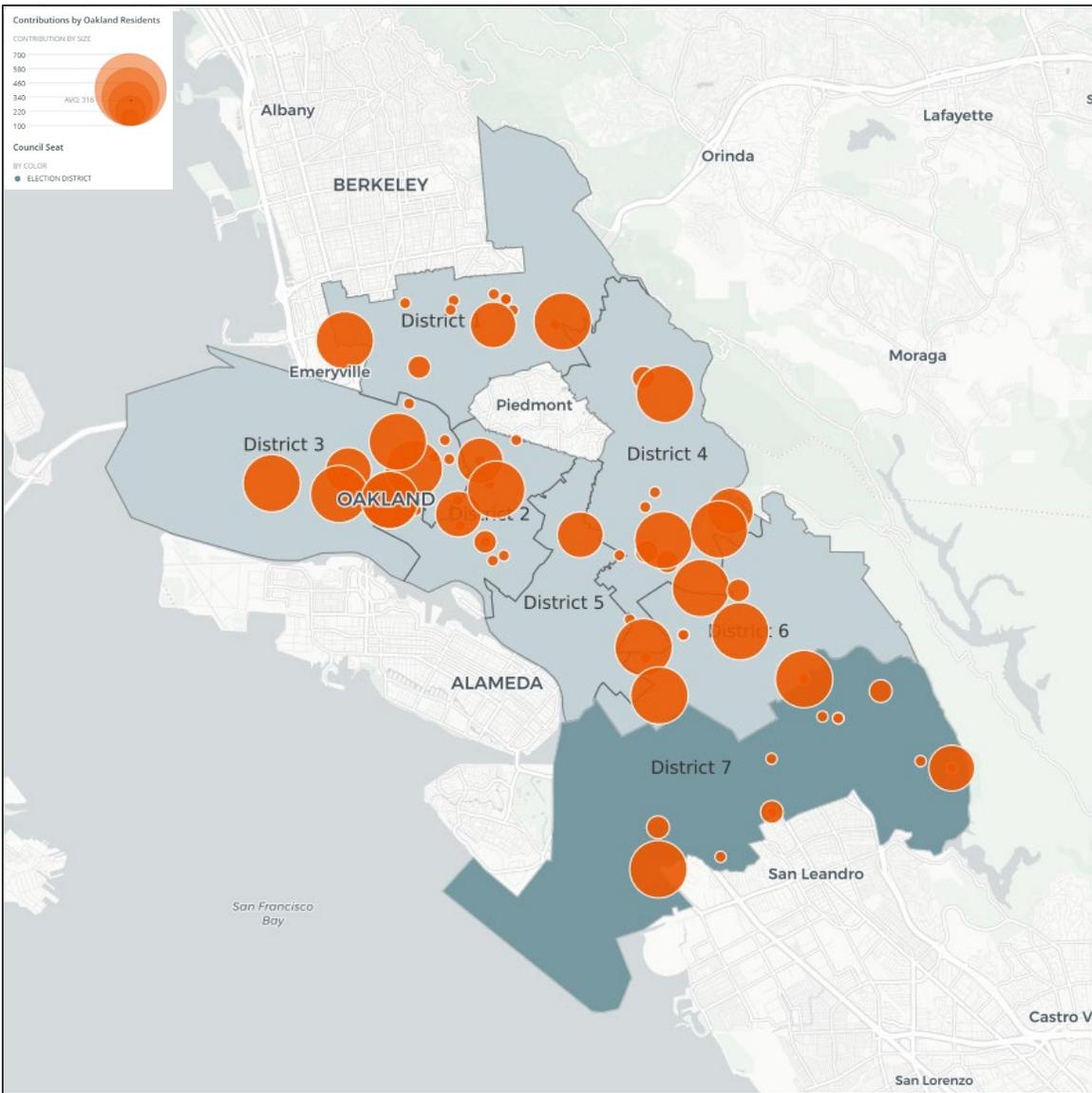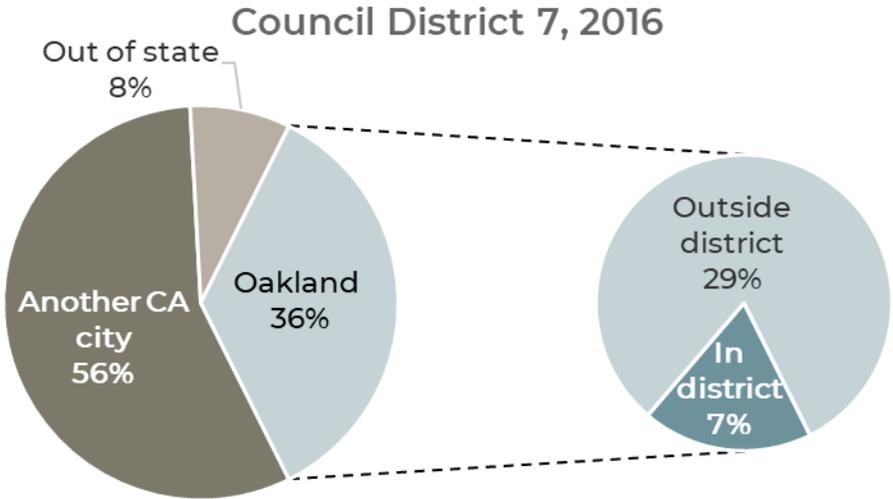
Council District 6, 2018

Council District 7, 2016

APPENDIX 2: Contributions to Council Races by Donor Location, 2016 and 2018 Elections

Office	Donor location	Donor district	Total contributions	Percentage
City Council, District 1	IN OAKLAND	Donor in district	$31,186	21.7%
		Donor outside district	$41,082	28.5%
	OUT OF STATE	Donor outside district	$5,645	3.9%
	WITHIN CA	Donor outside district	$66,045	45.9%
City Council, District 1 Total			**$143,958**	**100.0%**
City Council, District 2	IN OAKLAND	Donor in district	$78,531	25.6%
		Donor outside district	$92,894	30.3%
	OUT OF STATE	Donor outside district	$21,725	7.1%
	WITHIN CA	Donor outside district	$113,497	37.0%
City Council, District 2 Total			**$306,647**	**100.0%**
City Council, District 3	IN OAKLAND	Donor in district	$19,627	14.7%
		Donor outside district	$38,335	28.8%
	OUT OF STATE	Donor outside district	$2,850	2.1%
	WITHIN CA	Donor outside district	$72,421	54.4%
City Council, District 3 Total			**$133,233**	**100.0%**
City Council, District 4	IN OAKLAND	Donor in district	$86,885	17.7%
		Donor outside district	$139,644	28.5%
	OUT OF STATE	Donor outside district	$34,175	7.0%
	UNKNOWN	Donor outside district	$25	0.0%
	WITHIN CA	Donor outside district	$229,031	46.8%
City Council, District 4 Total			**$489,760**	**100.0%**
City Council, District 5	IN OAKLAND	Donor in district	$20,404	20.5%
		Donor outside district	$33,597	33.8%
	OUT OF STATE	Donor outside district	$4,522	4.5%
	WITHIN CA	Donor outside district	$40,894	41.1%
City Council, District 5 Total			**$99,418**	**100.0%**

APPENDIX 2: Contributions to Council Races by Donor Location, 2016 and 2018 Elections

Office	Donor location	Donor district	Total contributions	Percentage
City Council, District 6	IN OAKLAND	Donor in district	$46,119	13.5%
		Donor outside district	$139,114	40.8%
	OUT OF STATE	Donor outside district	$17,465	5.1%
	WITHIN CA	Donor outside district	$138,512	40.6%
City Council, District 6 Total			**$341,210**	**100.0%**
City Council, District 7	IN OAKLAND	Donor in district	$6,100	6.6%
		Donor outside district	$26,630	28.7%
	OUT OF STATE	Donor outside district	$7,650	8.2%
	WITHIN CA	Donor outside district	$52,450	56.5%
City Council, District 7 Total			**$92,830**	**100.0%**

DATA SOURCE: City of Oakland Public Ethics Commission Public Portal for Campaign Finance and Lobbyist Disclosure; Data export from e-filed FPPC Form 460 transactions for most recent filings for years 2013 - 2019. Last accessed 5/21/19. Geospatial analysis by PEC staff. Data for Oakland contributions geocoded using TAMU GeoServices, a service of the Texas A&M University Department of Geography. Goldberg DW. 2019. Texas A&M University Geoservices.

APPENDIX 3: Campaign Finance Summary by Candidate, 2014 - 2018

Election	Office	Outcome	Candidate	Contributions	Loans	Public Financing	IE - Support	IE - Against
11/4/2014	City Auditor	Won	Roberts, Brenda	$69,175	$62,000	$0		
11/4/2014	City Auditor	Lost	Raphael, Len	$37,785	$0	$0		
11/4/2014	City Council, District 2	Won	Guillen, Abel	$110,520	$0	$17,921	$132,453	
11/4/2014	City Council, District 2	Lost	Blackburn, Kevin	$62,212	$1,600	$17,921		
11/4/2014	City Council, District 2	Lost	King, Dana	$93,612	$0	$17,921	$1,129	
11/4/2014	City Council, District 2	Lost	Park, Andrew	$67,826	$0	$17,921		
11/4/2014	City Council, District 4	Won	Campbell Washington, Ar	$105,078	$140	$17,921	$110,082	
11/4/2014	City Council, District 4	Lost	Broadhurst, Jill	$85,821	$0	$17,921		
11/4/2014	City Council, District 6	Won	Brooks, Desley	$70,779	$2,500	$17,921	$1,129	
11/4/2014	City Council, District 6	Lost	Johnson, Michael	$39,742	$13,000	$0		
11/4/2014	City Council, District 6	Lost	Moore, James	$10,758	$0	$0		
11/4/2014	City Council, District 6	Lost	Nosakhare, Shereda	$30,925	$4,000	$17,921		
11/4/2014	Mayor	Won	Schaaf, Libby	$458,908	$0	$0	$9,894	
11/4/2014	Mayor	Lost	Kaplan, Rebecca	$347,445	$0	$0	$11,444	$8,450
11/4/2014	Mayor	Lost	Karamooz, Saied	$2,610	$0	$0		
11/4/2014	Mayor	Lost	Mccullough, Pat	$200	$0	$0		
11/4/2014	Mayor	Lost	Parker, Bryan	$416,132	$70,000	$0	$20,296	
11/4/2014	Mayor	Lost	Quan, Jean	$404,861	$106,000	$0		$8,450
11/4/2014	Mayor	Lost	Ruby, Courtney	$160,160	$18,000	$0		
11/4/2014	Mayor	Lost	Siegel, Dan	$264,569	$175,000	$0		
11/4/2014	Mayor	Lost	Tuman, Joe	$278,014	$8,000	$0	$8,450	
11/4/2014	Mayor	Lost	Washington, Sammuel	$30,335	$0	$0		
11/4/2014	Mayor	Lost	Williams, Charles	$11,835	$0	$0		
11/4/2014	School Board Director, OUSD District 2	Won	Eng, Aimee	$28,845	$0	$0	$51	
11/4/2014	School Board Director, OUSD District 4	Won	Senn, Nina	$23,232	$3,500	$0	$34,119	

APPENDIX 3: Campaign Finance Summary by Candidate, 2014 - 2018

Election	Office	Outcome	Candidate	Contributions	Loans	Public Financing	IE - Support	IE - Against
	School Board Director,							
11/4/2014 **OUSD District 4**		Lost	Debro, Karl	$4,174	-$8,000	$0		
	School Board Director,							
11/4/2014 **OUSD District 4**		Lost	Shakir-Gilmore, Saleem	$17,639	$0	$0	$34,066	
	School Board Director,							
11/4/2014 **OUSD District 4**		Lost	Spigner, Cheri	$18,748	$0	$0		
	School Board Director,							
11/4/2014 **OUSD District 6**		Won	Gonzales, Shanthi	$65,861	$0	$0		
	School Board Director,							
11/4/2014 **OUSD District 6**		Lost	Almanzor, Renato	$12,093	$0	$0	$63,318	
	School Board Director,							
11/4/2014 **OUSD District 6**		Lost	Dobbins, Christopher	$5,000	$0	$0		

DATA SOURCE: City of Oakland Public Ethics Commission Public Portal for Campaign Finance and Lobbyist Disclosure; Data export from e-filed FPPC Form 460 - 496 transactions for most recent filings for years 2013 - 2019. Last accessed 5/21/19.

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APPENDIX 3: Campaign Finance Summary by Candidate, 2014 - 2018

Election	Office	Outcome	Candidate	Contributions	Loans	Public Financing	IE - Support	IE - Against
11/8/2016	City Attorney	Won	Parker, Barbara	$67,909	$0	$0		
11/8/2016	City Council, At Large	Won	Kaplan, Rebecca	$147,423	$0	$0		
11/8/2016	City Council, At Large	Lost	Hummel, Francis "Matt"	$1,750	$0	$0		
11/8/2016	City Council, At Large	Lost	Moore, Peggy	$118,646	$0	$0		
11/8/2016	City Council, At Large	Lost	Quan, Bruce	$75,623	$0	$0		
11/8/2016	City Council, At Large	Lost	Sidebotham, Nancy	$396	$0	$0		
11/8/2016	City Council, District 1	Won	Kalb, Dan	$113,161	$0	$35,844		$13,242
11/8/2016	City Council, District 1	Lost	Corbett, Kevin M.	$42,542	$0	$34,645		
11/8/2016	City Council, District 3	Won	Gibson-Mcelhaney, Lynett	$127,257	$0	$6,807		
11/8/2016	City Council, District 3	Lost	Session, Noni D.	$10,634	$0	$0		
11/8/2016	City Council, District 5	Won	Gallo, Noel	$48,119	$0	$35,844		$39,316
11/8/2016	City Council, District 5	Lost	Gonzales, Viola	$69,742	$15,000	$0		
11/8/2016	City Council, District 7	Won	Reid, Larry	$72,976	$0	$0		
11/8/2016	City Council, District 7	Lost	Hodge, Marcie	$24,064	$19,857	$0		
11/8/2016	City Council, District 7	Lost	Imara, Nehanda	$24,966	$5,000	$0		
11/8/2016	School Board Director, OUSD District 1	Won	London, Jody	$22,344	$0	$0	$2,691	
11/8/2016	School Board Director, OUSD District 1	Lost	Macleay, Don	$5,144	$0	$0		
11/8/2016	School Board Director, OUSD District 3	Won	Hinton Hodge, Jumoke	$25,392	$7,575	$0	$90,423	
11/8/2016	School Board Director, OUSD District 3	Lost	Wiginton, Kharyshi "Ms. K	$5,798	$0	$0	$7,405	
11/8/2016	School Board Director, OUSD District 5	Won	Torres, Rosie	$25,033	$2,750	$0	$7,405	$6,988
11/8/2016	School Board Director, OUSD District 5	Lost	Hassid, Mike	$8,486	$0	$0		

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APPENDIX 3: Campaign Finance Summary by Candidate, 2014 - 2018

Election	Office	Outcome	Candidate	Contributions	Loans	Public Financing	IE - Support	IE - Against
	School Board Director,							
11/8/2016	**OUSD District 5**	Lost	Hutchinson, Mike				$7,405	
	School Board Director,							
11/8/2016	**OUSD District 5**	Lost	Trenado, Huber	$21,685	$0	$0	$99,289	
	School Board Director,							
11/8/2016	**OUSD District 7**	Won	Harris, James	$27,586	$0	$0	$122,967	
	School Board Director,							
11/8/2016	**OUSD District 7**	Lost	Jackson, Chris	$13,562	$0	$0	$7,405	$6,988

DATA SOURCE: City of Oakland Public Ethics Commission Public Portal for Campaign Finance and Lobbyist Disclosure; Data export from e-filed FPPC Form 460 - 496 transactions for most recent filings for years 2013 - 2019. Last accessed 5/21/19.

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APPENDIX 3: Campaign Finance Summary by Candidate, 2014 - 2018

Election	Office	Outcome	Candidate	Contributions	Loans	Public Financing	IE - Support	IE - Against
11/6/2018	City Auditor	Won	Ruby, Courtney	$47,225	$1,500	$0	$0	
11/6/2018	City Auditor	Lost	Roberts, Brenda	$57,047	$0	$0	$0	
11/6/2018	City Council, District 2	Won	Fortunato Bas, Nikki	$133,395	$5,000	$18,345	$113,017	
11/6/2018	City Council, District 2	Lost	Guillen, Abel	$200,652	$0	$18,345	$47,524	$4,808
11/6/2018	City Council, District 4	Won	Thao, Sheng	$100,088	$0	$18,345	$115,667	
11/6/2018	City Council, District 4	Lost	Harris, Pamela	$71,451	$6,000	$18,345	$435	
11/6/2018	City Council, District 4	Lost	Hummel, Francis "Matt"	$14,929	$1,500	$18,345		
11/6/2018	City Council, District 4	Lost	Maxson, Nayeli	$58,294	$0	$18,345	$435	
11/6/2018	City Council, District 4	Lost	Michelson, Charlie	$95,313	$0	$15,288		
11/6/2018	City Council, District 4	Lost	Simmons, Joseph	$59,142	$38,600	$0		
11/6/2018	City Council, District 4	Lost	Tanios, Joseph	$24,920	$0	$14,441		
11/6/2018	City Council, District 6	Lost	Taylor, Loren	$150,965	$0	$18,345		
11/6/2018	City Council, District 6	Won	Brooks, Desley	$105,785	$100	$0	$25,363	$167,016
11/6/2018	City Council, District 6	Lost	Middleton, Natasha	$77,815	$0	$18,345		
11/6/2018	City Council, District 6	Lost	Rodriguez, Marlo	$25,483	$15,080	$0		
11/6/2018	City Council, District 6	Lost	Whitaker, Mya	$18,176	$0	$0	$435	
11/6/2018	Mayor	Won	Schaaf, Libby	$501,645	$0	$0	$7,672	
11/6/2018	Mayor	Lost	Brooks, Cat	$190,048	$0	$0	$2,363	
11/6/2018	Mayor	Lost	Houston, Ken	$0	$0	$0		
11/6/2018	Mayor	Lost	Karamooz, Saied	$9,549	$0	$0		
11/6/2018	Mayor	Lost	Price, Pamela	$97,996	$32,500	$0		
11/6/2018	Mayor	Lost	Tatmon, Marchon	$20,837	$5,267	$0		
11/6/2018	Mayor	Lost	Troupe, Cedric		$0	$0		
11/6/2018	School Board Director, OUSD District 2	Won	Eng, Aimee	-$2,915	-$3,500	$0		

APPENDIX 3: Campaign Finance Summary by Candidate, 2014 - 2018

Election	Office	Outcome	Candidate	Contributions	Loans	Public Financing	IE - Support	IE - Against
	School Board Director, OUSD District 4							
11/6/2018		Won	Yee, Gary	$27,899	$5,000	$0	$145,995	
	School Board Director, OUSD District 4							
11/6/2018		Lost	Doutherd, Clarissa	$55,131	$0	$0	$20,847	
	School Board Director, OUSD District 6							
11/6/2018		Won	Gonzales, Shanthi	$40,473	$0	$0	$1,577	
	School Board Director, OUSD District 6							
11/6/2018		Lost	Wilson, Anthony	$12,255	$0	$0		

DATA SOURCE: City of Oakland Public Ethics Commission Public Portal for Campaign Finance and Lobbyist Disclosure; Data export from e-filed FPPC Form 460 - 496 transactions for most recent filings for years 2013 - 2019. Last accessed 5/21/19.

APPENDIX 4. OAKLAND DEMOGRAPHICS
Oakland Zip Codes with Percentage of Population and Race/Ethnicity

Zip Code	Pct. Total Population	Pct. Hispanic or Latino	Pct. Black or African American	Pct. Asian	Pct. White	Pct. Native Hawaiian and Other Pacific Islander	Pct. American Indian and Alaska Native	Pct. Some Other Race	Pct. Two or More Races
94601	11.8	50.2	18.8	17.0	9.7	0.7	0.3	0.2	3.2
94602	6.8	16.9	14.1	20.3	40.8	0.7	0.6	0.9	5.8
94603	7.8	57.8	28.8	5.4	4.0	0.9	0.2	0.2	2.7
94605	9.8	24.2	43.5	6.4	17.5	0.2	0.3	0.6	7.3
94606	8.7	20.4	17.8	36.0	20.4	0.6	0.6	0.6	3.5
94607	5.9	14.0	31.6	26.7	22.2	0.6	0.8	0.2	3.9
94608	6.9	12.7	24.0	15.4	40.5	0.7	0.5	0.6	5.7
94609	5.2	12.6	23.3	11.2	44.8	0.2	0.3	0.3	7.4
94610	7.1	11.2	16.1	14.5	51.6	0.0	0.3	0.5	5.8
94611	8.9	6.8	6.3	15.2	63.9	0.6	0.2	0.4	6.6
94612	3.6	9.6	26.5	26.5	31.3	0.4	0.9	0.6	4.2
94613	0.2	29.7	4.4	23.3	34.0	0.5	0.0	0.2	7.8
94618	3.9	8.4	3.3	12.6	68.6	0.4	0.1	0.6	5.9
94619	5.5	17.2	21.9	19.3	33.6	0.4	0.3	0.4	6.8
94621	8.0	60.4	30.0	2.5	3.8	1.4	0.1	0.2	1.8

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APPENDIX 4. OAKLAND DEMOGRAPHICS
Oakland Zip Codes with Population and Race/Ethnicity

Zip Code	Est. Population, Total	Hispanic or Latino	Black or African American	Asian	White	Native Hawaiian and Other Pacific Islander	American Indian and Alaska Native	Some other race	Two or more races
94601	52,299	26,232	9,838	8,868	5,052	378	183	97	1,651
94602	29,933	5,046	4,210	6,071	12,224	211	184	257	1,730
94603	34,593	19,983	9,950	1,867	1,388	323	81	67	934
94605	43,112	10,425	18,757	2,751	7,560	94	109	269	3,147
94606	38,303	7,821	6,826	13,784	7,807	238	233	242	1,352
94607	26,254	3,683	8,295	7,021	5,820	146	203	54	1,032
94608	30,289	3,858	7,276	4,659	12,260	201	145	168	1,722
94609	22,811	2,867	5,317	2,554	10,213	36	72	70	1,682
94610	31,496	3,524	5,082	4,568	16,261	6	82	145	1,828
94611	39,384	2,684	2,486	5,972	25,158	234	90	176	2,584
94612	16,062	1,542	4,262	4,260	5,029	57	148	93	671
94613	861	256	38	201	293	4	-	2	67
94618	17,041	1,433	569	2,152	11,682	76	14	104	1,011
94619	24,308	4,193	5,327	4,680	8,177	101	79	95	1,656
94621	35,287	21,299	10,574	871	1,342	501	23	59	618

DATA SOURCE: U.S. Census Bureau; American Community Survey, 2018 American Community Survey 5-Year Estimates, Tables B03002; generated by PEC staff using https://api.census.gov; Last accessed 24 July 2020.

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APPENDIX 4. OAKLAND DEMOGRAPHICS
Oakland Zip Codes with Median Household Income and Percentage of Households by Income Range

Zip Code	Households	Median Household Income	0 to $59K	$60K to $99K	$100K to $149K	$150K to $199K	$200K or more
94601	15,430	$46,830	60.7	20.5	11.0	4.7	3.2
94602	11,854	$90,661	34.8	19.5	15.6	11.5	18.6
94603	9,901	$50,742	57.7	22.9	14.2	3.4	1.8
94605	15,951	$69,087	45.9	21.7	15.6	7.6	9.2
94606	15,201	$53,108	55.2	20.8	13.3	6.1	4.6
94607	11,300	$50,149	55.9	14.7	13.4	7.0	9.1
94608	14,114	$82,753	39.5	17.6	19.6	10.1	13.2
94609	9,740	$80,026	38.9	19.9	18.4	10.6	12.2
94610	15,327	$96,681	30.8	20.0	20.1	10.7	18.4
94611	17,494	$124,483	26.0	16.9	14.9	12.2	30.1
94612	8,788	$51,006	55.2	16.1	11.1	5.8	11.8
94613	4		100.0	0.0	0.0	0.0	0.0
94618	7,285	$156,116	18.5	15.3	13.5	15.3	37.4
94619	9,063	$85,855	34.5	21.5	16.0	11.8	16.2
94621	9,602	$38,591	66.5	20.2	9.4	2.4	1.5

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APPENDIX 5: Independent Expenditures for Candidates by Committee, 2014 - 2018

Committee Name	2014	2016	2018	Grand total
FAMILIES AND EDUCATORS FOR PUBLIC EDUCATION, SPONSORED BY GO PUBLIC SCHOOLS ADVOCATES	$131,553	$329,345	$145,995	**$606,893**
UNITY PAC, A SPONSORED COMMITTEE OF THE ALAMEDA LABOR COUNCIL, AFL-CIO	$178,487		$105,974	**$284,461**
EAST BAY WORKING FAMILIES, A COALITION OF UNIONS AND COMMUNITY GROUPS			$140,825	**$140,825**
OAKLANDERS FOR RESPONSIBLE LEADERSHIP, OPPOSING DESLEY BROOKS FOR OAKLAND CITY COUNCIL 2018			$135,785	**$135,785**
OAKLAND EDUCATION ASSOCIATION POLITICAL ACTION COMMITTEE		$59,239	$19,304	**$78,543**
INTERNATIONAL ASSOCIATION OF FIREFIGHTER LOCAL 55 POLITICAL ACTION, SPONSORED BY: INT'L ASSOC. OF FIREFIGHTER LOCAL 55	$16,113		$55,640	**$71,753**
OAKLAND POLICE OFFICER'S ASSOCIATION - POLITICAL ACTION COMMITTEE	$18,983	$52,410		**$71,393**
CITIZENS FOR OAKLAND	$42,250			**$42,250**
CITIZENS FOR A UNITED OAKLAND, OPPOSING DESLEY BROOKS FOR CITY COUNCIL 2018			$31,230	**$31,230**
WORKING FAMILIES FOR ABEL GUILLEN FOR OAKLAND CITY COUNCIL 2014, SPONSORED BY THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 55 PAC AND TEAMSTERS DRIVE COMMITTEE - FEC #C00032979	$23,523			**$23,523**
OAKPAC, OAKLAND METROPOLITAN CHAMBER OF COMMERCE	$11,846			**$11,846**
GAY AND LESBIAN VICTORY FUND COMMITTEE TO SUPPORT REBECCA KAPLAN FOR CITY OF OAKLAND MAYOR 2014	$10,000			**$10,000**
OAKLAND RISING COMMITTEE SPONSORED BY MOVEMENT STRATEGY CENTER ACTION FUND			$9,185	**$9,185**
OUTFRONT MEDIA LLC			$7,672	**$7,672**
OAKLAND CIVIL LIBERTIES ALLIANCE	$5,723			**$5,723**
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 595 PAC	$5,000			**$5,000**
CALIFORNIA FEDERATION OF TEACHERS COPE			$1,543	**$1,543**

APPENDIX 5: Independent Expenditures for Candidates by Committee, 2014 - 2018

Committee Name	2014	2016	2018	Grand total
EAST BAY RENTAL HOUSING ASSOCIATION PAC		$148		$148
	$443,479	$441,142	$653,153	$1,537,774

SOURCE: City of Oakland Public Ethics Commission Public Portal for Campaign Finance and Lobbyist Disclosure; Data export from e-filed FPPC Form 460 - 496 transactions for most recent filings for years 2013 - 2019. Last accessed 5/21/19.

Public Ethics Commission
1 Frank Ogawa Plaza (City Hall), Room 104
Oakland, CA 94612
www.oaklandca.gov/pec
ethicscommission@oaklandca.gov
(510) 238-3593

Michael B. MacDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Joe Tuman

Whitney Barazoto, Executive Director

Public Ethics Commission | **CITY OF OAKLAND**

TO: Public Ethics Commission
FROM: Suzanne Doran, Lead Analyst
            Jelani Killings, Ethics Analyst
            Whitney Barazoto, Executive Director
DATE: February 19, 2021
RE: Disclosure and Engagement Report for the March 1, 2021, PEC Meeting

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This memorandum provides a summary of major accomplishments in the Public Ethics Commission's (PEC or Commission) Disclosure and Engagement program activities since the last monthly meeting. Commission staff disclosure activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting data analysis for PEC projects and programs as needed. Engagement activities include training and resources provided to the regulated community, as well as general outreach to Oakland residents to raise awareness of the Commission's role and services and to provide opportunities for dialogue between the Commission and community members.

Filing Officer - Compliance

Campaign Finance Disclosure – In non-election years, campaign committees must file two semi-annual campaign statements ([FPPC Form 460](#)). February 1 was the deadline for semi-annual campaign statements covering the period from July 1 through December 31, 2020. All active campaign committees registered with the City of Oakland must file.

The 58 committees filed their campaign statements, 73 percent by the February 1st deadline, with six late filings completed within days of the deadline. Outreach to bring six non-filers into compliance is ongoing. Staff sent notices to all non-filers via email three and ten days after the deadline. Follow-up phone calls began ten days after the deadline passed. Surface review of the nearly filings is in progress and requests for amendments and enforcement referrals will be made as required.

Campaign statements are available to view and download at the PEC's [Public Portal for Campaign Finance Disclosure](#).

Lobbyist Registration and Reporting Program – The Oakland Lobbyist Registration Act (LRA) requires any person that qualifies as a lobbyist to register annually with the Public Ethics Commission before conducting any lobbying activity. It also requires lobbyists to submit quarterly reports disclosing their lobbying activities to ensure that the public knows who is trying to influence City decisions. The annual lobbyist registration deadline passed on January 31. To date, there are 52 individuals registered to lobby the City of Oakland in 2021. An up-to-date list of registered lobbyists with links to their client lists is available at the PEC's [Lobbyist Dashboard and Data](#) webpage.

The 2020 fourth quarter lobbyist activity report deadline passed on January 30. To date, 60 reports have been filed, 87 percent timely. Commission staff is reaching out to seven possible non-filers to gain compliance and/or clarify filing status. Surface review of the reports is in progress and requests for amendments will be made as needed. Lobbyist activity reports may be viewed online at the PEC's Lobbyist Dashboard and Data webpage.

Illuminating Disclosure Data

Lobbyist Disclosure – This month Commission staff published the first two datasets from the data collected through the new Lobbyist Registration and Reporting application.

- **Lobbyist Activity - Contacts with Public Officials** includes contacts with City Officials by lobbyists to influence a governmental (municipal) decision on behalf of a client or employer listed in Schedule A of the Quarterly Lobbyist Activity Reports.
- **Lobbyist Activity - Political Contributions** includes contributions to elected officials and candidates for City office solicited by lobbyists listed in Schedule D of the Quarterly Lobbyist Activity Reports.

The data can be viewed and downloaded from the City's open data site, OakData (https://data.oaklandca.gov/). Both datasets are updated automatically from the PEC's database as reports are submitted. Staff will continue to publish new lobbyist datasets incrementally throughout 2021.

New features went live on the OakApps Lobbyist Dashboard and Data Portal in February as well. Users can now search lobbyist activity reports based on the client name. In addition, the Lobbyist Directory now includes sorting and filtering tools. To view the Dashboard and Lobbyist Directory visit https://apps.oaklandca.gov/pec/Lobbyist_Dashboard.aspx.

Advice and Engagement

Advice and Technical Assistance – In February, Commission staff responded to 13 requests for information, advice or assistance regarding campaign finance, ethics, lobbyist registration or public records issues.

New Employee Orientation – Staff continues to make presentations at the City's monthly New Employee Orientation (NEO) providing new employees with an introduction to the PEC and overview of the Government Ethics Act (GEA). On February 17, staff trained a total of 20 new employees on GEA provisions.

Assistance by Request Type

Supervisory Academy – On January 28, staff facilitated an ethics discussion for the City's quarterly Supervisory Academy. The discussions are intended to allow for more meaningful dialogue concerning ethical values in decision making with a focus on identifying ethical dilemmas that City staff face in carrying out their daily duties. Staff provided an overview of the Government Ethics Act including conflicts of interests, gift restrictions, and post-employment restrictions.
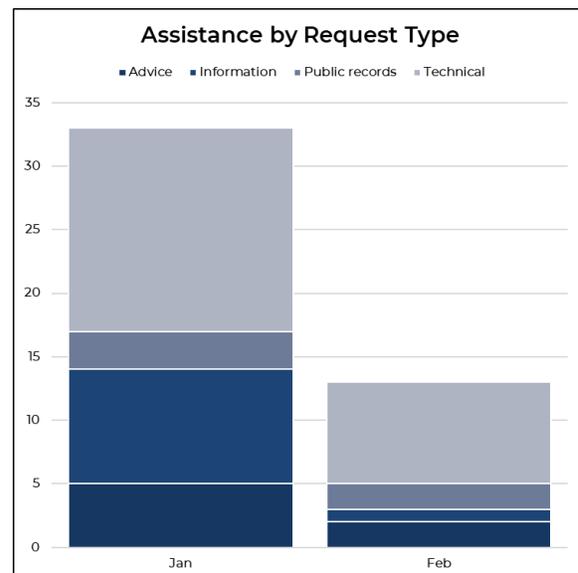
Boards and Commissions – On January 29, PEC staff participated in a joint effort with the Mayor's office, City Clerk, and City Attorney to provide a comprehensive training for City Boards and Commissions staff liaisons. The training covered all relevant laws and responsibilities, including Sunshine and GEA requirements, pertaining to boards and commissions to ensure understanding and compliance. Staff shared about PEC resources, highlighted the PECs online training for Form 700 filers, and reminded liaisons of online agenda posting requirements.
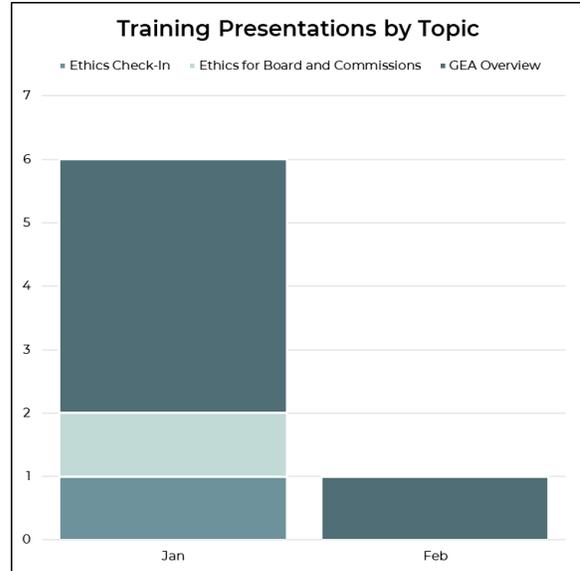
On January 25, staff made an ethics presentation at the request of the City's Library Advisory Commission, and on February 17, staff made an ethics presentation at the request of the City's Commission on Homelessness. During the presentations staff provided board members with information about the Commission and its services and gave an overview of the Government Ethics Act including Form 700 filing requirements, conflicts of interests, and misuse of City resources/position.

PEC staff will be conducting an ethics training for the City's board and commission members on February 25 and 26. The live training mirrors the PEC's online Government Ethics Training for Form 700 Filers currently offered to employee Form 700 filers. The training will cover key provisions of the Government Ethics Act (GEA) including Form 700 filing, conflicts of interests, gift restrictions, misuse of City resources, and revolving door rules. PEC staff worked with board staff liaisons to share the mandatory training information with their respective board members. Both training dates are quickly filling up as approximately 120 board and commission members have rsvp'd as of the date of this memo.

Campaign Finance – Subscribers to our campaign mailing list received an advisory notice informing them of the revised 2019 contribution limits and expenditure ceilings. Staff also provided in-depth one-on-one technical assistance to two filers allowing them to complete their filings.

Online Engagement

Social Media – Each month Commission staff post social media content to highlight specific PEC policy areas, activities or client-groups. In February, our posts focused on campaign finance disclosure deadlines, introducing the new Commission chair, vice chair, and new members, and 2021 contribution limits.

Michael McDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Joseph Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: February 17, 2021
RE: Enforcement Program Update for the March 1, 2021, PEC Meeting

Current Enforcement Activities:

Since the last Enforcement Program Update on February 1, 2021, Commission staff received 2 complaints. This brings the total Enforcement caseload to 77 open cases: 17 matter(s) in the intake or preliminary review stage, 13 matters under active investigation, 14 matters under post-investigation analysis, 11 matters in settlement negotiations or awaiting an administrative hearing, and 22 ongoing public records request mediations.
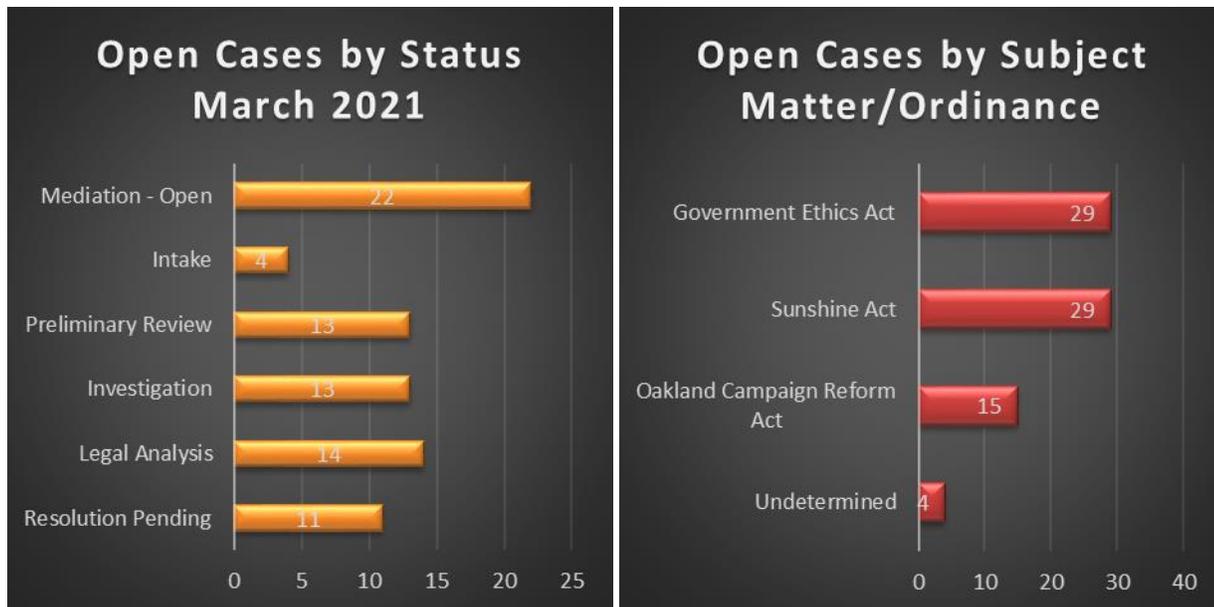
Summary of Current Cases:

Since the last Enforcement Program Update in February 2021, the following status changes have occurred.

1. *In the Matter of City Councilmember Rebecca Kaplan (Case No. 20-38) Dismissal*, On September 25, 2020, the City of Oakland Public Ethics Commission (PEC) received this complaint that alleged that on four separate occasions, August 13, 2020; August 18, 2020; August 19, 2020; and August 20, 2020, Oakland City Councilmember, Rebecca Kaplan violated the Oakland Government Ethics Act (GEA) when she allegedly attended various virtual campaign candidate forums with the Oakland East Bay Democrats Forum and or the Alameda County Democrats Forum from what appeared to be her City office at the Oakland City Hall. After reviewing the facts, relevant law and Enforcement Procedures, Staff determined that the allegations do not allege sufficient conduct that constitutes a violation of the Government Ethics Act. The complaint was dismissed. (See attachments)

2. *In the Matter of the City of Oakland Police Department* [Mediation Summary] (Case No. M2021-01). On January 14, 2021, the Commission received a request for mediation from the Requester alleging that Staff employees in the City of Oakland Police Department failed to provide responsive documents to a public records request (20-8332). The original request was filed in October 2020 and the Requester was informed that the documents would be released on or before December 31, 2020. The Requester sought assistance from the PEC because they believed that they had not received a response. Staff initiated the Mediation process on January 14, 2021. On that same day, Alisha Banda with the Police Department confirmed that the records had been uploaded to NextRequest on December 10, 2020, for release and the request was closed. Staff confirmed the documents were released to NextRequest and assisted the Requester with retrieving the downloaded documents from NextRequest. Staff closed the mediation without further action. (See Attachments)

3. *In the Matter of the City of Oakland Mayor's Office* [Mediation Summary] (Case No. M2020-09) On May 6, 2020, the Commission received a request for mediation alleging the Mayor's Office failed to provide full responsive documents to a public records request made by the Requester on February 26, 2020. On May 21, 2020, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance. In response, the Mayor's Office informed the requestor that all responsive documents from both city and private email accounts and cell phones were provided. Staff requested an IT search and determined that there were a few additional documents that were responsive to the requestors request and sent them to the Requester. Because the Requester received all responsive documents that could be attained through the mediation process, Staff closed the mediation without further action. (See Attachments)

CITY OF OAKLAND

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

Public Ethics Commission   (510) 238-5239
Enforcement Unit   FAX (510) 238-3315
                                                                                   TDD (510) 238-3254

February 19, 2021

Marlon Adams

███████████

█████████████

Re: PEC Complaint No. 20-38; Dismissal Letter

Dear Mr. Adams:

On September 25, 2020, the City of Oakland Public Ethics Commission (PEC) received your complaint (Complaint No. 20-38) that alleged that on August 13, 2020; August 18, 2020; August 19, 2020; and August 20, 2020, Oakland City Councilmember, Rebecca Kaplan violated the Oakland Government Ethics Act (GEA) when she allegedly attended various virtual campaign candidate forums with the Oakland East Bay Democrats Forum and or the Alameda County Democrats Forum from what appeared to be her City office at the Oakland City Hall. After reviewing the matter with you, the facts, relevant law and Enforcement Procedures, we have determined that the allegations do not allege sufficient conduct that constitutes a violation of the Government Ethics Act.

Oakland Municipal Code (O.M.C.) 2.25.060 prohibits public servants, which includes City Councilmembers, from using or permitting others to use public resources for a campaign activity or for personal or non-City purposes not authorized by law. According to the Office of the City Attorney, "the fundamental rule under state law is that a candidate may not use City resources (City email systems, computers, copy machines, offices, etc.) for personal purposes or "campaign activity." This rule applies at all times, including after work hours or when a staffer is on a lunch break. However, state law specifically states that "campaign activity" does **not** include the "incidental and minimal use of public resources, such as equipment or office space, for campaign purposes including the referral of unsolicited political mail, telephone calls, and visitors to private political entities."[1]

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[1] Office of the City Attorney City of Oakland "Campaign-Related Activities by Elected Officials, Candidates, City Officers and Employees," July 2, 2015.; California Government Code §8314(b)(2).

Our preliminary review found that Councilmember Kaplan, was a candidate for City Council Member at Large in August of 2020. She did attend and participate in four virtual candidate forums on or between August 13 and 20, 2020, as alleged. As such, Councilmember Kaplan was prohibited from misusing City resources. We, however, were not able to confirm that the location Councilmember Kaplan used to participate in the August virtual candidate forums was, in fact, her City office at 1 Frank Ogawa Plaza.

Moreover, there was insufficient evidence in the complaint to establish that even if the Councilmember participated in four candidate forums from her City office, that her participation on a virtual call was more than "incidental or minimal use of public resources."

Because Councilmember Kaplan's alleged conduct does not constitute a violation of the Government Ethics Act, we are dismissing your complaint pursuant to the PEC's Complaint Procedures. The PEC's Complaint Procedures is available on the PEC's website.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on March 1, at 6:30 p.m. by teleconference as will be posted on the Commission's website in advance of the meeting. The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to call-in to that meeting to listen and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials. Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Kellie Johnson,
Enforcement Chief

Michael McDonald, Chair
Jerett Yan, Vice Chair
Avi Klein
Arvon Perteet
Joseph Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: February 17, 2021
RE: *In the Matter of the City of Oakland Police Department (Case No. M2021-01)*; Mediation
           Summary for the March 1, 2021, PEC Meeting

I.   INTRODUCTION

On January 14, 2021, the Commission received a request for mediation from the Requester alleging that Staff employees in the City of Oakland Police Department failed to provide responsive documents to a public records request (20-8332). The original request was filed in October 2020 and the Requester was informed that the documents would be released on or before December 31, 2020. The Requester sought assistance from the PEC because they believed that they had not received a response.

Staff initiated the Mediation process on January 14, 2021. On that same day, Alisha Banda with the Police Department confirmed that the records had been uploaded to NextRequest on December 10, 2020, for release and the request was closed. Staff confirmed the documents were released to NextRequest and assisted the Requester with retrieving the downloaded documents from NextRequest. After confirming the requester received all responsive documents, Staff closed the mediation without further action.

II.   SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be open to inspection by the public unless there is a specific reason not to allow inspection.[1] The CPRA requires each agency to make public

records promptly available to any person upon request.[2]

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of his or her request by Commission Staff.[3] A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.[4]

Once the Commission's mediation program has been concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts

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[1] Oakland Municipal Code § 2.20.010(C); California Government Code § 6250 et seq.
[2] Government Code § 6253(b).
[3] O.M.C. § 2.20.270(C)(1).
[4] O.M.C. § 2.20.270(F).

were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.[5]

III.   SUMMARY OF FACTS

The Requester contacted the Police Department in October 2020, by phone to request a copy of a self-reported domestic violence police report. It was important to the Requester to receive the reports. The Requester was informed that they would receive the documents by email and that once the documents were prepared, they would be notified by email that they are available. The Requester was told that the documents would be ready on or before December 31, 2020.

On December 10, 2020, Selina Jones uploaded the responsive police reports into NextRequest.

The complete text of the NextRequest timeline is as follows:

The Requester was not familiar with Next Request. The Requester did not make a public records request on NextRequest, they had placed a telephone call to OPD. OPD did not return the telephone call to the requester to inform them that the documents were available on NextRequest. Instead, an OPD clerk forwarded a copy of the NextRequest printout, like the aforementioned, to the Requester's email.

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[5] Complaint Procedures § IV (C)(5).

The Requester received the email, but thought the email was a receipt of her request. OPD did not provide instructions on how to retrieve the documents from NextRequest.

Staff contacted the requester by telephone to confirm that they received the email from OPD. Staff informed the Requester of how to locate and log in to NextRequest to retrieve their documents. The Requester confirmed that all responsive documents were received.

IV.   CONCLUSION

Although OPD did not provide complete information to the Requester on how to retrieve their documents, OPD did upload the documents earlier than reported and the requester received responsive documents, Staff closed the mediation without further action.

Michael McDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Joseph Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
             Kyle McLean, Mediation Coordinator
DATE: May 24, 2019
RE: *In the Matter of the City Clerk (Case No. M2019-05)*; Mediation Summary

I.   INTRODUCTION

On March 14, 2019, the Commission received a request for mediation alleging that Councilmember Kalb's office and Councilmember Gallo's office failed to disclose records in response to public records requests made by the Requester on February 10, 2019: 19-724 and 19-725. On April 19, 2019, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance. In response, both offices released additional records and the Requester stated that all responsive records had been released.

Because the Requester received all responsive records, Staff closed the mediation without further action.

II.   SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be open to inspection by the public unless there is a specific reason not to allow inspection.[1] The CPRA requires each agency to make public records promptly available to any person upon request.[2]

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of his or her request by Commission Staff.[3] A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.[4]

Once the Commission's mediation program has been concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.[5]

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[1] Oakland Municipal Code § 2.20.010(C); California Government Code § 6250 et seq.
[2] Government Code § 6253(b).
[3] O.M.C. § 2.20.270(C)(1).
[4] O.M.C. § 2.20.270(F).
[5] Complaint Procedures § IV (C)(5).

III.   SUMMARY OF FACTS

<u>19-724</u>
On February 10, 2019, the City received, via NextRequest, the following public records request (No. 19-724):

> Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), I ask to obtain an electronic copy of the following records and to review and papers records, which I understand to be held by your agency, including any reports, memoranda, communications, or any other writings, as defined in section 6252(e) of the California Government Code, pursuant to the California Public Records Act (Cal. Gov't Code §§ 6250 et seq.).
>
> **All documents, including staff all notes and emails, documenting the eviction of any tenant or any reported rent increase, that have been communicated with your office [Dan Kalb], including ALL information by Centro Legal de la Raza since 2016. Please indicate which information provided by Centro Legal de la Raza has formed the rational basis of your proposals you have presented to the council to withdraw the exemption from owner-occupied duplexes and triplexes from Just Cause, the Rent Adjustment and the Tenant Protection Ordinances.**
>
> If you determine that any or all or the information qualifies for an exemption from disclosure, I ask you to note whether, as is normally the case under the Act, the exemption is discretionary, and if so whether it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you redact it for the time being and make the rest available as requested. In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

On March 12, 2019, the Requester stated the following via NextRequest: "Please note that you are officially in violation of the California Public Records Request and that I will be filing an ethics complaint."

On March 14, 2019, the Commission received a mediation request alleging that Councilmember Kalb's office had failed to disclose records in response to public records request No. 19-724. At the time that the Commission received the Complaint, no responsive records had been produced by the City.

On April 19, 2019, Staff commenced mediation proceedings and contacted Oliver Luby (public records request liaison for Councilmember Kalb's office) for an estimated completion date and explanation for the delayed response. Luby stated on April 22, 2019, that the office had received a substantial increase in the number of requests received, but that the work necessary to fulfill the request had almost finished and expected to release all responsive records by April 24, 2019.

On April 26, 2019, Oliver Luby uploaded eighty-six pages of responsive records, closed the request, and stated the following via NextRequest: "We have redacted personal information, pursuant to the constitutional rights of privacy and to protect against identity theft pursuant to Government Code Section 6254(c)."

On May 23, 2019, the Requester confirmed to Staff that mediation should be closed as the City had provided all responsive records.

19-725
On February 10, 2019, the City received, via NextRequest, the following public records request (No. 19-725):

> Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), I ask to obtain an electronic copy of the following records and to review and papers records, which I understand to be held by your agency, including any reports, memoranda, communications, or any other writings, as defined in section 6252(e) of the California Government Code, pursuant to the California Public Records Act (Cal. Gov't Code §§ 6250 et seq.).
>
> **All documents, including staff all notes and emails, documenting the eviction of any tenant or any reported rent increase, that have been communicated with your office [Noel Gallo], including ALL information by Centro Legal de la Raza since 2016. Please indicate which information provided by Centro Legal de la Raza has formed the rational basis of your proposals you have presented to the council to withdraw the exemption from owner-occupied duplexes and triplexes from Just Cause, the Rent Adjustment and the Tenant Protection Ordinances.**
>
> If you determine that any or all or the information qualifies for an exemption from disclosure, I ask you to note whether, as is normally the case under the Act, the exemption is discretionary, and if so whether it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you redact it for the time being and make the rest available as requested. In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

On March 14, 2019, the Requester stated the following via NextRequest: "Please note that you are in violation of the California Public Records Act and a Public Ethics Complaint has been filed."

Also on March 14, 2019, the Commission received a mediation request alleging that Councilmember Gallo's office had failed to disclose records in response to public records request No. 19-725. At the time that the Commission received the Complaint, no responsive records had been produced by the City.

On March 15, 2019, Mayra Chavez (public records request liaison for Councilmember Gallo's office) stated the following via NextRequest: "The City is searching for records responsive to your request and will provide an update by Friday, March 22nd"

On March 26, 2019, Mayra Chavez stated the following via NextRequest: "Dear requestor, there is a need to compile data, write a computer program, or construct a report to extract data. (Government Code Section 6253(c))."

On March 29, 2019, Mayra Chavez stated the following via NextRequest: "Dear requestor, we have received the data from IT Department and will being posting documents next week."

Also on March 29, 2019, the Requester stated the following via NextRequest: "Excellent. Thank you for the response."

On April 12, 2019, Rosa Velasquez (special assistant for Councilmember Gallo's office) released over one thousand pages of records and stated via NextRequest: "Dear requestor, attached are CM Gallo records. Personal information has been redacted."

On April 14, 2019, Mayra Chavez stated the following via NextRequest: "Dear requestor, this is the first batch of the responsive records. More to come."

On April 19, 2019, Staff commenced mediation proceedings and contacted Mayra Chavez for an estimated completion date. Chavez stated that another batch of records would be released the same day and estimated completion by May 10, 2019. That same day Chavez released two hundred and eighty-three pages of records and stated the following via NextRequest: "Dear requestor, some files have been redacted covered by Government Code Section 6254(c), which exempts 'Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.'"

On May 3, 2019, Mayra Chavez released over five hundred pages of responsive records and stated the following via NextRequest: "We have redacted personal information, pursuant to the constitutional rights of privacy and to protect against identity theft pursuant to Government Code Section 6254(c)."

On May 14, 2019, Mayra Chavez released sixty-two pages of records, closed the request, and stated the following via NextRequest: "Dear requestor: this is the last of the documents for this request."

On May 23, 2019, the Requester confirmed to Staff that mediation should be closed as the City had provided all responsive records.

IV.   CONCLUSION

Because the Requester received all responsive records, Staff closed the mediation without further action.

Michael B. MacDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Joe Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: February 19, 2021
RE: Executive Director's Report for the March 1, 2021, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities this past month that are not otherwise covered by other program reports. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects for 2020-21 for each program area.

Commissioner Recruitment

Following Commissioner Ramachandran's resignation in February, Commission staff opened recruitment to fill the vacancy. The application deadline is March 5, 2021, for the PEC-appointed seat, for potential review of candidates and selection of a new member at the April PEC meeting. One additional seat remains open, to be filled by the City Attorney.

Collections

Commission staff received partial payment of the $10,000 penalty imposed in the matter of Michael Colbruno, who had refused to make payment on his fine since it was imposed in early 2020. The respondent submitted a $5,000 payment on February 15 and is scheduled to pay the remaining $5,000 on March 15.

Budget and Staffing

Commission staff submitted its budget proposal to the City administration with some minor reductions in its already lean general administration budget, but made requests for increases in funds to cover administrative hearings and information technology needs, as well as for three additional positions to address expanding enforcement caseload and to implement campaign finance equity programs. Staff will be meeting with City administration in the coming weeks regarding these requests as part of the Mayor's budget development and proposal process that will head to City Council in May.

As part of the PEC's internal review of operations, mediations will no longer be part of the Enforcement program. Instead, this program will shift to the PEC's engagement team and will be reported up to the PEC in this Executive Director's report going forward.

Attachments:
Commission Programs and Priorities

PUBLIC ETHICS COMMISSION
Programs and Priorities 2021

Program	Goal	Desired Outcome	Key Projects for 2021
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	1. Oakland Sunshine Report Card, ongoing compliance 2. Campaign Finance Redesign
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	1. Ethics training and advice: a) elected officials, b) City employees (1000), b) board/commission members, and c) consultants 2. Sunshine training 3. New trainings as needed for diversion
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	1. Sunshine mediations 2. Communications/outreach to client groups 3. PEC social media outreach
Disclose/ Illuminate	PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data. Filing tools collect and transmit data in an effective and user-friendly manner.	Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format. Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.	1. Filing Officer/Compliance – assess, follow-up, and refer 2. Government Integrity E-Data Project – Lobbyist Registration, Form 700, Form 803, Show Me the Money App 3. Open Disclosure – continue coordination and development
Detect/ Deter	PEC staff proactively detects potential violations and efficiently investigates complaints of non-	Public servants, candidates, lobbyists, and City contractors are motivated to comply with	1. Investigations 2. Add part-time investigator to assist 3. Collaborate with other government law enforcement agencies

	compliance with laws within the PEC's jurisdiction.	the laws within the PEC's jurisdiction.	
Prosecute	Enforcement is swift, fair, consistent, and effective.	Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.	1. Conduct legal analyses, assess penalty options, negotiate settlements, make recommendations to PEC 2. Case priority: 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. 3. Resolve all 2016 cases
Administration/ Management	PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.	PEC staff model a culture of accountability, transparency, innovation, and performance management.	1. Annual Report 2. Enforcement database upgrade 3. Review data to adjust activities throughout the year 4. Ongoing: professional development and staff reviews