



Item 14 - Executive Director's Report

Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon J. Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: January 3, 2024
RE: Executive Director's Report for the January 17, 2024, PEC Regular Meeting

This memorandum provides an overview of some of the Public Ethics Commission's (PEC or Commission) more significant activities in 2023 which were not included in other program reports, including a discussion of Commission transitions, staffing and budget, and policy accomplishments over the past year. In addition, the attached overview of Commission Programs and Priorities includes the ongoing goals and key projects for 2023-24 for each program area.

2023 Overview

2023 was a busy year of transition and foundation-laying for the PEC, including numerous Program and policy successes, as well as some setbacks. As detailed below, much of the PEC's executive activities in 2023 were focused on responding to the unanticipated postponement of the launch of the Democracy Dollars public financing program from the 2024 to the 2026 election cycle; building up institutional and staff capacity to take on expanded duties and Programs; and securing additional resources and tools to support the PEC's Enforcement Program. The successes from last year will provide the PEC with a strong base to continue to deliver on its core mission and duties; however, resource and staffing constraints will remain a challenge entering 2024.

Commissioner Transitions

The PEC saw several Commissioners transition off of and on to the Commission in 2023. Commissioner Joe Tuman, a mayoral appointee, finished his term with the PEC on January 21, 2023. In addition, Commissioner Arvon Perteet, a Commission-appointed, will conclude his term with PEC on January 21, 2024. We're deeply appreciative of Joe and Arvon for their commitment and years of public service to the Commission and the people of Oakland!

The PEC also welcomed two new Commissioners in 2023, and selected a third Commissioner whose term begins this year. Commissioners Alea Gage and Vincent Steele were both selected in January 2023 by the PEC through its annual public recruitment process. Their terms began on January 22, 2023, and run through January 21, 2026. In addition, the PEC recruited for a third Commission-appointed vacancy in late 2023 and selected applicant Karun Tilak in December. Commissioner-elect Tilak's term will begin on January 22, 2024, and runs through January 21, 2027. Chair Ryan Micik was also re-appointed to the Commission by the City Attorney, for a new term that runs from January 22, 2024, through January 21, 2027. The PEC has one Commissioner vacancy presently, which is for the Mayor-appointed seat.

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Staffing

Last year was also a year of growth and transition for PEC staff. Longtime Commission Analyst Ana Lara-Franco left the PEC for another department. We are grateful to Ana for her excellent service and wish her the best in her next chapter.

At the same time, the Commission added several new staff last year. The Commission welcomed a new Executive Director, Nicolas Heidorn, in May of 2023. Prior to that, Suzanne Doran served as Acting Executive Director of the Commission – thank you, Suzanne, for your leadership during the transition and your continued leadership as Interim Program Manager for the PEC's landmark Democracy Dollars Program! The PEC brought on several other staff in 2023 as well, including Commission Assistant Chris Gonzales, Commission Analyst Teddy Teshome, and Investigator Treva Hadden, who have all had an immediate impact on the PEC's operations and effectiveness. The PEC is also set to welcome three limited duration staff in January 2024: two law clerks and a second investigator. Later in 2024, the PEC also anticipates backfilling the vacant Ethics Analyst III position and hiring a limited duration Democracy Dollars Outreach Specialist with a grant from the Haas Jr., Foundation.

While the PEC has moved aggressively to fill staff vacancies and use grant funding and salary savings to hire limited duration employees, the PEC nonetheless has significant staffing challenges, as outlined in greater detail in the proposed midcycle budget letter (Item 6). The most immediate challenge will be to increase staffing for the Enforcement Program to keep pace with its increasing caseload and to onboard additional staff to prepare for the launch of the Democracy Dollars Program in 2026.

PEC Retreat

In August 2023, the PEC held a strategic planning retreat to discuss the PEC's priorities for 2023-2024. The retreat, which was open to the public, provided Commissioners and staff an opportunity to review program objectives and identify projects for the PEC to work on in the years ahead.

The Executive and Policy priorities coming out of the retreat, and their current status, are as follows:

- Near Term (2023), in order of priority:
 - Work with the City Council to adopt the Limited Public Financing Program of 2024 - **COMPLETE**
 - Work with the City Council to adopt Lobbyist Registration Act Amendments - **COMPLETE**
 - Pilot a Voter Guide in the 2024 Election – **IN PROGRESS**
 - Recommend whether the PEC should set the Mayor's Salary - **COMPLETE**
 - Review City Charter provisions relating to the PEC - **IN PROGRESS**
- Mid/Long Term (2024-25), in order of priority:
 - Bi-Annual Policy Review: LRA – **NOT STARTED**
 - Strengthen Public Records/Mediation - **IN PROGRESS**
 - Build Ethics Commission Network (begin with regular meetings) - **COMPLETE**

Public Financing

The PEC spent much of 2023 working towards the implementation of the Democracy Dollars Program, which was unexpectedly postponed to the 2026 election cycle through the City's biannual budget process. While the PEC advocated that the Program, or a pilot of the Program, launch in 2024, the postponement has given the PEC time to be more deliberate in its planning and roll-out strategy. Over the past year, the PEC has worked on developing the Request for Proposal (RFP) for the database that will be used to track, distribute, and redeem Oaklanders' campaign vouchers. At the same time, in 2023, the PEC successfully applied for \$210,000 in funding from the Haas Jr. Foundation to develop an inclusive outreach strategy for the Program's roll-out. Staff have also been developing a model voter guide to assist voters in assigning their vouchers, which the PEC hopes to pilot in the 2024 election cycle.

Because Measure W (2022), which *established* the Democracy Dollars Program, also *repealed* the City's existing Limited Public Financing Program (LPF), the City Council's decision to postpone the Democracy Dollars Program to 2026 would have left Oakland in 2024 with no public financing program for City Council District elections for the first time in two decades. To avoid this, in August 2023 the PEC proposed, and in November the City Council approved, an ordinance to re-establish a version of LPF for the 2024 election cycle only.

Other Legislation and Policies

2023 was also a particularly active policy year for the PEC in other areas as well. In addition to bringing back the LPF, the PEC either adopted or recommended to the City Council which adopted...

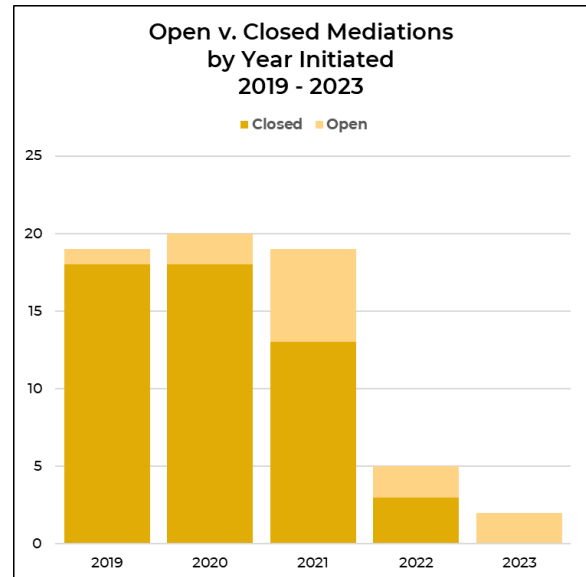
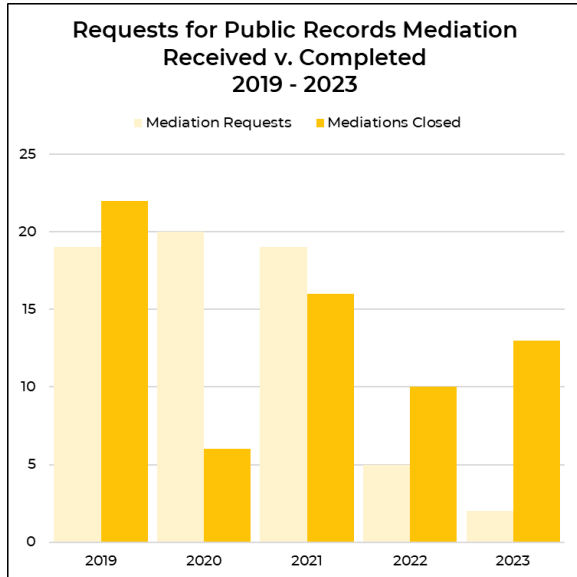
- An ordinance adding a new lobbyist registration fee;
- An ordinance modifying the lobbyist registration fee to provide a fee waiver or reduction for certain registrants and making other administrative improvements to the Lobbyist Registration Act, including requiring that lobbyists meet certain training requirements;
- Revised Complaint Procedures and Penalty Guidelines to provide a more streamlined process for assessing penalties or requiring diversion for low-level offenses of PEC-enforced laws; and
- A policy describing when and how the Executive Director will waive lobbying and campaign finance late filing fees.

In addition, the PEC adopted salaries for the City Attorney and the City Auditor for the first time in 2023, following voter-approval of Measure X in 2022, which transferred these duties to the PEC. The City Council is considering placing a measure on the ballot in 2024 to transfer the responsibility for setting the Mayor's salary to the PEC as well. Last month, the PEC adopted a recommendation for how this should be done, which has been transmitted to the City Administrator and City Council.

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Mediation Program

Finally, pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediation of public records requests made by members of the public to City departments for records within the department's control. The Commission received two new requests for mediation in 2023. Thirteen mediations were completed in 2023.



Additional Attachment: Commission Programs and Priorities.

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PUBLIC ETHICS COMMISSION

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

Program	Goal	Desired Outcome	Regular Program Activities	2023/24 Projects
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	<ul style="list-style-type: none"> ○ Lead Measure W implementation ○ Engage in review of laws PEC enforces 	<ul style="list-style-type: none"> ✓ Lobby Registration Act amendment to incorporate new fees and waiver policy ✓ Ordinance for one-time LPF for 2024 elections ○ Voter Guide Pilot ✓ Mayor Salary Setting Guidance ○ Charter Review Options ○ Policy Review: Lobbyist Registration Act ✓ Ethics Commission Network ✓ Invite Department Presentations on Records Request Responses
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.	<ul style="list-style-type: none"> ● Regular ethics training ● Information, advice, and technical assistance ● Targeted communications to regulated communities ● New trainings as needed for diversion 	<ul style="list-style-type: none"> ○ Collaboration with Clerk and HR on process improvements for ethics onboarding/exit and Form 700 compliance ✓ Public Records training
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ul style="list-style-type: none"> ● Public Records mediations ● Commissioner-led public outreach ● Outreach to client groups – targeted training and compliance ● PEC social media outreach 	<ul style="list-style-type: none"> ○ Update guides and trainings to reflect Measure W and LPF changes ✓ Update public and stakeholders on Democracy Dollar postponement ✓ Update Lobbyist Registration Act educational materials and share with Council ✓ Recruit for PEC vacancy ○ Publicize Enforcement Needs ○ Publicize PEC campaign finance tools ○ Publicize how to file complaints

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Program	Goal	Desired Outcome	Regular Program Activities	2023/24 Projects
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ul style="list-style-type: none"> • Monitor compliance (campaign finance/lobbyist/ticket use) • Proactive engagement with filers • Technical assistance • Assess late fees/refer non-filers for enforcement • Maintain data assets 	<ul style="list-style-type: none"> ○ Democracy Dollars admin system development/issue RFP ○ Updates to Ticket Distribution (Form 802) database ✓ Lobbyist App Updates ○ Public Records Performance Dashboard ○ Update Open Disclosure 2024 ✓ Update Show Me The Money ○ Digitize Schedule O Form
Detect/ Deter	<p>PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC's jurisdiction.</p>	<p>Public servants, candidates, lobbyists, and City contractors are motivated to comply with the laws within the PEC's jurisdiction.</p>	<ul style="list-style-type: none"> • Process and investigate complaints • Initiate proactive cases • Collaborate/coordinate with other government law enforcement agencies 	<ul style="list-style-type: none"> ○ Digital complaint form/ mediation request ✓ Improve Enforcement database
Prosecute	<p>Enforcement is swift, fair, consistent, and effective.</p>	<p>Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.</p>	<ul style="list-style-type: none"> • Prioritize cases • Conduct legal analyses, assess penalty options • Negotiate settlements • Make recommendations to PEC 	<ul style="list-style-type: none"> ○ Resolve 2016 and 2017 case backlog ○ Review/revise policies for release of public information and election-related complaints ○ Develop internal Enforcement staff manual ✓ Expand streamline and diversion program
Administration/ Management	<p>PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.</p>	<p>PEC staff model a culture of accountability, transparency, innovation, and performance management.</p>	<ul style="list-style-type: none"> • Annual Report • Budget proposal • Ongoing professional development and staff reviews • Fill staff vacancies • Commissioner onboarding 	<ul style="list-style-type: none"> ✓ 2023 – 2025 strategic plan preparation/retreat ✓ Develop process for City Attorney and City Auditor Salary Adjustment and adopt resolution for Council ○ Increase enforcement capacity