

CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
Regular Commission Meeting  
Hearing Room 1  
Wednesday, April 10, 2024  
6:30 p.m.



**In-Person Meetings:** Effective March 1, 2023, all City of Oakland boards and commissions will conduct in-person meetings. Please check [www.oaklandca.gov](http://www.oaklandca.gov) for the latest news and important information about the City's [return to in-person meetings](#).

**Public Comment:** 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 Chair allocates additional time.

Members of the public may also submit written comments in advance of the meeting to [EthicsPublicComment@oaklandca.gov](mailto:EthicsPublicComment@oaklandca.gov). Please indicate the agenda item # you are commenting on in the subject line of the email.

Commissioners: Ryan Micik (Chair), Francis Upton IV (Vice-Chair), Alea Gage, Charlotte Hill, Vincent Steele, and Karun Tilak.

Commission Staff to attend: Nicolas Heidorn, Executive Director; Suzanne Doran, Program Manager; Simon Russell, Enforcement Chief; and Alex Van Buskirk, Ethics Analyst.

Legal Counsel: Christina Cameron, Partner, Devaney Pate Morris & Cameron, LLP

## PUBLIC ETHICS COMMISSION REGULAR MEETING AGENDA

### PRELIMINARY ITEMS

1. **Roll Call and Determination of Quorum.**
2. **Staff and Commission Announcements.**
3. **Open Forum.**
  - Please state your name each time you make public comment if you wish it to be included in the meeting minutes.
  - The Commission urges members of the public not to make complaints or ask the Commission to investigate alleged legal violations at public meetings since public disclosure of such complaints or requests may undermine any subsequent investigation undertaken. Contact staff at [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) for assistance filing a complaint.

### ACTION ITEM

4. **Approval of Commission Meeting Draft Minutes.**
  - a. March 13, 2024, Regular Meeting Minutes. ([Meeting Minutes](#))

**April 10, 2024 PEC Regular Meeting Packet - 1**



## **INFORMATION ITEMS**

5. **Oakland Fire Department (OFD) Public Records Presentation.** Fire Chief Damon Covington, Assistant to the Director and Public Information Officer Michael Hunt, and OFD Operations Administrative Assistant Randy Stukes will provide information on the Department's process, successes, and challenges in responding to public records requests, and answer questions from the Commission. ([PEC Letter to OFD](#); [OFD Response](#))
6. **Disclosure and Engagement.** Commission staff provides a summary of compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting. ([Disclosure Report](#))
7. **Democracy Dollars Implementation.** Program Manager Suzanne Doran provides a summary of significant developments in the implementation of the Democracy Dollars Public Financing Program, which will be used in the 2026 election. ([Democracy Dollars Report](#))
8. **Enforcement Program.** Enforcement Chief Simon Russell provides a summary of the Commission's enforcement process, caseload, enforcement-related litigation, and case closures or dismissals. ([Enforcement Report](#))
9. **Executive Director's Report.** Executive Director Nicolas Heidorn reports on overall priorities and PEC activities, such as budget, staffing, and PEC legislative and policy initiatives not covered in other staff reports. ([Executive Director's Report and Matrix](#))
10. **Oakland Campaign Reform Act (OCRA) Guide 2024.** Commission staff presents an updated guide to the Oakland Campaign Reform Act, including new content explaining recent amendments to the Act enacted with the passage of Measure W (2022). ([OCRA Guide](#))

## **ACTION ITEMS**

11. **Oakland City Auditor Salary Adjustment.** The Commission will discuss and take action to adjust the salary of the Oakland City Auditor as required annually by Oakland City Charter Section 403(1). ([Staff Memorandum](#); [Resolution](#); [Measure X](#))



[\(2022\) Ballot Packet](#)

12. **Oakland City Attorney Salary Adjustment.** The Commission will discuss and take action to adjust the salary of the Oakland City Attorney as required annually by Oakland City Charter Section 401(1). ([Staff Memorandum; Resolution](#))
13. **Review and Recommend Amendments to the City Charter and/or OMC Relating to the Ethics Commission.** The Commission will consider recommending to the City Council that it place a measure on the ballot amending the City Charter and/or the Oakland Municipal Code (OMC) to change the Commission's structure, processes, powers, and responsibilities, and/or laws the Commission enforces. ([Staff Memorandum; Redline of Draft Charter and OMC Amendments; Staff Memorandum for the March 2024 Meeting](#))

**DISCUSSION ITEMS**

14. **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.
  - a. **Public Outreach 2023 Commissioner Recruitment, Enforcement Resources, Ethics Complaints, and Campaign Finance Subcommittee.** (ad hoc, created August 25, 2023) - Vincent Steele (Chair), Alea Gage, and Ryan Micik. ([Calendar of Events; March 7, 2024 Minutes](#))
  - b. **Charter Review Subcommittee.** (ad hoc, created December 13, 2023) - Ryan Micik (Chair), Charlotte Hill, and Karun Tilak. ([March 21, 2024 Minutes; March 25, 2024 Minutes](#))

**INFORMATION ITEM**

15. **Future Meeting Business.** Commissioners and staff may propose topics for action or discussion at future Commission meetings.

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

*The following options for public viewing are available:*

**April 10, 2024 PEC Regular Meeting Packet - 3**

CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
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6:30 p.m.



- **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 (via ZOOM):** Click on the link to join the webinar: <https://uso2web.zoom.us/j/89169308829>. Please note: the Zoom link and access number are to view/listen to the meetings only. Public comment via Zoom is not supported at this time.
- **Telephone:** Dial (for higher quality, dial a number based on your current location): US: +1 669 900 6833 or +1 669 444 9171 or +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 931 3860 or +1 689 278 1000 or +1 929 205 6099 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 Webinar ID: 891 6930 8829
- **International numbers available:** <https://uso2web.zoom.us/j/89169308829>

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or visit our webpage at [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec).

*Nicolas Heidorn*

3/29/24

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Approved for Distribution

Date

CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
Regular Commission Meeting  
Hearing Room 1  
Wednesday, April 10, 2024  
6:30 p.m.



This meeting location is wheelchair accessible. Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or call (510) 238-3593 Or 711 (for Relay Service) five business days in advance.

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郵 [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or 或致電 (510) 238-3593 或711 (電話傳達服務)。

Quý vị cần một thông dịch viên Ngôn ngữ Ký hiệu Mỹ (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 [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or hoặc gọi đến số (510) 238-3593 hoặc 711 (với Dịch vụ Tiếp âm) trước đó năm ngày.



**DRAFT**

Commissioners: Ryan Micik (Chair), Francis Upton IV (Vice-Chair), Alea Gage, Charlotte Hill Vincent Steele, and Karun Tilak.

Commission Staff to attend: Nicolas Heidorn, Executive Director; Suzanne Doran, Program Manager; Simon Russell, Enforcement Chief; and Treva Hadden, Ethics Investigator.

Legal Counsel: Christina Cameron, Partner, Devaney Pate Morris & Cameron, LLP

## **PUBLIC ETHICS COMMISSION REGULAR MEETING MINUTES**

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

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

Members present: Chair Micik, Vice Chair Upton IV, Gage, Hill, Steele and Tilak.

Members absent: None.

Staff present: Nicolas Heidorn, Suzanne Doran, Simon Russell, Alex Van Buskirk and Graham Willard.

Legal Counsel: Christina Cameron

### **2. Staff and Commission Announcements.**

Micik reordered the agenda to go directly from item #6 (“Enforcement Program”) to item #9 (“Proposed Settlement Agreement”), then return back to item #7 and follow the regular agenda order.

Public Comment: none.

### **3. Open Forum.**

Public Comment: Gene Hazzard.

A full recording of public comments is available in the meeting video. Video recordings are posted on the meeting webpage, which may be found at [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec).

### **4. Approval of Commission Meeting Draft Minutes.**

Hill moved, and Steele seconded, to adopt the January 17, 2024, regular meeting minutes.



**DRAFT**

Ayes: Micik, Upton IV, Gage, Hill, Steele and Tilak.

Noes: None.

Vote: Passed 6-0.

Public Comment: None.

### **5. Disclosure and Engagement.**

Program Manager Suzanne Doran provided a summary of compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting.

Public Comment: None.

### **6. Enforcement Program.**

Enforcement Chief Simon Russell provided a summary of the Commission's enforcement process, caseload, enforcement-related litigation, and case closures or dismissals.

Public Comment: Gene Hazzard.

### **9. Proposed Settlement Agreement: In the Matter of Susan Montauk (PEC No. 19-01.2).**

Enforcement Chief Russell presented to the Commission a proposed Stipulation, Decision, and Draft Order in In the Matter of Susan Montauk (PEC Case No. 19-01.2), including imposing a \$500 penalty on the Respondent, Susan Montauk.

Hill moved, and Tilak seconded, to approve the stipulated agreement and impose a \$500 penalty on the Respondent, as recommended by PEC Staff.

Ayes: Micik, Upton IV, Gage, Hill, Steele and Tilak.

Noes: None.





**DRAFT**

Vote: Passed 6-0.

Public Comment: Gene Hazzard.

**7. Executive Director's Report.**

Executive Director Nicolas Heidorn reported on overall priorities and PEC activities, including the PEC's budget and staffing.

Public Comment: None.

**8. Lobbyist Registration Act Guide 2024.**

Executive Director Heidorn presented the updated Lobbyist Registration Act Guide, and highlighted new sections including an overview of the new lobbyist registration fee structure and lobbyist training requirements.

Public Comment: None.

**10. Oakland City Council Salary Adjustment.**

Executive Director Heidorn presented on, and Commissioners discussed, adjusting the salaries of Oakland City Councilmembers as required by the City Charter.

Upton IV moved, seconded by Gage, to approve the proposed resolution increasing City Councilmember salaries by 5%.

Ayes: Micik, Upton IV, Gage, Hill, Steele and Tilak.

Noes: None.

Vote: Passed 6-0.

Public Comment: Gene Hazzard.

**11. Review and Recommend Amendments to the City Charter and/or OMC Relating to the Ethics Commission.**





**DRAFT**

Chair Micik and Executive Director Heidorn presented, and the Commission discussed, the Charter Review Subcommittee's proposals to amend the City Charter and/or the Oakland Municipal Code (OMC) to change the Commission's structure, processes, powers, and responsibilities.

Micik moved, seconded by Steele, to direct staff to move forward with drafting potential charter amendment language in line with the proposals of the Charter Review Subcommittee and reflecting the input of other Commissioners.

Ayes: Micik, Upton IV, Gage, Hill, Steele and Tilak.

Noes: None.

Vote: Passed 6-0.

Public Comment: Gene Hazzard.

## **12. Reports on Subcommittees and Commissioner Assignments.**

### **a. Transparency and Public Records Subcommittee**

Subcommittee Chair Francis Upton IV explained that the Subcommittee has terminated and urged Commissioners to review the termination statement. He expressed that he was pleased with the work of the Goldman Students' research. Commissioners discussed next steps for the Subcommittee.

Public Comment: None.

### **b. Public Outreach 2023 Commissioner Recruitment, Enforcement Resources, Ethics Complaints, and Campaign Finance Subcommittee.**

Subcommittee Chair Vincent Steele explained that the Subcommittee met and discussed outreach materials and the outreach calendar and ways for Commissioners to assist with out.

Public Comment: Gene Hazzard.

### **c. Charter Review Subcommittee**

Subcommittee Chair Ryan Micik indicated he had no additional update beyond the  
**April 10, 2024 PEC Regular Meeting Packet - 9**



**DRAFT**

presentation in Item 11.

Public Comment: Gene Hazzard.

**13. Executive Director Performance.**

Public Comment: None.

The Commission met in closed session from 9:29 p.m. to 10:38 p.m. to discuss the Executive Director's performance.

Chair Micik announced that the Commission reached consensus that the Executive Director's performance was above satisfactory.

Micik announced that Upton IV moved, seconded by Tilak, to approve Director Heidorn's self-evaluation and to approve a brief written evaluation of the Director.

Ayes: Micik, Upton IV, Gage, Hill, Steele and Tilak.

Noes: None.

Vote: Passed 6-0.

**14. Executive Director Compensation and Management Leave.**

The Commission discussed increasing the Executive Director's compensation and awarding the Executive Director additional management leave.

Upton IV moved to provide the Director with a 10% salary increase and an award of the maximum of 10 days of management leave. The motion failed for lack of a second.

Tilak moved, and Micik seconded, to provide the Director with a 5% salary increase based on the Director having a more than satisfactory performance and an award of the maximum of 10 days of management leave.

Ayes: Micik, Upton IV, Gage, Hill, Steele and Tilak.

Noes: None.



**DRAFT**

Vote: Passed 6-0.

Upton IV moved, and Tilak seconded, to provide Director Heidorn an additional 5% retention-based increase, for a total (added to the increase approved with the prior motion) of a 10% salary increase.

Ayes: Micik, Upton IV, Gage, Hill, Steele and Tilak.

Noes: None.

Vote: Passed 6-0.

Public Comment: None.

### **INFORMATION ITEM**

#### **15. Future Meeting Business.**

Chair Micik reminded Commissioners to file their Form 700.

Public Comment: None.

The meeting adjourned at 11:01 p.m.

CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • Suite #104 • OAKLAND • CA 94612

Public Ethics Commission

(510) 238-3593

(510) 238-3315 Fax

(510) 238-325 TDD



February 6, 2023

Damon Covington  
Chief  
Oakland Fire Department  
150 Frank H. Ogawa Plaza,  
Oakland, CA 94612

**RE: Requested appearance at the Public Ethics Commission’s April 10, 2024 meeting regarding public records requests made to the Oakland Fire Department**

Dear Chief Covington:

On behalf of the Public Ethics Commission (PEC or Commission), we would like to invite you or a designee from the Oakland Fire Department (OFD) to present at the Commission’s April 10 meeting to provide information on the Department’s process, successes, and challenges in responding to public records requests. The Commission will meet on April 10, 2024, at 6:30 p.m. in Hearing Room 1 at City Hall.

As you likely know, the Public Ethics Commission oversees compliance with the Oakland Sunshine Ordinance and its state equivalent, the California Public Records Act. The Sunshine Ordinance, as a supplement to state law, also authorizes the PEC to mediate between requesters seeking public records and City employees responding to their requests. In addition, under the City Charter, the PEC is required to periodically study the laws within its purview to make administrative or policy change recommendations to the City Council (City Charter Section 603(b)(2) & (7)).

As part of this responsibility, the Commission is currently engaged in a study of the City’s process for responding to records requests. In 2024, the Commission will be inviting the three departments with the largest volume of records requests to present before the Commission on their process, beginning with the Police Department, which presented at our January meeting.

As one of the other departments with the highest volume of requests, we would love to learn more about OFD’s experiences. Our goals are to learn more about OFD’s capacity and challenges, discover any commonalities between City departments, and recommend changes to improve performance and capacity with regard to public records requests. We hope to partner with you to help identify any resources you need to address challenges and potentially find efficiencies that could be implemented to benefit OFD and the public.

To this end, the Commission would appreciate hearing from you regarding the following questions:

## Item 5 - PEC Letter to OFD and Response

1. How many records requests are submitted to your department each week/month/year?
2. What percentage of requests receive a response within 10 days providing a determination of whether there are responsive records?
3. Does the department categorize the requests that are received for data and reporting purposes? If so, please list the categories your department uses and the number of requests received for each category. Are any of these categories easier or harder to respond to?
4. What is the department's existing process for responding to public records requests? How do requests typically come to your department and who handles the initial contact, ongoing communications and response to the requester?
5. What are the biggest challenges your department faces in responding to records requests?
6. Do you have any staff dedicated to responding to records requests? How many vacancies exist among total funded positions that respond to records requests? Are your total funded positions adequate to respond to records requests? If not, what positions and how many would be sufficient?
7. Does your agency provide, or have you considered providing, a self-service means of handling routine requests, i.e. having some portion of the website where a request can be made and fulfilled without human intervention?
8. What process or technology changes, if any, have you made to improve response to records requests, including but not limited to self-service access to records?
9. What training and support do you provide to employees with responsibilities in the department's records retention and public records response process? How is the performance of these employees measured with regard to public records retention and response? (Please note we are only requesting to know how performance is measured in general, and not any particular employee's performance.)
10. What is the department's experience using the NextRequest platform to manage and respond to public records requests? Is it working? How can it be improved?
11. What additional information would you like to share with the Commission on this issue?

Thank you in advance for your cooperation with the Commission's review pursuant to its authority under the City Charter. Could you please confirm by February 21 whether you or a Department designee (and if so who) will attend the PEC's April 10 meeting? To facilitate discussion, it would be helpful if OFD could provide written responses to the questions above by March 18, 2024, so that they may be included with the agenda for that meeting.

Please feel free to reach out if you would like to discuss these questions, or the context for the Commission's inquiry. You may contact me directly at (510) 604-1002 or [nheidorn@oaklandca.gov](mailto:nheidorn@oaklandca.gov).

Sincerely,

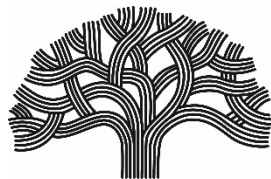
/s/ *Nicolas Heidorn*

Nicolas Heidorn

Executive Director

Oakland Public Ethics Commission

## Item 5 - PEC Letter to OFD and Response



CITY OF OAKLAND

### INTER OFFICE MEMORANDUM

**TO:** Nicholas Heidorn  
Executive Director  
Oakland Public Ethics Commission

**FROM:** Michael Hunt  
Assistant to the Director  
Oakland Fire Department

**SUBJECT:** Oakland Fire Department  
Public Records Requests

**DATE:** March 18, 2024

---

Dear Executive Director Heidorn and Commissioners on the Public Ethics Commission:

Please find below the Oakland Fire Department's (OFD) responses to your questions regarding the Department's Public Records Request (PRR) response process.

**1. How many records requests are submitted to your department each week/month/year?**

In 2023, the Office of the Fire Chief processed an average of 18 PRRs each week, an average of 68 a month, and a total of 819 via the NextRequest platform.

**2. What percentage of requests receive a response within 10 days providing a determination of whether there are responsive records?**

Three OFD Divisions receive the majority of PRRs:

- Fire Prevention Bureau (FPB) responded to 11% of requests within 10 days
- Fire Dispatch Center (FDC) responded to 80% of requests within 10 days
- Medical Services Division (MSD) responded to 95% of requests within 10 days

**3. Does the department categorize the requests that are received for data and reporting purposes? If so, please list the categories your department uses and the number of requests received for each category. Are any of these categories easier or harder to respond to?**

OFD began categorizing requests around the middle of 2023. Requests are categorized by the OFD divisions designated as the custodian of a specific record.

Following is a list of each OFD division, its Tag, and the records it manages:

- Fire Prevention Bureau (FPB)
  - i. Permits & Plans
  - ii. Inspection Records
  - iii. Violations & Complaints
  - iv. Hazardous Materials & Environmental Records
- Fire Dispatch Center (FDC)

## Item 5 - PEC Letter to OFD and Response

- i. Computer Aided Dispatch Records
  - ii. Incident Reports
  - iii. 911 Audio Recordings
- Medical Services Division (MSD)
  - i. Patient Care Reports
  - ii. EMS-Related Records
- Fire Administration (FIRE ADMIN)
  - i. Email Communications
  - ii. Electronic Data Discovery Requests (EDDR)
- Fiscal and Administrative Services Division (FASD)
  - i. Financial & Accounting Records
  - ii. HR & Payroll Records
- Support Services Division (SSD)
  - i. Apparatus, Equipment, Tools, Maintenance Records
  - ii. Training Records
- Field Operations Bureau (OPS)
  - i. Policies & Procedures, Rules & Regulations, Standard Operating Guidelines
  - ii. Shift Schedules & Roster Reports
- Emergency Management Services Division (EMSD)
  - i. Emergency Management Services Records

Tags	Count of Id
EDDR-BOS	1
EMSD	1
FDC	272
FDC; EMSD	1
FDC; FIRE ADMIN	2
FDC; FPB	22
FDC; FPB; EMSD	1
FDC; FPB; FIRE ADMIN	1
FDC; MSD	8
FIRE ADMIN	17
FIRE ADMIN; FDC; OPS	1
FPB	184
FPB; FDC	1
FPB; FIRE ADMIN	2
MSD	10
MSD; FIRE ADMIN	1
Records-BOS; RDF Uploaded; FDC	1
SUPPORT SERVICES	3
<i>(blank – before OFD began categorizing requests)</i>	290
<b>Total</b>	<b>819</b>



## Item 5 - PEC Letter to OFD and Response

### 4. What is the department's existing process for responding to public records requests? How do requests typically come to your department and who handles the initial contact, ongoing communications, and response to the requester?

When a request for information is received by OFD, the Fire Chief's Executive Assistant (EA) will review the request to determine whether it specifies identifiable records. If additional information is required, the EA contacts the requester to obtain missing information.

The EA forwards the request to the respective division's PRR coordinator to determine if the record exists. Once this is determined, division staff will provide the requester with a Records Determination, informing them whether disclosable responsive records have been located and, if so, whether the Department intends to produce the records.

The next step is to review the records and, if necessary, redact or withhold information where appropriate. Finally, responsive records are published on the City's NextRequest platform and made available to the requester.

Requests for information are received in several ways, including by U.S. postal mail, email, the City's NextRequest platform, by phone, and in person. The EA or division PRR coordinators are responsible for handling the initial contact, ongoing communication, and response to the requester. When challenges arise related to a request, the EA will provide support to staff. Staff also utilizes the assistance of the Office of the City Attorney (OCA) to address challenges related to responding to requests.

### 5. What are the biggest challenges your department faces in responding to records requests?

Following are challenges followed by a recommended solution:

- ***OFD has zero (0) FTE's in the department dedicated to Public Records Requests. This requires multiple administrative staff to carve out time from their regular burden of responsibilities in order to process the volume of requests that OFD receives.***

#### **SOLUTION:**

- *OFD would benefit from having one (1) FTE that is dedicated to the management & processing of PRRs – the addition of one (1) FTE “public records specialist” would immediately improve process management, timeliness of response, and compliance.*
- ***Public records training is irregular and there is no known training for EDDR data requests to efficiently search/retrieve responsive records.***

#### **SOLUTION:**

## Item 5 - PEC Letter to OFD and Response

- *The Office of the City Attorney (OCA) should support annual/semi-annual PRR training that is tailored to the department's needs and provide EDDR records search training by the Information Technology Department (ITD) to improve search efficiency and the delivery time of responsive records.*
- **EDDR requests sap vast amounts of resources to review unwieldy large volumes of extracted unspecific data.**
  - *ITD's EDDR data search query tool seems too basic and returns unwieldy volumes of unspecific data to pore over, requiring vast amounts of administrative review time and delayed delivery of responsive records – this is a huge waste of resources.*

### **SOLUTION:**

- *Improve ITD's ability/data search tool to extract better, more specific, data to improve the data staff must search to find responsive records.*
- **Lack of support from OCA on records requests that are unspecific or vague for unreasonably large volumes of unspecific data:**
  - *Records requests for "all records" City Attorney response to "give them everything" is unhelpful and not supportive of City staff working on unreasonably vague requests for large volumes of data.*

### **SOLUTIONS:**

- *It would be immensely helpful if the OCA would better utilize the letter of the law to support City staff by requesting specificity in requests and allow for the rejection of vague requests for nonspecific information.*
- *OCA should impose an electronic document fee for records duplication (like the CA DOJ) to discourage vague large volume requests that are exploitative of administrative staff time.*
  - <https://oag.ca.gov/system/files/media/pra-guidelines.pdf>  
*"COPYING FEES... when the Department must compile electronic data, extract information from an electronic record, or undertake computer programming to satisfy a request, the Department may require the requester to bear the full costs, not just the direct cost of duplication."*

## **6. Do you have any staff dedicated to responding to records requests?**

No, OFD does not have staff dedicated to responding to PRRs.

How many vacancies exist among total funded positions that respond to records requests?

The Fire Prevention Bureau (FPB) has four existing vacancies (2 OAlls, 1 AAI, 1 ASM I) that responds to PRRs.

## Item 5 - PEC Letter to OFD and Response

Are your total funded positions adequate to respond to records requests? If not, what positions and how many would be sufficient?

No, OFD's total funded positions are not adequate to respond to PRRs. OFD would benefit from having at least one (1) FTE that is dedicated to the management & processing of PRRs. The addition of one (1) FTE "public records specialist" would immediately improve process management, timeliness of response, and compliance.

- 7. Does your agency provide, or have you considered providing, a self-service means of handling routine requests, i.e., having some portion of the website where a request can be made and fulfilled without human intervention?**

No, this is something we have not considered. The type of records that OFD maintains (incident reports, 911 audio, patient care reports, medical records, etc.) requires human intervention before it can be released to the public because of the sensitive information the documents contain.

- 8. What process or technology changes, if any, have you made to improve response to records requests, including but not limited to self-service access to records?**

OFD now logs and tracks every PRR received in an Excel spreadsheet that all divisions' PRR coordinators have access to. The spreadsheet is a tool used to assist the EA and division PRR coordinators in managing the PRR process to ensure timely responses.

- 9. What training and support do you provide to employees with responsibilities in the department's records retention and public records response process? How is the performance of these employees measured with regard to public records retention and response? (Please note we are only requesting to know how performance is measured in general, and not any particular employee's performance.)**

OFD's EA provides one-on-one and/or group trainings to OFD PRR coordinators and staff. The City Attorney's Office provides training and guidance as needed to OFD staff and meets bi-weekly with the EA.

OFD does not measure performance of employees with regard to public records retention and response.

- 10. What is the department's experience using the NextRequest platform to manage and respond to public records requests? Is it working? How can it be improved?**

The OFD EA/Point of Contact, PRR coordinators, and assigned support staff have over five plus years of experience using the NextRequest platform to manage and respond to PRRs.

## Item 5 - PEC Letter to OFD and Response

The platform is working but could be improved by:

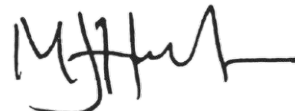
- Offering a quick “how-to” video or walk users through the most commonly used function of the site.
- Giving the public better instructions on how to successfully request for records. For example, let the user know that they should include the exact address or date of incident when requesting for incident or patient care reports.
- More prominently suggest NextRequest users search for records before submitting a new request. This message gets lost on the main NextRequest page ([Open Public RecordsNextRequest - Modern FOIA & Public Records Request Software](#)) because it doesn’t stand out – it should be in bold font, “Please use the search function to the right to query the 27,000, and counting, requests the City has previously responded to. You may likely find what you're looking for without having to submit a new request!!!”
- Making the search function more user friendly – provide a simple walk-through of the steps on how to search successfully.

11. What additional information would you like to share with the Commission on this issue?

- OFD should have at least one (1) FTE for PRR to improve compliance
- PRR training should be implemented & tailored to a department’s needs
- There is no training for EDDR requests and search process
- ITD’s search tool is too basic and generates unwieldy volumes of data to search, wasting resources and staff time – suggest better assistance
- OCA should impose an extraction and duplicating fee for voluminous requests to discourage abuse of the system
- Update Public Records Act language to replace “copying/duplicating” with “producing” in the following, “The California Public Records Act (PRA) allows agencies to charge fees to cover the cost of copying records.”
- Update the City of Oakland Master Fee Schedule to replace “Duplication/Reproduction” with “Production.”

If you have any questions, please contact me at 510-238-6353. Thank you.

Respectfully submitted,



Michael Hunt, Assistant to the Director  
Oakland Fire Department



Public Ethics Commission | CITY OF OAKLAND

## Item 6 - Engagement Report

Ryan Micik, Chair  
Francis Upton IV, Vice Chair  
Alea Gage  
Charlotte Hill  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
 FROM: Alex Van Buskirk, Lead Analyst, Compliance and Disclosure  
 Jelani Killings, Lead Analyst, Education and Engagement  
 Suzanne Doran, Program Manager  
 DATE: March 27, 2024  
 RE: Disclosure and Engagement Monthly Report for the April 10, 2024,  
 Regular 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 regular 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 required. 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.

### Compliance with Disclosure Requirements

Commission staff conducts filing officer duties as required by state and local law and aims to help candidates, lobbyists and City officials submit required disclosure reports and ensure residents can easily access campaign finance, lobbyist, and ethics-related data and information.

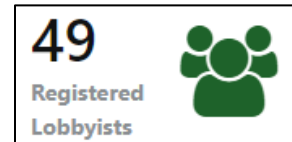
**Campaign Finance Disclosure** – A special election to fill the vacancy in the office of City Auditor was held on March 5, 2024. In an election year, there are four major filing deadlines for campaign statements: two semi-annual statements and two pre-election statements. The special election added additional pre-election deadlines for candidates on the March ballot. During January and February there were three campaign statement deadlines: two pre-election deadlines on January 25 and February 22 for candidates on the March special election ballot and the semi-annual statement deadline for all registered committees on January 31, 2024.

Commission staff was able to connect with select non-filer committees for the January 31 deadline and is engaged in ongoing discussions to ensure voluntary compliance with filing requirements.

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

Campaign finance data, graphs, and visualizations are available via Commission-sponsored apps [Show Me the Money](#), [OpenDisclosure](#), [Oakland's Open Data portal](#), and links on the Public Ethics Commission website.

**Lobbyist Registration Program** – The Oakland Lobbyist Registration Act (LRA) requires any person that qualifies as a lobbyist to register annually with the Commission before conducting any lobbying activity. Registration renewals were due January 31. To date, 49 lobbyists have registered with the City of Oakland for 2024.



In November 2023, the Oakland City Council adopted amendments to the Lobbyist Registration Act including a new annual lobbyist registration fee as well as a requirement that lobbyists take an online training provided by the Commission. To date, 31 lobbyists have taken the online training provided by the Commission. To date, the Commission has received new annual lobbyist registration fees from over half of the registered lobbyists. Commission staff is monitoring online training and new fee payment activity to ensure voluntary compliance by registered lobbyists before the first quarter filing deadline.



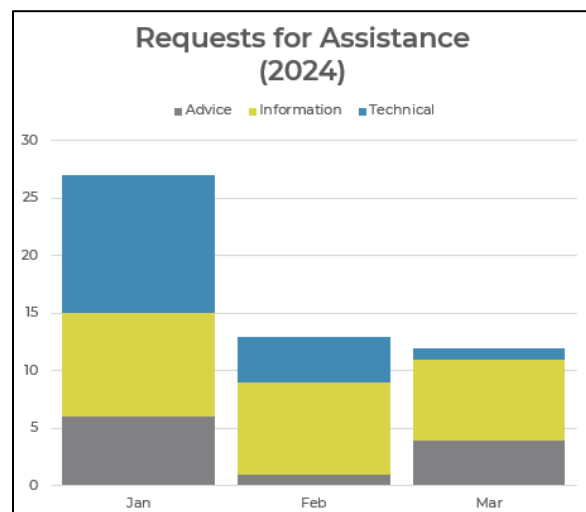
The LRA also requires lobbyists to submit quarterly reports disclosing their lobbying activities to ensure that the public knows who is trying to influence City decisions. January 31 was the deadline for quarterly lobbyist activity reports covering the period from October 1 through December 31, 2023. 68 reports were filed. Commission staff was able to connect with non-filer lobbyists and is engaged in ongoing discussions to ensure voluntary compliance with filing requirements.

An up-to-date list of registered lobbyists and lobbyist activity reports with links to view and download individual reports is available at the PEC's [Lobbyist Dashboard and Data](#) webpage.

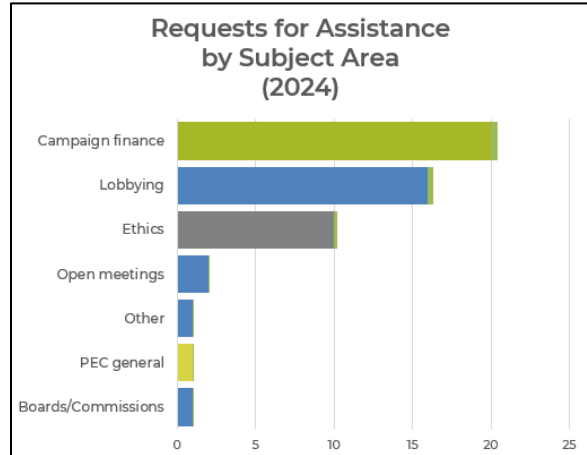
## Advice and Engagement

The Commission's Engagement program seeks to ensure Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.

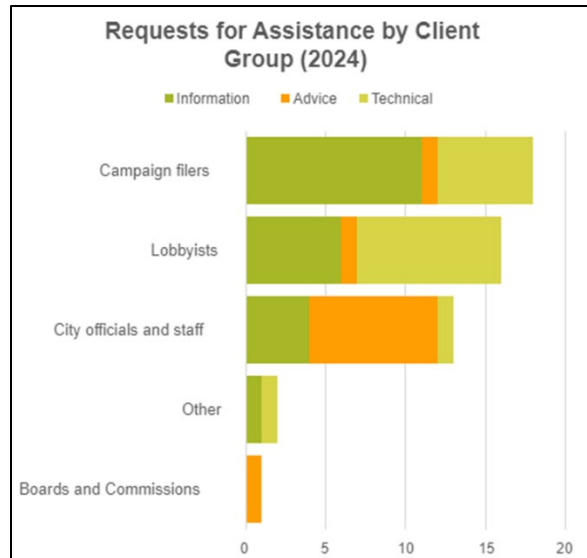
**Advice and Technical Assistance** – Between January 2024 and March 2024, Commission staff responded to 52 requests for information, advice or assistance regarding campaign finance, ethics, Sunshine law, or lobbyist issues (12 requests in March 2024).



**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). In the month of March, Staff trained 60 new employees on GEA provisions. Employees required to file Form 700 were also assigned the PEC’s mandatory online Government Ethics Training for Form 700 Filers.



**Ethics Training for Form 700 Filers** – On March 19, PEC staff conducted a live Government Ethics Training for Form 700 Filers via Zoom. The training was hosted by the Department of Human Resources (HR) and served as an alternative for employees that have not completed the PEC’s online training. A total of 23 employees attended the training.



**Oakland Campaign Reform Act Guide** – Commission staff updated the PEC’s comprehensive guide to the Oakland Campaign Reform Act, designed to assist the regulated community in complying with local campaign finance laws. The guide provides a summary of the Oakland Campaign Reform Act provisions and was updated to reflect the recent changes from Measure W including new contribution limits and independent expenditure disclosure requirements.

**Political Activity Advisory** – In March, Commission staff issued a city-wide advisory regarding the rules for campaign activity by City officials and staff to ensure that they are aware of the laws that apply to public servants who are engaging in campaign- or ballot measure-related work.

**Online Engagement**

**Social Media** – Commission staff has continued producing monthly social media content highlighting the Commission’s upcoming meetings, the updated Lobbyist Registration Act Guide, and the upcoming candidate and treasurer training with the FPPC.





Public Ethics Commission | CITY OF OAKLAND

# Item 7 - Democracy Dollars Report

Ryan Micik, Chair  
Francis Upton IV, Vice Chair  
Alea Gage  
Charlotte Hill  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Suzanne Doran, Program Manager  
Nicolas Heidorn, Executive Director  
DATE: March 27, 2024  
RE: Measure W Oakland Fair Elections Act Implementation Update for the April 10, 2024, Regular PEC Meeting

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With the passage of Measure W, the Oakland Fair Elections Act, the Public Ethics Commission (PEC or Commission) is planning for a transition of growth in staffing, structure, and responsibilities as administrator of a completely re-designed public financing program. This memorandum provides an update on implementation activities since the last Commission meeting.

## Staffing

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. In early 2024, the PEC finalized the grant-funded hire of UC Berkeley Goldman School student Trishia Lim to conduct research and produce a capstone policy report with recommendations that can be used as a road map for future Democracy Dollars community engagement. In March, Commission staff finalized the job posting for a second grant-funded position, the limited duration Democracy Dollars Community Engagement Specialist. Interested persons may learn more and apply through the City of Oakland’s [online job opportunities portal](#) until April 9<sup>th</sup>. Staff anticipates completing recruitment by June and onboarding the new analyst in July.

## Haas Grant Activities/Community Engagement

In February and March, one-on-one interviews were conducted with City staff to identify key City systems and processes to support Democracy Dollars Program outreach and engagement goals. Commission staff is collaborating with staff from the Department of Race and Equity and the City of Oakland Community Engagement Working Group to ensure that implementation strategies that the project is considering center community involvement and empowerment. Interviews were also conducted with representatives of community-based organizations to engage with community leaders to get input on messaging and the best outlets to reach residents, including outreach strategies by audience. Additionally, a standardized questionnaire was developed for use as a tool to capture ongoing community attitudes, preferences, and effective communication methods to help the PEC build its network of essential community leaders and organizations to partner with. The final report with recommendations will be submitted to Commission staff for review in May with a presentation to follow at a future Commission meeting.

## **Voter Guide**

As reported previously, staff have been developing a model voter guide to assist voters in assigning their vouchers, which the PEC hopes to pilot in the 2024 election cycle. After receiving community and Commissioner input on the content and format for a printed guide, staff worked with volunteers from civic technology group Open Oakland to explore potential designs for a mobile device-friendly online version that can be integrated into the Commission's webpages. Commission staff shared draft versions for feedback with the volunteer group. Once design alternatives are finalized, the group is planning to conduct user-testing with community members in the coming months and share the results with the Commission and community partners for input.

Staff has also met with Open Oakland volunteers interested in designing and prototyping online interfaces for residents to interact with the Democracy Dollars program. Similar to the Voter Guide collaboration, the goal of the project is to increase staff capacity to conduct user testing to gain early community input to enhance the design process once a vendor is selected. The group is currently mapping Democracy Dollars "user journeys." User journeys are used in designing websites and software to discover the different ways to support the user, i.e., Oakland resident, to achieve their goal as quickly and easily as possible.

## **Administrative Processes and Technology**

The development of the Democracy Dollars Program requires the design and implementation of a secure software platform with strong accountability controls to administer the program, which involves creating over one million Democracy Dollar records with unique identifiers for every eligible Oakland resident each election cycle and tracking the Democracy Dollars throughout the process from receipt to assignment to validation to creating invoices for fund disbursements to candidates. In addition, the program requires a user-centered software design that makes participation simple for both candidates and residents and provides easy access to program and campaign data in a public transparency portal.

Although the Democracy Dollars Program launch was postponed due to a citywide fiscal crisis, the City Council allocated \$525,000 in the Fiscal Years 2023 – 2025 biennial budget for start-up costs associated with initiating the Democracy Dollars Program in recognition of the importance of the Democracy Dollars technology platform to a successful program launch in 2026.

Immediately after passage of Measure W, Commission staff began research on public finance administration systems in other jurisdictions as well as analysis of the Oakland legislation. Ongoing research has included multiple learning sessions with Seattle Democracy Vouchers program staff, Seattle IT staff, review of available California-approved campaign finance software as well as assessing resident-facing Oakland applications of similar complexity.

Commission staff then submitted a project proposal outlining the major processes needed to administer the program to the IT Department in accordance with the citywide IT Governance Process for Technology Projects, which applies to technology requests for new systems and

infrastructure prior to issuing Requests for Proposals or purchase orders. From January through March, Commission staff collaborated with the IT Director and senior staff to review and evaluate potential solutions. The group evaluated several options including adapting the Seattle Democracy Vouchers technology for Oakland requirements, building a custom system on an existing city platform such as OakApps that City staff would maintain, and selecting a vendor using a software as service (SaaS) model to build and maintain the software platform and data for an ongoing service fee.

Ultimately, staff concluded that the software infrastructure, design, and implementation of the Democracy Dollars technology system is unique to the City of Oakland and must be created and customized for the City and therefore limits the qualified vendors to those with deep experience with campaign finance and public financing programs. Fortunately, after vetting options, Commission and ITD staff reached consensus that one vendor met both PEC and IT criteria, including factors such as upfront development costs, ongoing service costs, ability to integrate with existing PEC and City systems, ease of use and accessibility of public-facing interfaces, Commission and IT staff resources, demonstrated expertise in campaign finance, public financing, and government transparency data, and the ability to implement an online Democracy Dollars voucher assignment system for the first election cycle.

Staff also concluded that due to the time constraints for development to ensure a successful program launch by 2026, the technology system contract needs to be completed by fall of 2024, which is not possible utilizing the standard competitive solicitation process. However, City law authorizes the use of agreements of “...other governmental jurisdictions or public agencies that were awarded pursuant to an appropriate competitive process” as an alternative to a competitive multiple-step solicitation process, and the software vendor identified by staff participates in a cooperative purchase agreement program for California public sector agencies.

Commission and IT staff are preparing a joint recommendation and resolution for adoption by City Council to authorize the City Administrator to enter into a cooperative purchase agreement with the vendor identified by PEC and ITD staff to design, build and implement the Democracy Dollars software platform. By utilizing this path forward, pending Council approval, staff anticipates that a contract can be negotiated by the end of June and make its way through the City contract approval process so that platform development can begin in late-summer or early fall 2024.

# Item 8 - Enforcement Report



Ryan Micik, Chair  
Francis Upton IV, Vice Chair  
Alea Gage  
Charlotte Hill  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission  
FROM: Simon Russell, Enforcement Chief  
DATE: March 26, 2024  
RE: Enforcement Program Report for the April 10, 2024, PEC Meeting

This memo discusses the Enforcement Program's staffing, caseload, and other programmatic developments since the last Enforcement Report (submitted on February 29, 2024).

## Temporary Investigator Transitions to Filing Officer Duty

Our newest, limited-term Investigator, Alex Van Buskirk, has accepted a longer-term position with the PEC as an Ethics Analyst handling filer officer duties. While this means Alex will no longer be working full-time as an Enforcement staffer, we are very pleased that he has been able to find a longer-term position within the PEC. He will also continue to interact with the Enforcement Unit as we more closely coordinate the filing officer duties (which include tracking and notifying late-filers of campaign and lobbyist reports) with Enforcement's efforts. Alex's primary responsibility will be as filing officer, but he is willing to continue assisting Enforcement with investigative tasks on ad hoc basis.

Meanwhile, Enforcement's investigative staff is now down to one full-time, permanent Investigator (who only started their position in December and is therefore still learning our laws and procedures). As shared in previous reports, we urgently need more investigative staff if we are to keep pace with incoming complaints, resolve outstanding matters, and give the more complex cases on our docket the attention they require.

## Overview of the Enforcement Process



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The PEC's Enforcement Unit investigates and, where appropriate, administratively prosecutes alleged violations of the City's ethics, campaign finance, lobbying, and related laws. Violations can result in the issuance of a monetary fine, a warning letter, or some other remedy to ensure compliance with the law (e.g. a diversion agreement or injunction). Some violations can also be referred to the District Attorney for criminal prosecution.

Enforcement matters begin with a complaint. "Formal" complaints are submitted on the PEC's official complaint form and are signed under penalty of perjury. "Informal" complaints are received in any other manner (e.g. via e-mail, a phone call, etc.) and are not signed under penalty of perjury. By law, the Enforcement Unit must review all formal complaints and report to the Commission at one of its public meetings whether or not it has decided to open an investigation into a formal complaint. By contrast, Enforcement has the discretion not to review an informal complaint and does not have to report rejected informal complaints to the Commission. Commission staff may also initiate its own "pro-active" complaints.

Complaints do not automatically trigger an investigation. Instead, they enter what is called "Preliminary Review," in which Enforcement determines whether there are sufficient legal and evidentiary grounds to open an investigation. This can involve some preliminary fact-finding, usually for purposes of verifying or supplementing the facts alleged in the complaint.

At the completion of Preliminary Review, the Enforcement Chief and the PEC Executive Director jointly decide whether to open an investigation or dismiss the complaint. All dismissals are reported to the Commission at one of its public meetings. Investigations are confidential, though complainants and respondents (the people being investigated) are usually notified that an investigation has been opened. Enforcement will usually confirm the existence of an investigation if asked, but it will not share any of its findings or analysis until it is ready to present them to the Commission or a court.

The Enforcement Chief and the PEC Executive Director jointly decide whether the evidence gathered during an investigation merits prosecution or closure of the case. This internal decision-making process is referred to as "Legal Analysis" in Enforcement's case processing workflow. Investigative activity may also continue during this process. If Enforcement recommends closure of a case at this stage, it must present its findings to the Commission at one of its public meetings and obtain a majority vote in favor of closure.

If Enforcement chooses to prosecute a violation, it will usually try to work out a joint settlement agreement with the respondent(s). Settlement negotiations are confidential, and for administrative purposes Enforcement classifies matters at this stage as "Seeking Settlement." Investigative activity may also continue during this process. All proposed

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settlement agreements must be presented to the Commission at one of its public meetings and require a majority vote for their approval.

If Enforcement is unable to settle a case within a reasonable time (typically sixty days) or otherwise decides that a hearing is necessary, it will file an Investigation Summary with the Commission at one of its public meetings. This document, also known as a “probable cause report,” lays out the allegations that Enforcement wishes to prosecute, as well as supporting evidence. A majority of the Commission must vote to find probable cause and send the matter to an administrative hearing.

Matters at this stage are classified as “Administrative Hearing” in Enforcement’s internal workflow. The Executive Director and the hearing officer will arrange the logistical and procedural details of the hearing. All administrative hearings are open to the public, and are conducted either by the full Commission, a panel of Commissioners, a single Commissioner, a single hearing officer not from the Commission, or an administrative law judge.

After an administrative hearing, the hearing officer(s) will issue their factual findings and proposed penalty (if any). The full Commission will then vote at one of its public meetings whether to adopt those findings and impose the recommended penalty. The Commission may impose a penalty different from the one recommended by the hearing officer(s).

The Enforcement Unit’s full Complaint Procedures and Penalty Guidelines can be found on our website.

### **Current Enforcement Caseload**

Since the last Enforcement Unit Program Update submitted to the Commission on February 29, 2024, Commission staff:

- received twelve informal (unsworn) complaints, of which ten were rejected and two are awaiting a determination as to whether to reject or escalate them<sup>1</sup>; and
- filed three proactive (staff-generated) complaints, of which all three were assigned complaint numbers and escalated to the preliminary review phase.

In the same period of time, Commission staff:

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<sup>1</sup> Reasons for a delay in making this determination can include the need to contact the complainant and/or do further research in order to clarify the allegation(s) being made, and/or a decision to prioritize other matters that appear to be more time-sensitive or of greater public interest.

- 
- opened one complaint for a full investigation following preliminary review; and
  - initiated settlement negotiations in one case.

This brings the total Enforcement caseload to eighty-nine (89) open complaints or cases: fifteen (15) matters in the intake or preliminary review stage, fourteen (14) matters under active investigation, two (2) matters under post-investigation legal analysis, seven (7) matters in settlement negotiations, and two (2) matters awaiting an administrative hearing. The remaining fifty-one (49) matters are on hold pending additional staff resources and training (55% of the total).

Enforcement's current staffing is: one (1) Enforcement Chief, one (1) permanent full-time Investigator, and two (2) temporary part-time Law Clerks.



**Appendix: Current Caseload by Violation Type**

The table below breaks down the precise types of violations currently involved in Enforcement’s open complaints or cases. Note that the total number below is higher than our number of total cases, since one case can involve multiple types of violations.

Sum of Count	On Hold	Intake	Preliminary Review	Investigation	Legal Analysis	Seeking Settlement	Administrative Hearing	Grand Total
<b>Campaign Finance</b>	<b>22</b>		<b>7</b>	<b>11</b>	<b>2</b>	<b>16</b>	<b>1</b>	<b>59</b>
Campaign Using Multiple Bank Accounts	1			1				2
City Contractor Making Campaign Contribution	5			2		2	1	10
Coordination Between Candidate And "Independent" Campaign			2	1		2		5
Disguising Source Of Campaign Funding ("Campaign Money Laundering")	1		1	1		1		4
Failure To Register A Political Campaign	1			1				2
Inaccurate Reporting Of Campaign Finances	5		2	1	1	4		13
Late Filing Of Campaign Finance Report	4		1	2				7
Making/Receiving Campaign Contribution Over The Legal Limit	1			1	1	3		6
Misuse Of Campaign Funds For Personal Purposes	1					1		2
Inaccurate or Missing Disclaimer On Campaign Ad	3		1	1		3		8
<b>Government Ethics</b>	<b>41</b>	<b>5</b>	<b>21</b>	<b>14</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>86</b>
Bribery	2		3	1		1	1	8
Financial Conflict Of Interest	2	1	2		1			6
Holding Incompatible Public Offices			1					1
Inaccurate Reporting On Financial Disclosure Form 700	2		3					5
Late or Non-Filing Of Financial Disclosure Form 700	1			8				9
Misuing Official Powers For Private Gain (Coercion/Inducement)	20	1	5	3			1	30
Misuse Of City Resources For Personal Or Campaign Purposes	9			2	1			12
Receiving An Improper Gift Based On Amount	1		4					5
Receiving An Improper Gift Based On Source	2		1					3
Seeking Or Taking Job That Conflicts With City Duties ("Revolving Door")	1							1
Awarding City Contract To Oneself ("Self-Dealing")	1	1	1					3
Leak Of Confidential Info			1					1
Councilmember Interfering In City administration		1						1
Awarding City Job Or Contract To Family Member		1						1
<b>Lobbyists</b>							<b>1</b>	<b>1</b>
Failure To Register As A Lobbyist ("Shadow Lobbying")							1	1
<b>Miscellaneous</b>	<b>5</b>		<b>3</b>		<b>1</b>	<b>3</b>		<b>12</b>
Failure To Produce Records To Police Commission Investigators	1							1
Lying Or Providing False Information To PEC Investigators	1				1	3		5
Misuse Of City Event Tickets	1							1
Retaliation Against Ethics Whistleblower	2		3					5
<b>Open Meetings &amp; Public Records</b>	<b>8</b>			<b>1</b>				<b>9</b>
Failure To Produce Public Records Or Information	3			1				4
Failure To Properly Agendize Or Follow Meeting Agenda	5							5



## Item 9 - Executive Director Report

Ryan Meier, Chair  
Francis Upton IV, Vice Chair  
Alea Gage  
Charlotte Hill  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: March 25, 2024  
RE: Executive Director's Report for the April 10, 2024, PEC Regular Meeting

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

### Staffing

In March, the PEC hired a new permanent Administrative Assistant, Melanie Newcomb. Newcomb comes to the PEC with significant experience. She was previously an administrative assistant with Regional Asthma Management and Prevention (RAMP), and prior to that, an operations associate with Human Impact Partners (HIP). She has a BS in Physiological Sciences from UCLA. Welcome, Melanie!

Also in March, the PEC hired Alex Van Buskirk, presently a limited duration Investigator with the PEC, to backfill the Ethics Analyst III position which has been temporarily vacant with the promotion of Suzanne Doran to Acting Democracy Dollars Program Manager. The Ethics Analyst III role is responsible for overseeing much of the PEC's campaign finance and lobbying regulatory work and filing officer duties. Van Buskirk has done excellent work for the PEC as an investigator and has also provided assistance with filing officer duties during the most recent filing period, when staff transitions left the PEC significantly understaffed. Van Buskirk will start in this new role in April. We are excited to have Alex take on this new responsibility!

With these hires, for the first time in over a year, the PEC will have no vacancies in its budgeted staff positions. In this time, the PEC has onboarded four new staff and grown the organization to eight full-time budgeted positions, the largest the PEC has been in its history. In a few months, the PEC will also hire for a one-year grant-funded Democracy Dollars Community Engagement Specialist position, bringing total staffing to nine.

These hires will provide an excellent foundation for the PEC to build off of in the coming years. However, the vacancies up until this point, staff transitions, and onboarding process have required and will continue to require diverting significant staff resources, which may require pushing back to 2025 or re-assessing some 2024 Commission priorities. In addition, the PEC remains critically understaffed in its Enforcement Program and Democracy Dollars Program as discussed further below.

### Budget

The City of Oakland is in the middle of its midcycle budget review process for Fiscal Year 2024-2025 (July 1, 2024, to June 30, 2025). A recent report from the Finance Director projects that the City is facing a \$175,000,000 deficit in its General Purpose Fund (GPF), which will need to be closed in the Midcycle

**Budget.** The Budget Office provided budget reduction targets to all departments, including the PEC, asking that departments propose cuts to their lowest priority services while mitigating the impacts of those cuts, especially for services impacting historically disenfranchised or vulnerable populations.

The PEC's budget has already been cut 58% with the adoption of the Fiscal Years 2023-25 Budget, compared with the baseline of staffing and funding mandated by Measure W, likely more than any other department in the City. The PEC cannot sustain any additional cuts to staffing without devastating impacts to its core program areas. Already at current levels, the PEC is facing critical understaffing in its Enforcement Program and will need additional staff to launch the administratively complex Democracy Dollars Program in 2026. The Commission has requested the addition of two investigators and the unfreezing of one Democracy Dollars analyst position in this Midcycle Budget to meet these urgent program needs.

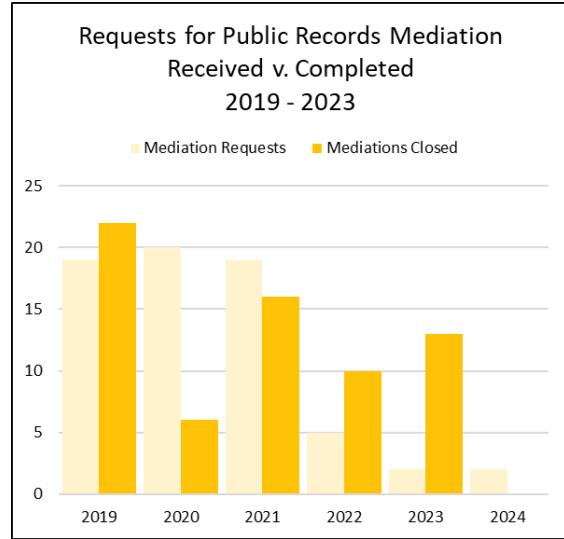
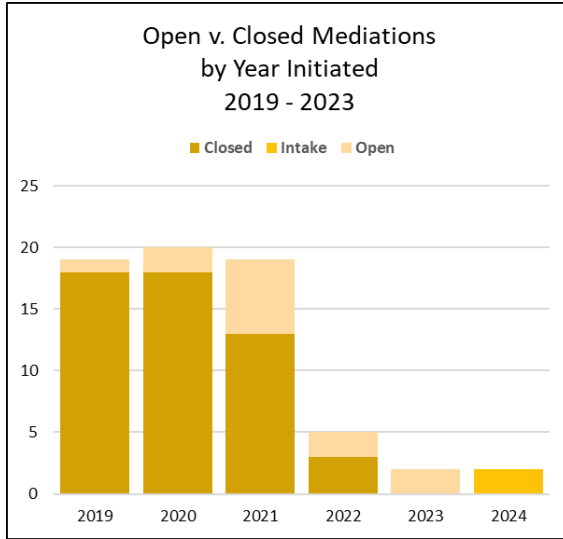
The Mayor is expected to propose her FY 2024-2025 Midcycle Budget in early May.

### **California Ethics Commission Executive Director Network**

One of the priorities coming out of the PEC's August 2023 retreat was to establish a network of ethics commission executive directors to promote regular communication. In March, the Executive Directors of Oakland, San Francisco, San Diego, and Los Angeles's ethics commissions met to share significant developments in their respective programs and discuss policy issues of mutual interest. This was the second such meeting, which have been scheduled to occur on a quarterly basis. Relevant to our work, three of Commissions (Oakland, Los Angeles, and San Diego) are actively considering charter amendments for the November 2024 ballot to strengthen the staffing and independence of their commissions. Directors also discussed the idea of hosting an annual in-person meeting of California ethics commission staff to discuss program area best-practices.

### **Mediation Program**

Pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediation of public records requests made by members of the public to City departments for records within the department's control. The PEC currently has 16 open mediations.



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

**PUBLIC ETHICS COMMISSION**

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

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

## Item 9 - Executive Director Report

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

March 28, 2024



# City of Oakland Public Ethics Commission



## Oakland Campaign Reform Act Guide

**2024**

Public Ethics Commission  
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# CONTENTS

- INTRODUCTION ..... 3**
- THE OAKLAND CAMPAIGN REFORM ACT ..... 4**
  - LOCAL OFFICES COVERED UNDER OCRA ..... 4
- REPORTING OF CAMPAIGN ACTIVITIES ..... 4**
  - ELECTRONIC FILING REQUIREMENT ..... 4
- NEW CONTRIBUTION LIMITS ..... 5**
  - NO LIMIT ON PERSONAL CONTRIBUTIONS ..... 5
  - AGGREGATION OF CONTRIBUTIONS ..... 5
  - WHEN LOANS AND UNPAID BILLS BECOME CONTRIBUTIONS ..... 7
  - VOLUNTEER SERVICES AND TRAVEL EXPENSES ..... 8
- SOLICITING, RECEIVING, AND RETURNING CAMPAIGN CONTRIBUTIONS ..... 8**
  - REQUIRED NOTICE ON ALL FUNDRAISING MATERIALS ..... 8
  - ONE COMMITTEE/ONE CHECKING ACCOUNT RULE ..... 8
  - IDENTIFICATION OF CONTRIBUTOR ..... 9
- PROHIBITION ON CONTRACTOR CONTRIBUTIONS ..... 9**
  - APPLICABLE CONTRACTS ..... 9
  - WHO THE BAN APPLIES TO ..... 10
  - WHEN THE PROHIBITION APPLIES ..... 10
  - CONTRACTOR ACKNOWLEDGMENT ..... 11
  - LEVINE ACT ..... 11
- CONTRIBUTIONS SOLICITED BY CITY STAFF AND OFFICIALS ..... 11**
  - HOW TO DISCLOSE SOLICITATIONS ..... 11
  - WHAT MUST BE DISCLOSED? ..... 11
- POLITICAL COMMUNICATIONS ..... 12**
  - NEW DISCLAIMER REQUIREMENTS FOR INDEPENDENT EXPENDITURES ..... 12
  - DISCLAIMER FOR CAMPAIGN, OFFICEHOLDER, AND LEGAL DEFENSE COMMITTEE COMMUNICATIONS ..... 13
  - REQUIREMENTS FOR ALL DISCLAIMERS ..... 13
  - NEW DISCLOSURE OF INDEPENDENT EXPENDITURE COMMUNICATIONS ..... 13
  - SOCIAL MEDIA ACCOUNTS ..... 14
- BALLOT MEASURE COMMITTEES CONTROLLED BY CANDIDATES OR ELECTED CITY OFFICIALS ..... 14**
- BALLOT MEASURE COMMITTEES NOT CONTROLLED BY CANDIDATES ..... 15**
- OFFICEHOLDER COMMITTEES AND LEGAL DEFENSE FUNDS ..... 15**
  - OFFICEHOLDER COMMITTEE ..... 16
  - LEGAL EXPENSE FUND ..... 17
  - DONATION OF OFFICE SPACE ..... 17
- ENFORCEMENT ..... 19**
  - LIABILITY ..... 19
  - PENALTIES ..... 19
  - INJUNCTIVE RELIEF ..... 19
  - DISQUALIFICATION ..... 19

<b>APPENDIX I: OFFICEHOLDER COMMITTEES FACT SHEET .....</b>	<b>21</b>
<b>APPENDIX II: SAMPLE CONTRIBUTOR CARD .....</b>	<b>25</b>
<b>APPENDIX III: SAMPLE OCRA FORM 300 .....</b>	<b>27</b>
<b>APPENDIX IV: SAMPLE OCRA FORM 303 .....</b>	<b>29</b>
<b>APPENDIX V: SAMPLE OCRA FORM 305 .....</b>	<b>31</b>

## INTRODUCTION

The Oakland Campaign Reform Act (OCRA) adds local rules and restrictions that apply to Oakland candidates and political committees in addition to the requirements and regulations of the California Political Reform Act [Gov. Code Sec. 81000 *et seq.*]. Candidates for Oakland elective office must comply with both California and Oakland campaign laws.

This *Oakland Campaign Reform Act Guide* is intended to provide an overview of the Oakland Campaign Reform Act and is **advisory only**. To the extent the *Guide* conflicts with the actual ordinance, administrative regulation, or interpretation by the Public Ethics Commission (Commission), those authorities govern the implementation and enforcement of the ordinance. All legal citations are to the Oakland Municipal Code (OMC) unless otherwise noted.

The Oakland Public Ethics Commission is the administrative enforcement body for OCRA. If you have questions about this guide or your obligations under the law, contact Commission staff.

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Questions regarding the California Political Reform Act should be directed to the Fair Political Practices Commission (FPPC) at (866) 275-3772 or [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov).

## THE OAKLAND CAMPAIGN REFORM ACT

The Oakland Campaign Reform Act (OCRA), as amended in 2022,<sup>1</sup> establishes local contribution limits and electronic filing requirements for Oakland candidates and committees. OCRA also bars contributions from persons negotiating certain contracts with the City. It regulates the process by which contributions can be received or returned, how contributions from closely related entities must be attributed, and sets forth certain disclosure requirements for the distribution of independent mass mailings.

### Local Offices Covered Under OCRA

OCRA applies to local candidates for “city office,” which includes the office of Mayor, City Attorney, City Auditor, District and At-Large City Councilmembers, and elected Oakland School Board Directors [OMC §3.12.040].

## REPORTING OF CAMPAIGN ACTIVITIES

Most reporting requirements are imposed by the California Political Reform Act (and incorporated into OCRA by reference), and candidates, committees, treasurers, and officers should refer to the [Campaign Disclosure Manual for Local Candidates](#), published by the California Fair Political Practices Commission (FPPC) and available on their website at [www.fppc.ca.gov](http://www.fppc.ca.gov). The FPPC also provides informal legal advice to candidates and committees via its advice-line (866) ASK-FPPC (866-275-3772) or by emailing FPPC staff at [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov).

### Electronic Filing Requirement

OCRA requires any candidate or committee that is required by state or local law to file a campaign statement with the City of Oakland filing officer to file that information in an electronic format with the Public Ethics Commission [OMC §3.12.240(A)]. Once a candidate or

### Filing Campaign Disclosure Statements Online



Electronic filing of campaign disclosure statements is **mandatory** in Oakland for all campaign committees required to file campaign statements with the City of Oakland under the California Political Reform Act. This includes candidate-controlled committees, ballot measure committees, and general-purpose political action committees, as well as organizations or entities such as major donors required to file late contribution or independent expenditure reports with the City of Oakland.

The City of Oakland provides a free, online filing system called NetFile to complete and e-file disclosure statements and reports. Getting set up is easy:

#### Step 1: Register

Register with the Public Ethics Commission by submitting [OCRA Form 300](#) along with a copy of your committee’s Form 410 Statement of Organization. **You must submit these forms to file electronic disclosure statements.** Then you will receive instructions to set up your account as well as notifications in advance of filing deadlines and updates about any changes to campaign rules.

#### Step 2: Set-up Your NetFile Account

Create a NetFile User Account. You can use [NetFile’s](#) free software to record your committee’s financial transactions and keep committee information up-to-date or upload your campaign statements from third-party software. Contact PEC staff for advice and technical support. We’re here to help!

#### Step 3: Keep Your Committee Account Up-to-date

Anytime a new treasurer or principal officer is added to the committee or there is a change in the committee’s contact information a new OCRA Form 300 and FPPC Form 410 must be submitted to the Public Ethics Commission.

<sup>1</sup> In November 2022, voters passed [Measure W](#), the Oakland Fair Elections Act (OFEA) creating a new public campaign financing program (Democracy Dollars Program – postponed until 2026). In addition, Measure W included amendments to the Oakland Campaign Reform Act (OCRA) including new contribution limits and disclosure requirements that went into effect on January 1, 2023.

committee is subject to the electronic filing requirement, the candidate or committee must continue to file all subsequent campaign statements electronically, regardless of the amount of contributions or expenditures made in other reporting periods. Contact the Public Ethics Commission for information about electronic filing of campaign activity.

## NEW CONTRIBUTION LIMITS

With the passage of the Oakland Fair Elections Act in 2022, new contribution limits apply to candidate-controlled committees for elections in 2024 and thereafter. Effective January 1, 2023, contribution limits for candidate-controlled committees are as follows:

Individual, Business, or Other Organization	\$600
Broad-Based Political Committee <sup>2</sup>	\$1,200

### No Limit on Personal Contributions

A candidate is free to contribute to or loan their campaign any amount of money from their own personal funds. The United States Supreme Court ruled that the First Amendment prohibits any restriction on a candidate's ability to contribute or loan personal funds to their campaign.

**Campaign Tip:** Oakland offers a program that provides limited public financing to candidates in council district races. Candidates who choose to participate in the program voluntarily agree not to contribute or loan more than a specified amount of their personal funds as a condition of eligibility. In addition, candidates participating in the Limited Public Financing program must also agree to limit their campaign expenditures to \$150,000. For more information about Oakland's Limited Public Financing Program, contact the Public Ethics Commission.

#### Broad-Based Political Action Committee

At the time OCRA was initially enacted, so-called **broad-based political committees** existed and had the same meaning under state law. This term is no longer used under state law but continues to have meaning and applicability under OCRA.

While political committees are no longer called or organized as **broad-based political committees**, some political committees, such as the state-defined **small contributor committees**, may still qualify as **broad-based political committees** under OCRA. To help determine whether a political committee qualifies as a **broad-based political committee**, candidates can search the filings of state registered political committees using the California Secretary of State's website at [www.sos.ca.gov](http://www.sos.ca.gov).

### Aggregation of Contributions

OCRA sets forth several circumstances in which the contributions by two or more entities are treated as coming from one person. This aggregation of contributions can have important consequences when determining whether contribution limits have been exceeded.

<sup>2</sup> Not all political action committees qualify as broad-based committees. To qualify as a broad-based political committee, the committee must meet **all** the following conditions:

1. In existence for more than six months,
2. Receive contributions from 100 or more persons, and
3. Make contributions to five or more candidates.

Contributions from two or more entities are aggregated (treated as coming from the same person) when one or more of the following conditions are present:

- The entities share a majority of members on their respective boards of directors;
- The entities share three or more, or a majority of, officers;
- The entities are owned or controlled by the same majority shareholder or shareholders;
- The entities are in a parent-subsidiary relationship; or
- One entity finances, maintains, or controls the other entity's contributions or expenditures [OMC §3.12.080(A)].

Aggregation also occurs in the following situations:

- Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decision to make contributions [OMC §3.12.080(A)(6)].
- The contributions of an entity whose contributions are directed and controlled by any person shall be aggregated with contributions made by that person and any other entity whose contributions are directed and controlled by that same person [OMC §3.12.080(A)(7)].
- If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated [OMC §3.12.080(A)(8)].

**Campaign Tip:** Candidates and their committees have a responsibility to ensure that they are not receiving prohibited contributions. Use of the sample contributor card, located in Appendix III, can help ensure that contributors are aware of the aggregation rules and acknowledge that they are not contributing more than the allowable contribution limit.

OCRA also prohibits any committee that supports or opposes any candidate from having as officers any individuals who serve as officers on any other committee that supports or opposes the same candidate. This restriction does not apply to campaign treasurers so long as the treasurers do not participate in or control in any way decisions on which candidates receive a contribution [OMC §3.12.080(B)].

Finally, contributions by two individuals married to each other are treated as separate contributions and are not aggregated. However, contributions by a minor child are treated as a contribution from the parent and are attributed proportionately to each one [OMC §3.12.100].

#### Examples:

- The law firm of Howard, Fine & Howard wants to contribute money to Candidate Doe. Knowing that the law firm, as an entity, is restricted from giving Candidate Doe more than \$600, the firm directs each of its ten attorneys to contribute \$600 each, and then reimburses the attorneys from the law firm's operating account. Is there a problem here?
  - A. Yes. The \$6,000 in contributions from its ten members will be attributed to the law firm since the members' contributions were financed and controlled by the firm. Thus, the firm has violated OCRA's \$600 contribution limit. In addition, the firm and its members may also be guilty of the serious crime of "money laundering" under State and local law if the true source of the

contributions is not disclosed. In addition, Candidate Doe may be required to pay or “disgorge” the \$6,000 portion of the contribution to the City and State.

- MiniCorp USA makes gadgets within the City of Oakland. MicroCorp America is a nationwide finance company with branch offices in Oakland. Neither MiniCorp nor MicroCorp have anything to do with the other except that they are both majority-owned by the same holding company, MegaCorp International. Both MiniCorp and MicroCorp have received separate invitations to a \$600 a plate fundraiser from Candidate Doe. Can both companies contribute the full amount?
  - A. Since both companies are majority owned by MegaCorp, their contributions will be treated as coming from one person and thus the most both companies can contribute to Candidate Doe is \$600 combined, unless the entities act independently in their decisions to make contributions.
  
- Castaway Enterprises is a small company in Oakland equally owned by five members. Two of its owners, MaryAnn and Ginger, want to attend Candidate Doe's \$600 a plate fundraiser. Unknown to them, the other three owners have already authorized a \$600 contribution on behalf of the company. Can MaryAnn and Ginger contribute to the fundraiser?
  - A. Yes. Since MaryAnn and Ginger do not individually or collectively represent a majority interest in Castaway Enterprises, they may contribute their own personal funds and not have their contributions aggregated with any contribution by their company.

### When Loans and Unpaid Bills Become Contributions

Except for secured or guaranteed loans from commercial lending institutions made in the ordinary course of business and on terms available to everyone else, all loans to Oakland candidates are treated as **contributions** from the maker and guarantor (if any) and may not exceed the applicable contribution limits [OMC §3.12.090(A)&(B)].

Other than commercial loans, any extension of credit in excess of \$1,500 for a period of more than 90 days also is treated as a contribution subject to the applicable contribution limits **unless** the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule that is being adhered to through repayment of the extension of credit on a regular basis [OMC §3.12.090(C)].

**Campaign Tip:** OCRA creates a strong incentive to pay all outstanding bills within 90 days. If this is not possible, arrange a payment schedule in which all vendors are paid something on a regular basis. Although the amount and frequency of payments may depend on the amount of the debt and financial solvency of the campaign, payments should be great enough to dispel any reasonable allegation that the payments are merely a sham to avoid compliance with the law.

**Extension of Credit  
Can Count as a Contribution**

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Be careful of a loan automatically becoming a contribution under OMC §3.12.090(C). It is not unusual for candidates to spend more money than they raise before the election. Candidates often hold fundraisers after the election to pay consultants, printers, caterers, and others who provided them with campaign services.

What OMC §3.12.090(C) says is that if a candidate owes a vendor more than \$1,500 for more than 90 days, then that extension of credit will be treated as a contribution under OCRA. And since the permissible contribution limit is \$600 from any person, that extension of credit (read: unpaid bill) of more than \$1,500 will automatically constitute a violation of OCRA's contribution limits unless the candidate has established a set payment schedule with the vendor.



### Volunteer Services and Travel Expenses

Notwithstanding state law regarding payments for personal services as contributions and expenditures (FPPC reg 18423), volunteer personal services are not considered contributions or expenditures under OCRA.. Neither are travel expenses that the individual incurs without reimbursement from the campaign [OMC §3.12.180].

**Example:** Candidate Doe's roommate is an accountant who charges \$150 per hour for tax preparation professionally. She recently volunteered 10 hours of time preparing Ms. Doe's campaign statements. Candidate Doe has not received a contribution exceeding OCRA's contribution limit, nor has the campaign incurred a \$1,500 expense that would be counted against the voluntary spending limit.

## SOLICITING, RECEIVING, AND RETURNING CAMPAIGN CONTRIBUTIONS

### Required Notice on All Fundraising Materials

All candidates for local office must include a notice on all campaign fundraising materials with the following language:

The Oakland Campaign Reform Act limits campaign contributions by all persons [OMC §3.12.050 and §3.12.060] and prohibits contributions during specified time periods from contractors doing business with the City of Oakland or the Oakland Unified School District [OMC §3.12.140].

The above notice must be made in the equivalent of eight-point roman boldface type as shown above. The notice must also be in a color or print that contrasts with the background, so it is easily legible and contained in a printed or drawn box that is set apart from the rest of the text [OMC §3.12.140(P)]. The notice should appear on any printed or electronic medium that solicits or instructs people how to make a campaign contribution. The notice is not required on campaign materials that are devoid of any solicitation of funds, such as campaign materials that engage **solely** in election advocacy or the presentation or discussion of issues.

### One Committee/One Checking Account Rule

A candidate may only maintain one campaign committee and one campaign checking account for each election and City office being sought. Both OCRA and state law require that all expenditures for that office be paid from that account. Additionally, all contributions received by a candidate for the office being sought must be deposited into their campaign checking account. [OMC §3.12.110].

**Example:** Candidate Doe has formed and registered her campaign committee and opened a campaign checking account at a local bank. During the campaign, she occasionally receives small cash contributions that she keeps in an envelope at campaign headquarters. When small expenses are incurred, such as ordering pizza for her precinct volunteers, she uses the money in the envelope. Is this practice okay?

- A. No. While this example does not seem like an unreasonable practice, state and local law require that **all** contributions be deposited into the campaign account before being spent. State law does permit

expenditures of less than \$100 to be made in cash, but the cash must be obtained from the campaign account and not taken directly from cash contributions. State law also requires that no more than \$100 be deposited in a petty cash fund at any one time.

**Campaign Tip:** It is essential to establish sound record-keeping procedures for your campaign. For example, state law requires candidates to keep a record of all contributions and expenditures of more than \$25 — even if those contributions and expenditures are not required for disclosure on FPPC campaign statements!

### Identification of Contributor

No contribution of \$100 or more can be deposited into a campaign checking account unless a record of the name, address, occupation, and employer of the contributor is kept by the candidate. Cash contributions of \$100 or more are prohibited [OMC §3.12.130].

State law requires candidates to itemize single or cumulative contributions over \$100 from a single contributor on their campaign statements. For individuals who contribute more than \$100 in total, the contributor's name, street address, occupation and employer must be given. If the contributor is self-employed, the campaign must provide the name of the contributor's business.

Under OCRA, local candidates may not even **deposit** a contribution without a record of the name, street address, occupation, and employer of the contributor for any contribution of \$100 or more. If the campaign does not obtain the required contributor information, state law requires the contribution be returned or forfeited within 60 days.

**Campaign Tip:** It is a good idea to create a contribution form that includes the above information to be filled out at the time the contribution is received. See Appendix III for sample contributor card.

## PROHIBITION ON CONTRACTOR CONTRIBUTIONS

OCRA contains an extensive prohibition on contributions by persons negotiating certain contracts with the City of Oakland or Oakland Unified School District (OUSD). OCRA prohibits contractors that meet certain OCRA criteria from making **any** contribution to candidates for local office between the time negotiations on the affected contracts begin and 180-days after the completion or termination of negotiations on the contract.

### Applicable Contracts

The prohibition on contractor contributions to Oakland candidates, or “contractor contribution ban,” applies to certain contracts that require approval from either the City Council or OUSD School Board. The applicable contracts include the following:

1. Rendition of services;
2. Furnishing of any material, supplies, commodities or equipment to the City/OUSD;
3. Selling or leasing any land or building to the City/OUSD;
4. Purchasing or leasing any land or building from the City/OUSD.

Ultimately, regardless of the contract amount, the contractor ban applies to any contract in the categories 1-4 listed above that requires approval by the City Council or School Board. If you have a contract moving through or that will move through the City Council process, you are likely prohibited from contributing to most candidates for local office and most local officeholders. If you have a contract moving through or that will move through the School Board process, you are likely prohibited from contributing to candidates for School board and current School Board members. Please seek Commission advice if you have questions about this prohibition.

### Who the Ban Applies To

If the contractor is an entity, such as a corporation, partnership, or LLC, the contribution ban also applies to all the entity's principals, including, but not limited to the following:

1. The entity's board chair, president, chief executive officer, chief operating officer, chief financial officer, and any individual that serves in the functional equivalent of one or more of those positions;
2. Any individual who holds an ownership interest in the entity of 20 percent or more; and
3. An individual employee, independent contractor, lobbyist, or other agent of the entity authorized to represent the entity before the City regarding the contract.

### When the Prohibition Applies

No person who proposes a contract that requires City Council approval may make **any** contribution to the Mayor, City Attorney, City Auditor, or any member of the City Council or to a candidate for any of those offices. No person who proposes a contract that requires OUSD School Board approval may make **any** contribution to a member of the School Board or a candidate for such office. These prohibitions apply from the **commencement of negotiations** until 180 days after the **completion** or **termination** of negotiations [OMC §3.12.140(A)(B) & (C)]. OCRA defines these periods as follows:

- The **commencement of negotiations** occurs when a contractor or representative formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed... officer or employee or when any elected or appointed... officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment [OMC §3.12.140(G) & (I)].
- The **commencement of negotiations** expressly does **not** include the unsolicited receipt of proposal or contract information; requests to be placed on mailing lists; routine requests for information about a particular contract, request for proposals, or any information or documents about them; or the attendance at an informational meeting [OMC §3.12.140(J)].
- The **completion of negotiations** occurs when the City or School District executes the contract or amendment [OMC §3.12.140(K)].
- The **termination of negotiations** occurs when (1) the contract or amendment is **not** awarded to the contractor or (2) the contractor files a written withdrawal from the negotiations which is accepted by an appointed or elected officer or employee of the respective public agency [OMC §3.12.140(L)].

## Contractor Acknowledgment

All potential and current contractors must execute a declaration acknowledging the prohibition on contractor contributions at the time they submit a bid, proposal, qualifications, or contract amendment. Contracts may not be awarded to any contractors who have not signed this declaration. The declaration is typically provided by the contracting City department or agency. The Office of the City Clerk (or the School District) is required to receive and file copies of all contractor declarations and make a list of current contractors available for public inspection [OMC §3.12.140(M)&(N)].

## Levine Act

Please note that Oakland's restrictions on contractor contributions are in addition to restrictions imposed by state law. In particular, the Levine Act prohibits elected officials from participating in an entitlement process if the official has received a contribution exceeding \$250 from a party or participant in the proceeding within the preceding 12 months. In addition, an official is also prohibited from accepting, soliciting, or directing a contribution exceeding \$250 from a party or participant in the proceeding for a certain period of time after a final decision is made in such a proceeding. See the FPPC's [2023 Changes to Section 84308](#) fact sheet for more information.

**Campaign Tip:** In addition to the required notice on all fundraising material (covered on page 10), candidates should carefully review all contributions to determine whether the party making it is bidding or negotiating for a City or School Board contract. This may require a call to the contributor or to the appropriate City or School Board staff members. Use of the sample contributor card, located in Appendix IV, can also help ensure contractors are aware of the contractor ban and acknowledge their contract status.

## CONTRIBUTIONS SOLICITED BY CITY STAFF AND 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 within 30 days to the Public Ethics Commission [OMC §3.12.117].

For the Mayor, members of the Council, or their senior staff members, the disclosure requirement applies when the solicitation is made to a person contracting or proposing to contract with any department within the City of Oakland.

### How to Disclose Solicitations

To report a solicitation to the PEC, file [OCRA Form 303](#) using the Public Ethics Commission's online form.

### What Must Be Disclosed?

OCRA Form 303 requires the following information to be provided:

1. Public official – name, title, agency name, phone, and email
2. Contributor – contributor type (individual or business), and address

- 3. Recipient – committee name, FPPC ID, and committee address
- 4. Contribution – date of contribution, amount, type (monetary or in-kind), election date, ballot measure or candidate, and support or oppose position

All submitted information must be signed under penalty of perjury under the laws of the State of California.

## **POLITICAL COMMUNICATIONS**

### **New Disclaimer Requirements for Independent Expenditures**

Any person, including a committee, who makes independent expenditures for which state law requires the filing of a 24-hour or 10-day Late Independent Expenditure Report (FPPC Form 496) with the Public Ethics Commission must place the following statement on the communication:

**Notice to Voters**  
(Required by the City of Oakland)  
Not authorized by or coordinated with any City candidate,  
committee controlled by a candidate or election official.  
Paid for by [person or committee’s name, address, and FPPC ID  
number and, if acronym is used in committee name, full name of  
sponsoring committee].  
Major funding provided by [name of top 3 contributors who gave  
\$5,000 or more in the last 6 months] in the amount of [total amount  
made by those contributors].  
Funding details are available on the Oakland Public Ethics  
Commission's website. Total cost of this communication is:  
[amount].

An “independent expenditure” is an expenditure made in connection with a communication (e.g., a billboard, advertisement, or mailing) that expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure. An independent expenditure is a payment that is not made to—or at the behest of—the affected candidate or committee.

A Form 496 is due with the Public Ethics Commission within 24 hours when independent expenditures that total in the aggregate \$1,000 or more are made to support or oppose a “city office” candidate or a ballot measure for the City of Oakland in the 90 days before or on the date of the candidate’s or measure’s election. A Form 496 is due with the Public Ethics Commission within 10 business days when a recipient committee (a committee that receives contributions of \$2,000 or more in a calendar year) makes independent expenditures totaling \$5,000 or more to support or oppose the qualification of a ballot measure for the City of Oakland.

## Disclaimer for Campaign, Officeholder, and Legal Defense Committee Communications

Any campaign, officeholder, or legal defense committee that makes expenditures for communication materials must place the following statement on the mailing:

**Notice to Voters**  
 (Required by the City of Oakland)  
 Paid for by [name, address, FPPC ID Number, and, if applicable,  
 name of the person controlling the committee].  
 Funding details are available on the Oakland Public Ethics Commission's website.

### Requirements for All Disclaimers

OCRA requires that all disclaimers be presented in a clear manner to give the reader, observer, or listener adequate notice. Minimum disclaimer requirements are specified below:

1. **Written communications up to twenty-four (24) inches by thirty-six (36) inches:** Disclaimers must be printed using a bold, sans serif typeface that is easily legible to an average reader and is not less than fourteen-point type in a color that contrasts with the background on which it appears.
2. **Written communications larger than twenty-four (24) inches by thirty-six (36) inches:** The total height of the disclaimer must constitute at least five (5) percent of the total height of the communication, be printed using a bold, sans serif typeface that is easily legible to an average reader, and be printed in a color that contrasts with the background on which it appears.
3. **Video communications:** The disclaimer must be written in a bold, sans serif typeface that is easily legible to an average reader, in a color that contrasts with the background on which it appears, and must appear for at least four (4) seconds at either the beginning or the end of the communication. A spoken disclaimer is also required if the written disclaimer does not appear for at least five (5) seconds of a communication that is thirty (30) seconds or less or for at least ten (10) seconds of a communication that is longer than thirty (30) seconds. A spoken disclaimer must be clearly audible and spoken at the same speed and volume as the rest of the communication.
4. **Audio communications:** Disclaimers must be spoken in a clearly audible manner at either the beginning or end of the communication. The disclaimers must be spoken at the same speed and volume as the rest of the communication and shall last at least five (5) seconds.

When the size limitations of an electronic communication make it impractical to include the full disclaimer, the disclaimer must state, at a minimum, "Paid for by" immediately followed by the committee identification number provided by the California Fair Political Practices Commission, or, if the person is not a committee, the person's name.

### New Disclosure of Independent Expenditure Communications

The Oakland Campaign Reform Act now requires that any person, including a committee, required by state law to file a 24-hour or 10-day Late Independent Expenditure Report (FPPC Form 496) with the



Public Ethics Commission must also submit a Supplemental Independent Expenditure Disclosure (OCRA Form 305).

Under penalty of perjury, the disclosure must specify the following:

1. That the communication was not behested by any of the candidates who benefited from it;
2. The dates the communication was distributed or displayed, if applicable;
3. The name and address of the payee, if applicable, and any vendor or subvendor that provided service for the communication;
4. Contributions of one hundred dollars (\$100.00) or more that the person made in the current calendar year to City candidates, City controlled committees, City ballot measure committees, City recall committees, committees primarily formed to support or oppose City candidates or measures, and City general purpose recipient committees;
5. Any other information required by the Commission in furtherance of this Section.

The disclosure must also include a copy of the communication distributed, displayed, or sent to voters. Visit our [OCRA Form 305 webpage](#) for more details.

### **Social Media Accounts**

Any candidate or committee that uses social media accounts to disseminate political communications must include the following statement on each account's home page:

*This account is being used for campaign purposes by [name of candidate or committee].*

If an elected City officeholder communicates about campaign activity or City business using a social media account or website that is not City sponsored, the home page for the account or site must include the following statement:

*This [account or site] is not paid for, sponsored by, or hosted by the City of Oakland.*

## **BALLOT MEASURE COMMITTEES CONTROLLED BY CANDIDATES OR ELECTED CITY OFFICIALS**

A candidate-controlled ballot measure committee is a campaign committee that is established to raise and spend money on behalf of one or more ballot measures in California, and that is under the legal control of a political candidate. According to the State Fair Political Practices Commission, a ballot measure committee is controlled by a candidate if the candidate (or their representative) has significant influence on the actions or decisions of the committee. (See *FPPC Campaign Disclosure Manual 3: Information for Ballot Measure Committees*, available on the FPPC's website at [www.fppc.ca.gov](http://www.fppc.ca.gov).)

Under OCRA, a candidate or elected City Official who controls a ballot measure committee is prohibited from doing the following:

1. Directly or indirectly using, or influencing the use of, ballot measure committee funds to support the candidate's or elected City Official's election;



2. Directly or indirectly using, or influencing the use of, ballot measure committee funds to support or oppose other candidates;
3. Transferring ballot measure committee funds to another committee supporting the candidate's or elected City Official's election or supporting or opposing other candidates [OMC §3.12.115].

**It is important to note that OCRA's contribution limits and contractor ban apply to candidate-controlled independent expenditure committees including ballot measure committees.**

## **BALLOT MEASURE COMMITTEES NOT CONTROLLED BY CANDIDATES**

All non-candidate-controlled committees, including ballot measure and general purpose committees, required to file campaign statements in the City of Oakland must disclose principal officers of the committee on their Statement of Organization (FPPC Form 410) or, if no Form 410 is required for that committee, the next required campaign statement. A copy of such Form 410, or required statement, must be submitted to the Public Ethics Commission [OMC §3.12.116].

A principal officer of a committee is the individual primarily responsible for approving the political activity of the committee including, but not limited to, the following activities:

1. Authorizing the content of the communications made by the committee;
2. Authorizing expenditures, including contributions, on behalf of the committee;
3. Determining the committee's campaign strategy.

If more than one individual shares in the primary responsibility for approving the political activities of the committee, each person is a principal officer.

Such disclosure must be provided for a minimum of one principal officer, as well as for all principal officers up to a total of three, if applicable. Disclosure information must include the following:

1. Full name;
2. Street address;
3. E-mail address;
4. Telephone number.

## **OFFICEHOLDER COMMITTEES AND LEGAL DEFENSE FUNDS**

OCRA authorizes two additional types of accounts in addition to a campaign account. The first is an officeholder committee that every elected City Official is permitted to establish for those expenses associated with holding public office [OMC §3.12.150(A)]. The second is a legal defense fund which any candidate or elected City Official may establish to defray attorney fees and other legal costs incurred in the defense of any civil, criminal or administrative action arising directly out of a campaign, election process or the performance of governmental activities [OMC §3.12.170(A)].

**Officeholder Committee**

State law allows local candidates who win the election to continue to maintain their campaign committee after the election to receive contributions and to use campaign funds to offset officeholder expenses. During non-election years, Form 460 is filed on a semi-annual basis if the committee remains open. State law further requires that the committee name include the candidate’s last name, office sought, and year of the election, and that this name remain intact until and unless the candidate decides to run for re-election, in which case the candidate may re-designate the committee or create a new committee for the future office sought. See FPPC *Disclosure Manual 2 – Information for Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates*, available on the FPPC’s website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

Oakland law allows each elected City Official to maintain an officeholder committee for expenses associated with holding the office currently held by the elected City Official. Contributions to the officeholder committee must be made by separate check or other separate written instrument, and single contributions may not be divided between the officeholder committee and any other candidate committee. OCRA imposes a limit on the total amount the officeholder committee may receive in contributions per year in office as follows [OMC 3.12.150(A)]:

District Councilmembers, City Auditor, and School Board Directors	\$25,000
Councilmember-At-Large	\$30,000
Mayor	\$50,000

Annual contributions received by or made to the officeholder committee are subject to the same contribution limits that apply to candidate committees; this means that an elected City Official may receive contributions from any person or broad-based political committee of up to \$600/1200 annually.

**Forming an Officeholder Committee**

Establishing and using an officeholder committee can be tricky. The reason is that state law permits an elected City Official to receive contributions into only one campaign account – whether for campaign or officeholder purposes.

To accept officeholder contributions under Oakland law, a candidate must establish an “officeholder” committee by re-designating their campaign committee after the election and after all campaign related expenses and debts have been paid.

Officeholder committee funds may NOT be used for an elected City Official’s own campaign-related expenses, nor may they be transferred to another candidate committee (including one’s own).

See Officeholder Committees Fact Sheet (Appendix III) for more information.

Contributions to an officeholder committee must be made by check or “other separate written instrument.” The contribution must be earmarked or designated in some way as a contribution to the officeholder committee, such as a note on the “memo” line of a check or with an accompanying note or letter from the contributor.

The limits on aggregate contributions cap the total amount of contributions an officeholder committee may receive for every year in office. There is no requirement that this money be spent annually, and it may accrue for as long as the elected City Official holds elective office.

Persons and broad-based political committees may contribute, up to their permissible maximum levels, only once per election to a candidate’s campaign committee, but may make annual contributions to an officeholder committee.

**Campaign Tip:** Do not accept or deposit contributions to the officeholder committee unless you have something in writing from the contributor that expressly designates that the money is to be deposited into the officeholder committee.

As stated above, officeholder committees may be used for any “political, governmental or lawful purpose” for those expenses associated with holding the office currently held by the elected city officer. OCRA sets forth a long list of permissible expenditures from the officeholder committee, such as for office furniture, office rent, fundraising for the officeholder committee, donations to tax-exempt organizations, and other expenses incurred in connection with government-related activities [OMC §3.12.150(B)].

OCRA also expressly **prohibits** officeholder committee funds being used for the following activities or purposes:

- Expenditures in connection with a future election for any city, county, regional, state, or federal elective office;
- Expenditures for campaign consulting, research, polling, photographic or similar services for election to other elective office;
- Membership in any athletic, social, fraternal, veteran, or religious organization;
- Supplemental compensation for city employees for performing an act that would be required or expected of them in the regular course of their city duties;
- Any expenditure that would violate the California Political Reform Act [OMC §3.12.150(C)].

Finally, OCRA prohibits officeholder committee funds from being transferred to any candidate committee [OMC §3.12.150(D)].

### Legal Expense Fund

An elected City Official or candidate for city office may receive contributions for a separate legal expense fund for attorney fees and legal costs incurred to defend against actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or elected City Official's governmental activities and duties [OMC §3.12.170].

All contributions to a legal expense fund must be “earmarked” by the contributor at the time the contribution is made. The contributions must be first deposited into the elected City Official's appropriate bank account before being deposited into the legal expense fund. The legal expense fund may be in the form of certificates of deposit, interest-bearing savings accounts, money market or similar accounts, which shall be established only for the legal expense fund [OMC §3.12.170(A)].

Unlike officeholder or campaign committees, there is no limit to the amount a person or broad-based political committee may contribute to a legal expense fund [OMC §3.12.170(B)]. There is also no limit on the total amount that a legal expense fund can receive in any given year.

### Donation of Office Space

A related provision to officeholder committees and legal expense funds is the provision that permits a person or broad-based political committee to donate office space to elected City Officials in furtherance of their duties and responsibilities. A donation of this kind will not be considered an expenditure by, or non-monetary contribution to, an elected City Official **if** the donation is made to the City and accepted

pursuant to Oakland City Charter Section 1203 for use elected City Officials (or to the School District for use by the School District board of directors), **and** the name, address, employer and occupation of the donor, and the current market value of the donated office space, are provided to the Public Ethics Commission.

## ENFORCEMENT

Persons who violate the Oakland Campaign Reform Act are subject to criminal, civil, administrative, and other penalties. Note: A copy of the Public Ethics Commission's Mediation and Complaint Procedures, and Complaint Forms, are posted on its website and can be requested by contacting Commission staff.

### Liability

In addition to a committee itself, all principal officers of the committee are jointly and severally liable for violations by the committee. For committees controlled by a candidate, the candidate and the committee's treasurers are deemed to be principal officers. When two or more parties are jointly and severally liable, each party is independently liable for the full extent of the violation.

An agent acting on behalf of a principal officer is also jointly and severally liable for violations that arise out of the agent's actions. The following are presumed to be agents of a committee: (1) a current or former officer of the committee, (2) an employee of the committee, (3) a person who has received compensation or reimbursement from the committee, and (4) a person who holds or has held a position within the committee organization that reasonably appears to be able to authorize expenditures for committee activities.

In addition, any person who receives a financial benefit because of a violation of OCRA shall be liable for forfeiting to the City's general fund the amount of the financial benefit received because of the violation.

### Penalties

If, after an administrative hearing pursuant to its Complaint Procedures, the Public Ethics Commission determines that a violation under OCRA has occurred, the Commission may administer penalties and fines not to exceed \$5,000 per violation or three times the amount of the unlawful contribution or expenditure, whichever is greater [OMC §3.12.270(C)].

### Injunctive Relief

The Public Ethics Commission, or any individual residing in the City, may seek a court order to stop violations or to compel compliance with certain provisions of OCRA. [OMC §3.12.280] The court may award litigation costs or attorney's fees to a complainant or respondent who prevails in a civil action for injunctive relief [OMC §3.12.300].

### Disqualification

In addition to any other penalty, if an official receives a contribution above the contribution limits, the official shall not be permitted "to make, participate in making or in any way attempt to use their official position to influence a governmental decision in which the contributor has a financial interest" [OMC §3.12.330]. This language is borrowed from the California Political Reform Act's provisions on financial conflict of interest. The significant difference is that OCRA prohibits an official from participating in any decision affecting the contributor's financial interests, while state law restricts participation only if the official's financial interests are at stake.



# APPENDIX I: OFFICEHOLDER COMMITTEES FACT SHEET

## Officeholder Committees FACT SHEET

### CA Political Reform Act/FPPC Rules for Officeholder Committees

State law allows local candidates who win the election to continue to maintain their campaign committee after the election to receive contributions and to use campaign funds to offset officeholder expenses. During non-election years, the Form 460 is filed on a semi-annual basis if the committee remains open. State law further requires that the committee name include the candidate’s last name, office sought, and year of the election, and that this name remain intact until and unless the candidate decides to run for re-election, in which case the candidate may re-designate the committee or create a new committee for the future office sought.

See FPPC *Disclosure Manual 2 – Information for Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates*, available on the FPPC’s website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

### Oakland Campaign Reform Act (OCRA) Rules for Officeholder Committees

Oakland law allows each elected City Official to maintain an officeholder committee for expenses associated with holding office. Contributions to the officeholder committee must be made by separate check or other separate written instrument, and single contributions may not be divided between the officeholder committee and any other candidate committee. The Oakland Campaign Reform Act (OCRA) imposes a limit on the total amount the officeholder committee may receive in contributions per year in office as follows (OMC 3.12.150A):

District Councilmembers, City Auditor, and School Board Directors	\$25,000
Councilmember-At-Large	\$30,000
Mayor	\$50,000

In addition, annual contributions received by or made to the officeholder committee shall be subject to the contribution limits under OCRA. No funds may be transferred from the officeholder committee of an elected City Official to any other candidate committee [OMC 3.12.150(D)].

A contributor may contribute up to the contribution limit to the officeholder committee each year it is in existence, in addition to making contributions at the applicable limit to the elected City Official’s campaign committee for a future election.



## Transitioning a Campaign Committee into an Officeholder Committee

A candidate may decide to maintain the campaign committee in lieu of creating an officeholder committee; however, the candidate would be limited to the contribution limits that applied to their contributors during the election. In other words, an individual who contributed to the candidate's campaign at the maximum amount would not be able to contribute again to the campaign committee, until and unless the campaign committee is re-designated as a campaign committee for the candidate's re-election. Even then, the contributor would be limited to the maximum contribution limit for the next election.

By establishing an officeholder committee, an elected City Official can receive a new set of contribution limits as outlined above and subject to OCRA's officeholder expenditure rules listed below. The new limits are in addition to the limits allowable for campaign contributions and are applied annually rather than per-election. To trigger the ability to accept officeholder contributions, a candidate must establish an "officeholder" committee by re-designating the campaign committee as follows:

1. After the election, pay all campaign expenses and debts. Do not terminate the campaign committee.
2. After the elected official is sworn into office, file an amended Form 410 pursuant to state rules to add "Officeholder" to the committee name (the name must still include the candidate's last name, the prior office sought, and the year of the election). There is no required deadline for transitioning the committee from a campaign committee to an officeholder committee, except that, once a committee is renamed with "Officeholder," it can no longer accept campaign contributions, pay campaign debts, or make other campaign expenditures. The new "Officeholder" committee can only receive officeholder contributions and make officeholder expenditures per OMC 3.12.150 and is subject to the new annual contribution limit for "Officeholder" committees.
3. Any funds that remain in the account as it becomes an officeholder committee may not exceed the total amount the officeholder committee may receive in contributions per year in office under OMC 3.12.150A.
4. A contributor may not give to the campaign committee for the prior election and to the officeholder committee in the same calendar year; however, if and once the candidate forms a new campaign committee for their re-election or election to another office, a contributor may contribute up to the maximum amount to the officeholder committee and the future campaign committee.

**Note:** In lieu of the above campaign committee re-designation process, an officeholder could instead create a new campaign committee for re-election while in office, designate it with the name "officeholder," and use that committee for officeholder contributions and expenditures; however, the officeholder committee must have a zero balance before the candidate begins to accept campaign

### Creating an Officeholder Committee

Establishing and using an officeholder committee can be tricky. The reason is that state law permits an elected City Official to receive contributions into only one campaign account – whether for campaign or officeholder purposes.

To accept officeholder contributions under Oakland law, a candidate must establish an "officeholder" committee by re-designating their campaign committee after the election and after all campaign related expenses and debts have been paid.

Officeholder committee funds may NOT be used for an elected City Official's own campaign-related expenses, nor may they be transferred to another candidate committee (including one's own).

contributions and make campaign expenditures for the candidate's future re-election, as OCRA prohibits any transfer of officeholder funds to another candidate committee.

### **Officeholder Expenditure Rules**

Under OCRA section 3.12.150B, expenditures from an officeholder committee may be made for any political, governmental, or other lawful purpose such as the following:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder per statute;
2. Expenditures for office equipment, furnishings, and office supplies;
3. Expenditures for office rent;
4. Expenditures for salaries of part-time or full-time staff employed by the officeholder for officeholder activities;
5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state, or federal elective office;
6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the elected City Official (2) a member of the elected City Official's staff; or (3) such other person designated by the elected City Official who is authorized to perform such government duties;
7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the elected City Official, (2) a member of the elected City Official's staff, (3) such other person designated by the elected City Official who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel;
8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity;
9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will have a material financial effect on the elected City Official, any member of their immediate family, or their committee treasurer;
10. Expenditures for memberships to civic, service, or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative, or political purpose;
11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the elected City Official or a member of the elected City Official's staff in the performance of their governmental responsibilities;
12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for city, county, regional, state, or federal elective office;

13. Expenditures for mailing to persons within the city which provide information related to city-sponsored events, school district-sponsored events, an official's governmental duties or an official's position on a matter pending before the Council, Mayor, or School Board;
14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the elected City Official communicates in their official capacity;
15. Expenditures for payment of tax liabilities incurred because of authorized officeholder expense fund transactions;
16. Expenditures for accounting, professional and administrative services provided to the officeholder fund;
17. Expenditures for ballot measures.

OCRA section 3.12.150C specifically prohibits the following expenditures from officeholder committees:

1. Expenditures in connection with a future election for any city, county, regional, state, or federal elective office;
2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state, or federal elective office;
3. Membership in any athletic, social, fraternal, veteran, or religious organization;
4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of their duties as a city official or employee;
5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.

### **Termination of the Officeholder Committee**

The officeholder committee shall be terminated at the time the elected City Official's term of office ends or they leave that office, whichever is earlier. An officeholder committee may not transfer funds to a campaign committee for a future election or to any other campaign committee. If the elected City Official runs for re-election, the new campaign committee is a separate committee for a separate election and does not impact the existing officeholder committee. If the elected City Official wins re-election, it is advised that the campaign committee for the candidate's re-election become the candidate's new officeholder committee according to the above procedures.

## APPENDIX II: SAMPLE CONTRIBUTOR CARD

[Insert Name of Candidate Committee and FPPC ID#]

### Individual Contributor Verification Card

Amount of the Contribution: \$ \_\_\_\_\_

Date of the Contribution: \_\_\_\_\_

Type of contribution (check one): Monetary \_\_\_\_ In-kind \_\_\_\_

If in-kind contribution, please specify items contributed/services rendered: \_\_\_\_\_

Contributor Name (Print): _____
Street Address (no P.O. Boxes): _____
City/State/Zip: _____
For donors of at least \$100 (cumulatively), the following information is required:
Occupation: _____ Employer: _____
<small>(If self-employed, provide the name of the business)</small>

Please verify that your contribution is not a prohibited contribution by marking the box next to each item below:

- I am not contributing more than \$600 for this election. I understand that, for purposes of contribution limits, my personal contributions are aggregated with the contributions of a business in which I own a majority interest, and that contributions from multiple entities also are aggregated when the conditions are such that the entities:
  - 1) share the majority of members of their board of directors;
  - 2) share three or more, or a majority of, officers;
  - 3) are owned or controlled by the same majority shareholder(s);
  - 4) are in a parent-subsidiary relationship; or
  - 5) one entity finances, maintains, or controls the other entity's contributions or expenditures [OMC 3.12.080].
  
- I am not contracting or proposing to contract, currently or within the past 180 days, with the City, on a contract requiring approval by the City Council, or Oakland Unified School District, on a contract requiring approval by the School Board, and I do not hold any of the following positions with an entity doing so:
  - 1) board chair, president, chief executive officer, chief operating officer, chief financial officer, or the functional equivalent of one or more of those positions;
  - 2) owner with ownership interest of 20% or more; or
  - 3) employee, independent contractor, or agent of the entity who is authorized to represent the entity before the City or OUSD regarding the contract [OMC 3.12.140].

Signature required of all contributors:	
I certify that this contribution is not prohibited under Oakland's Campaign Reform Act as specified above.	
X _____	_____
Contributor Signature	Date



# APPENDIX III: SAMPLE OCRA FORM 300



CLEAR FORM

## CAMPAIGN FILER – APPLICATION FOR ONLINE LOGON AND PASSWORD

### COMMITTEE INFORMATION

**Quetzalli Lara for Oakland City Council D5 2050 (510) 238-3593 Pending**

Committee name Phone FPPC ID#

**Ana Lara**

Treasurer/Responsible Officer  
*(May be the same as above, if an individual)*

**rositalfranco1@gmail.com**

Email *(Must match disclosure email address)*

I am entitled to file campaign statements on behalf of the above entity or person and hereby apply for the issuance of an account ID number and a password in order to file statements and reports electronically. I am submitting this application as a: *(check one)*

- Treasurer
- Assistant Treasurer
- Responsible Officer
- Major Donor

### DECLARATION

- I acknowledge that electronic documents bearing my signature will be treated the same as original paper documents bearing my signature for the purposes of applicable state and local law.
- By signing and submitting this application, I acknowledge that documents filed electronically with the City of Oakland using the ID and password issued will bear my electronic signature and that I am signing such documents under penalty of perjury under the laws of the State of California.
- I also understand that I am solely responsible for the security of the ID issued to me, that sharing it with any party is done at my sole discretion, and that I assume any liability that results from sharing it with another person.

2/11/2022

Original Signature - Treasurer/Responsible Officer Date

2/11/2022

Original Signature - Candidate *(Candidate-controlled committees only)* Date

Return to:

Public Ethics Commission  
ONE FRANK H. OGAWA PLAZA • Room 104 • OAKLAND • CA • 94612  
(510) 238-3593 • FAX (510) 238-3315 • [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov)

OCRA FORM 300/7/2020





# APPENDIX IV: SAMPLE OCRA FORM 303



Submission Time: February 14, 2022 12:51 pm  
 Unique ID: 930420355

## Solicited Contribution Report - OCRA Form 303

### 1. Public Official Information

<b>Name</b>	Quetzalli Lara
<b>Title</b>	Councilmember
<b>Agency Name</b>	City Council
<b>Phone</b>	(510) 238-3593
<b>Email</b>	alarafranco@oaklandca.gov

### 2. Contributor Information

<b>Is the contributor an individual or an entity?</b>	Business or organization
<b>Contributor Name - Business or organization</b>	Xochipilli Inc
<b>Contact Person</b>	Itzel Franco
<b>Contributor Address</b>	1 San Sebastian Road Oakland, CA 94612 United States

### 3. Recipient Information

<b>Committee Name</b>	Xochitl Lara for CC 2022
<b>FPPC ID</b>	815436
<b>Committee Address</b>	123 Frank Road Oakland, CA 94612

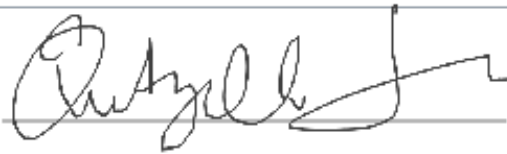
Unique ID: 930420355

**4. Contribution Information**

Date of Contribution	Feb 10, 2022
Amount of Contribution	20000
Contribution type	Monetary Donation
Election Date	Nov 08, 2022
Ballot Measure or Candidate	Xochitl Lara
Purpose	Support

**5. Verification**

I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.



Executed on:	Feb 14, 2022
Description Area	OCRA Form 303 (January/2020)

Unique ID: 930420355

# APPENDIX V: SAMPLE OCRA FORM 305



Form Name: Supplemental Independent Expenditure Disclosure - OCRA Form 305  
 Submission Time: November 15, 2023 2:15 pm  
 Browser: unknown / unknown  
 IP Address: 127.0.0.1  
 Unique ID: 999999999  
 Location: 64.7511, -147.3494

<b>Committee Name</b>	Testing
<b>FPPC ID #</b>	Testing
<b>Committee address:</b>	123 S Main Mayberry, IN 46251 United States
<b>Phone</b>	(123) 555-7890
<b>Email</b>	john.smith@example.com
<b>Election Date</b>	Nov 15, 2023
<b>Candidate or Ballot Measure</b>	Testing
<b>Office Sought or Held</b>	Mayor
<b>Position</b>	Support
<b>Form 496 Report Number</b>	Testing
<b>Was the expenditure for a communication distributed, displayed, or sent to voters?</b>	No
<b>Please describe the expenditure.</b>	The communication materials are being developed or have not been finalized. The final material will be added to an amended report.
<b>Dates the communication was distributed or displayed, if applicable.</b>	Testing
<b>Type of Communication</b>	Mailer/Door Hanger/Walk Piece
<b>Upload a copy of the communication.</b>	<a href="http://www.formstack.com/images/formstack-logo.png">http://www.formstack.com/images/formstack-logo.png</a>
<b>Additional materials</b>	<a href="http://www.formstack.com/images/formstack-logo.png">http://www.formstack.com/images/formstack-logo.png</a>

<b>How will you provide payee information?</b>	Enter payee information on form
<b>Upload payee information</b>	<a href="http://www.formstack.com/images/formstack-logo.png">http://www.formstack.com/images/formstack-logo.png</a>
<b>Payee Name</b>	Testing
<b>Payee Address</b>	123 S Main Mayberry, IN 46251 United States
<b>Is the payee an agent or independent contractor (e.g., campaign worker, advertising agency, campaign management firm) that made payments on your behalf ("subvendor payments")?</b>	No
<b>How will you provide subvendor information?</b>	Upload a spreadsheet for multiple subvendors
<b>Upload subvendor information</b>	<a href="http://www.formstack.com/images/formstack-logo.png">http://www.formstack.com/images/formstack-logo.png</a>
<b>Subvendor #1</b>	Testing
<b>Subvendor #1 Address</b>	123 S Main Mayberry, IN 46251 United States
<b>Subvendor #2</b>	Testing
<b>Subvendor #2 Address</b>	123 S Main Mayberry, IN 46251 United States
<b>Subvendor #3</b>	Testing
<b>Subvendor #3 Address</b>	123 S Main Mayberry, IN 46251 United States
<b>Did you make a contribution of \$100 or more in the current calendar year to any City of Oakland political committee listed above?</b>	No





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



# Item 11 - City Auditor Salary Adjustment

Francis Upton IV (Vice-Chair)

Alea Gage

Charlotte Hill

Vincent Steele

Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn Executive Director  
DATE: March 27, 2024, for the April 10, 2024, PEC Meeting  
RE: City Auditor Salary Adjustment as Required by City Charter Section 403(1)

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In November 2022, Oakland voters passed Measure X, which amended Oakland City Charter Section 403(1) to add setting the City Auditor salary level to the duties of the Public Ethics Commission (PEC or Commission). This memorandum provides background information for the Commission to adjust the City Auditor salary per the criteria specified by City Charter Section 403(1).

## Background

The City Auditor is the department head for the Office of the City Auditor and oversees a staff of approximately 12 full time equivalent (FTE) positions.<sup>1</sup> The current City Auditor was elected in a March 2024 special election to fill a vacancy in the Office.

Prior to 2023, the City Auditor's salary was set by the City Council. In November 2022, Oakland voters passed Measure X, which amended the process for adjusting the City Auditor's salary, including by assigning this responsibility to the Commission. This process is codified at Section 403(1) of the City Charter, which provides that:

The salary of the City Auditor shall be set annually by the Public Ethics Commission, to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Auditor and salaries for other City department heads, and shall be comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission. The City Auditor's salary may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion.

The Commission first adjusted the salary of the City Auditor position last year. At its April 12, 2023, regular meeting, the Commission adopted a resolution setting the City Auditor's salary at **\$213,137.51**, which is the current salary for the Office.<sup>2</sup>

### Prior PEC Adjustments to the City Auditor's Salary

Year	Adopted Annual Salary	Increase Over Prior Salary (%)
2023	\$213,137.51	17.6%

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<sup>1</sup> This represents the number of Full Time Equivalent (FTE) positions adopted in the most recent Budget for Fiscal Years 2023-2024.

<sup>2</sup> According to the City's current [Salary Ordinance](#), the City Auditor's salary is \$213,137.52, or one cent higher than what the PEC approved, likely because the amount the PEC approved is not evenly divisible by the City's pay periods.



## Analysis

### ***Highest Paid Professional Employee***

In adjusting the Auditor’s salary, the Charter requires that the Commission take into account “the top of the range for the highest paid professional employee in the Office of the City Auditor.” The Assistant City Auditor is the highest paid direct report for the City Auditor. The maximum annual salary for the Assistant City Auditor position in the Office of the City Auditor currently is **\$185,140.68** per year while the annual salary for the City Auditor is \$213,137.52.<sup>3</sup>

According to the City’s Human Resources Department, the City’s undocumented compensation practice is to have a minimum of 15 to 20 percent salary differential between a department head and their highest direct reporting employee, although among executive management this is not always achieved. For the City Auditor salary to be 15 to 20 percent above the salary of the highest direct reporting employee would be a salary between **\$212,911.78 and \$222,168.82**. The City Auditor presently makes 15.1 percent more than the highest paid professional employee, which is within that range.

In 2022, the City negotiated annual wage increases for represented employees through the collective bargaining process. The non-public safety wage increases, as opposed to Police and Fire wage increases, may be considered in establishing the new wage since it applies to both City Auditor employees and to other department heads. (Salary Ordinance 12187 C.M.S. section 2.20, as amended by Ordinance 13786 C.M.S., allows the City Administrator to provide the same negotiated wage increases to unrepresented employees, including department heads.) Upcoming scheduled wage increases under the current collective bargaining agreements with non-public safety represented employees include 2 percent in July 2024 and 2 percent in March 2025. After July 1, 2024, when the 2 percent wage increase is effective for non-sworn City employees, a 15 to 20 percent salary differential over the City Auditor’s top staff position will be **\$217,170.02 to \$226,612.19**.

### ***Other City Department Heads***

In adjusting the Auditor’s salary, the Charter requires that the Commission take into account “salaries for other City department heads.”

Table 1, below, provides the salaries for other City department heads as of February 2024.

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<sup>3</sup> Salary data provided by Anjali Saxena, Payroll Manager, Finance Department. February 21, 2024.

**Table 1: City Department Head Salaries**

Director Title	Annual Salary
Chief of Police	\$ 338,241.00
Chief of Fire	\$ 307,945.92
City Attorney	\$ 306,990.58
Director of Public Works	\$ 301,421.40
Director of Finance	\$ 288,007.44
Director of Transportation	\$ 259,914.60
Director of Library Services	\$ 259,914.60
Director of Planning & Building	\$ 259,914.60
Director of Information Technology	\$ 259,914.60
Director of Housing & Community Dev	\$ 259,914.60
Director of Animal Services	\$ 259,914.60
Director of Human Services	\$ 247,548.24
Director of Economic & Workforce Dev	\$ 247,548.24
Director of Workplace & Employment Stnd	\$ 241,212.84
Director of Human Resources Management	\$ 236,390.64
Inspector General	\$ 229,727.04
EEO & Civil Rights Director	\$ 229,727.04
Director of Race and Equity	\$ 229,727.04
Chief of Violence Prevention	\$ 225,499.92
Executive Director CPRA	\$ 219,220.80
<b>City Auditor</b>	<b>\$ 213,137.52</b>
City Clerk	\$ 212,257.20
Executive Director, Public Ethics Comm	\$ 191,213.76
<b>Mean (Excluding Auditor)</b>	<b>\$ 255,098.49</b>
<b>Median (Excluding Auditor)</b>	<b>\$ 253,731.42</b>

Based on the above data, the salary range for Oakland department heads is from **\$191,213.76 to \$338,241.00**. The mean annual salary for a department head (excluding the City Auditor) is **\$255,098.49** per year and the median annual salary is **\$253,731.42**. Of Oakland’s 23 department heads, the City Auditor has the **third lowest salary** (21st of 23).

In terms of staff size, the Auditor’s Office is a small City department (19th of 23). Of the seven departments (excluding the City Auditor’s Office) with fewer than 20 FTE, the mean annual salary for a department head is **\$221,869.39** per year and the median annual salary is **\$229,727.04**.

**Public Sector Auditor Positions**

In adjusting the Auditor’s salary, the Charter provides that the Auditor’s compensation shall be “comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission.”

In accordance with the Charter criteria, the Commission surveyed the salaries of City Auditors from other California cities within the four immediate higher and four lower populations compared to

## Item 11 - City Auditor Salary Adjustment

Oakland (see Table 2 below).<sup>4</sup> However, only two of the eight identified cities currently have City Auditor classifications that are either filled or were recently filled. Stockton has a City Auditor classification with a salary range of \$117,507.36 to \$ 150,794.88; however, the City currently contracts out for auditing services and has not had a recent incumbent in the position.

**Table 2: California Cities Auditor Salaries**

Jurisdiction	Population	Annual Salary
City and County of San Francisco	831,703	N/A
City of Fresno	543,428	N/A
City of Sacramento*	518,161	\$ 233,228.03
City of Long Beach	458,222	\$ 263,791.90
<b>City of Oakland</b>	<b>419,556</b>	<b>\$ 213,137.52</b>
City of Bakersfield	408,373	N/A
City of Anaheim	328,580	N/A
City of Stockton**	319,731	N/A
City of Riverside	313,676	N/A
<b>Mean (Excluding Oakland)</b>		<b>\$ 248,509.97</b>
<b>Median (Excluding Oakland)</b>		<b>\$ 248,509.97</b>

\*Position is currently vacant. Salary is that of last recent incumbent.

\*\* Vacant position with no recent incumbent.

Based on the above two data points, the salary range for the City Auditor position in comparable-size California cities is from **\$233,228.03 to \$263,791.90**. The mean annual salary is **\$248,509.97** per year and the median annual salary is **\$248,509.97**. Oakland’s City Auditor makes 85.8% of the mean and 85.7% of the median City Auditor salary in comparable-size cities. If the midpoint salary range for Stockton’s City Auditor classification (\$134,151.12) were considered, the mean annual salary would be \$210,390.35 and the median annual salary would be \$233,228.03.

In accordance with the Charter criteria, staff also surveyed City Auditor salaries for surrounding Bay Area Cities and the County of Alameda (see Table 3 below). Four of the nine identified jurisdictions have a City Auditor classification. The salary for Alameda’s City Auditor was not considered in this analysis, because it is a part-time position. Santa Clara has a City Auditor classification with a salary range of \$200,284.56 and \$259,198.92; however, the City currently contracts out for auditing services and has not had a recent incumbent in the position. Anaheim has an “Audit Manager,” rather than a City Auditor, whose compensation is \$168,918.

<sup>4</sup> The salary data in the tables below was provided by the human resources departments of each jurisdiction.

**Table 3: Bay Area Cities City Auditor Salaries**

Jurisdiction	Annual Salary
County of Alameda*	\$ 253,323.20
City and County of San Francisco	N/A
City of Alameda**	\$ 3,600.00
City of Berkeley	\$ 189,839.26
City of Fremont	N/A
City of Hayward	N/A
City of Mountain View	N/A
<b>City of Oakland</b>	<b>\$ 213,137.52</b>
City of San Jose	\$ 264,311.28
City of Santa Clara†	N/A
<b>Mean (Excluding Oakland and City of Alameda)</b>	<b>\$ 235,824.58</b>
<b>Median (Excluding Oakland and City of Alameda)</b>	<b>\$ 253,323.20</b>

\*Alameda County’s auditor position is the Auditor-Controller.

\*\*Alameda has a part-time elected Auditor.

† Vacant position with no recent incumbent.

Based on the above data, the salary range for the City Auditor position in Bay Area jurisdictions is from **\$189,839.26 to \$264,311.28**. The mean annual salary is **\$235,824.58** per year and the median annual salary is **\$253,323.20**. Oakland’s City Auditor makes 90.4% of the mean and 84.1% of the median City Auditor salary in Bay Area cities. If the midpoint salary range for Santa Clara’s City Auditor classification (\$229,741.74) were considered, the mean annual salary would be \$234,303.87 and the median annual salary would be \$241,532.47.

### Staff Recommendation

Based on the above data and the criteria set forth in City Charter Section 403(1), Commission Staff recommends adjusting the City Auditor’s annual salary to **\$226,612.19**, which is a **6.3%** increase over the Auditor’s current salary, effective in the first pay period after July 1, 2024. This adjustment would provide competitive compensation and equitable alignment of the City Auditor’s salary by providing the City Auditor with a salary that is 20 percent above the top of the range for the highest paid professional employee in the Auditor’s Office after accounting for the scheduled 2 percent negotiated wage increase for non-sworn City employees effective July 2024, that is comparable to the salaries of City Auditors in other comparable-size cities and Bay Area jurisdictions, and that also takes into account the salaries of other City department heads.<sup>5</sup>

<sup>5</sup> Salary adjustment calculated as follows: Highest paid City Auditor office employee salary + 20% differential + 2% increase to maintain parity with scheduled wage increase for non-public safety employees effective July 1, 2024.

## Item 11 - City Auditor Salary Adjustment

**Table 4: Comparison Summary**

Summary of Salary Comparisons				
	Lowest	Highest	Mean	Median
Other Department Heads (n=22)	\$191,213.76	\$338,241.00	\$255,098.49	\$253,731.42
Under 20 FTE Department Heads (7)	\$191,213.76	\$241,212.84	\$221,869.39	\$229,727.04
Top Paid Employee	+ 15%: \$212,911.78	+ 20%: \$222,168.82	+ 17.5%: \$217,540.30	-
Top Paid Employee (after 2% COLA)	+ 15%: \$217,170.02	+ 20%: \$226,612.19	+ 17.5%: \$221,891.10	-
Comparable-Size Cities (2)	\$233,228.03	\$263,791.90	\$248,509.96	\$248,509.96
Bay Area Jurisdictions (3)	\$189,839.26	\$264,311.28	\$235,824.58	\$253,323.20
City Auditor - Current Salary				
<b>\$213,137.52</b>				
City Auditor - Recommended Salary				
<b>\$226,612.19</b>				

Following the Commission’s determination of the adjustment amount, Commission Staff will transmit the salary adjustment resolution to the City Administrator, the Department of Human Resources (to amend the salary ordinance), and the Treasury Division - Payroll (to implement the increase).

**Attachments:** 1. Draft Resolution; 2. Measure X Ballot Pamphlet Packet

# Item 11 - City Auditor Salary Adjustment

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



**RESOLUTION NO. 24-02**  
**[Proposed 4-10-24]**

## **RESOLUTION AUTHORIZING A SALARY INCREASE FOR THE OFFICE OF CITY AUDITOR PURSUANT TO OAKLAND CITY CHARTER SECTION 403(1)**

By action of the Oakland Public Ethics Commission:

**WHEREAS**, Oakland City Charter Section 403(1) provides: “The salary of the City Auditor shall be set annually by the Public Ethics Commission, to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Auditor and salaries for other City department heads, and shall be comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission. The City Auditor's salary may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion;” and

**WHEREAS**, Oakland City Charter section 207 charges the City Council with fixing the compensation of all City employees, officers and officials unless otherwise provided by the Charter; and

**WHEREAS**, Ordinance No. 12187 C.M.S., the “Salary Ordinance,” as amended, sets forth a salary schedule reflecting all classifications of employment within the City including those of city employees and city officers; and

**WHEREAS**, a salary adjustment to \$226,612.19 would provide competitive compensation and equitable alignment of the City Auditor’s salary by providing the City Auditor with a salary that is 20 percent above the top of the range for the highest paid professional employee in the Auditor’s Office, that accounts for the scheduled 2 percent negotiated wage increase for other City employees effective July 2024, that is comparable with the salaries of auditors in other comparable-size cities and Bay Area jurisdictions, and that also accounts for the salaries of other City department heads.

**Now, therefore be it:**

**RESOLVED**, that the Commission does hereby authorize an annual salary of \$226,612.19 for the office of City Auditor as mandated by City Charter Section 403(1), effective as of the first payroll period of Fiscal Year 2024-2025.

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### **CERTIFICATION RE: APPROVAL OF RESOLUTION**

The foregoing Resolution was presented for approval at a duly noticed meeting of the City of Oakland Public Ethics Commission held on April 10, 2024, where a quorum of the membership of the Commission was present. The Commission approved the resolution by a vote of \_\_\_\_ to \_\_\_\_.

AYES: GAGE, HILL, STEELE, TILAK, UPTON IV AND CHAIR MICIK

NOES:

ABSTAIN:

ABSENT:

**April 10, 2024 PEC Regular Meeting Packet - 78**

# Item 11 - City Auditor Salary Adjustment

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



**RESOLUTION NO. 24-02**  
**[Proposed 4-10-24]**

I hereby certify that the foregoing is true and correct.

\_\_\_\_\_  
Nicolas Heidorn, Executive Director  
Oakland Public Ethics Commission

\_\_\_\_\_  
Date



# Item 11 - City Auditor Salary Adjustment

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

22 JUL 12 PM 1:51

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. 89317 C.M.S.

INTRODUCED BY COUNCILMEMBERS DAN KALB, LOREN TAYLOR,  
SHENG THAO, AND NIKKI FORTUNATO BAS

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RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING  
TO THE VOTERS FOR THE NOVEMBER 8, 2022, GENERAL  
MUNICIPAL ELECTION A GOVERNMENT REFORM MEASURE THAT  
WOULD AMEND THE CITY CHARTER TO, AMONG OTHER THINGS:

- (1) ESTABLISH TERM LIMITS FOR COUNCILMEMBERS;
- (2) REQUIRE A MINIMUM OF TWO COUNCIL HEARINGS BEFORE  
CERTAIN COUNCIL PROPOSED BALLOT MEASURES ARE  
APPROVED FOR PLACEMENT ON THE BALLOT;
- (3) COUNT COUNCILMEMBER ABSTENTIONS AND ABSENCES AS  
A NO VOTE ON COUNCIL MOTIONS, RESOLUTIONS AND  
ORDINANCES FOR PURPOSES OF DETERMINING WHETHER  
MAYOR HAS AUTHORITY TO CAST A TIE-BREAKING VOTE;
- (4) CHANGE THE FORMULA FOR THE PUBLIC ETHICS  
COMMISSION TO SET COUNCILMEMBER SALARIES AND  
AUTHORIZING THE PUBLIC ETHICS COMMISSION TO SET THE  
SALARIES OF THE CITY AUDITOR AND CITY ATTORNEY;
- (5) ADD AND CLARIFY DUTIES OF AND PROVIDE MINIMUM  
STAFFING FOR THE CITY AUDITOR; AND

DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION  
OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION,  
AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO  
PREPARE FOR AND CONDUCT THE NOVEMBER 8, 2022, GENERAL  
MUNICIPAL ELECTION

WHEREAS, in 1968, the People adopted the Charter of the City of Oakland ("City Charter"), establishing the fundamental law of the City, including but not limited to, the City's form of government and the role of City Council, the Mayor, the City Manager, and other City officers, and

## Item 11 - City Auditor Salary Adjustment

**WHEREAS**, since then, the City has grown in size, complexity, and diversity; and

**WHEREAS**, a city's charter must promote democracy, accountability, transparency, and equity; and

**WHEREAS**, according to the National League of Cities, 80% of American cities have term limits for mayors and/or councilmembers; and

**WHEREAS**, a 2021 report by San Francisco Bay Area Planning and Urban Research Association, a nonprofit public policy organization ("SPUR") titled "Making Government Work: 10 ways City Governance Can Adapt to Meet the Needs of Oaklanders" called for term limits City Councilmembers and additional staffing for the City Auditor; and

**WHEREAS**, Oakland elected officials such as City Councilmembers, the City Auditor, and the City Attorney have lower salaries than several nearby California cities; and

**WHEREAS**, engaged residents may be more likely to be able to gain election to local office when there is an open seat as opposed to when an incumbent is running for re-election; and

**WHEREAS**, having two Council hearings on certain Council proposed ballot measures before the Council places such measures on the ballot will expand opportunities for public and Council engagement, discussion and vetting; and

**WHEREAS**, the Charter currently entitles the Mayor to cast a tie-breaking vote when the Council is evenly divided on a Council vote, yet that has been thwarted by Councilmembers abstaining; now therefore be it

**RESOLVED:** That the City Council finds and determines the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

**FURTHER RESOLVED:** That the City Charter hereby is amended, to add, delete, or modify sections as set forth below (sections number and titles are indicated in **bold type**; additions are indicated by underscoring, deletions are indicated by strike-through type; portion of the provisions not cited or not shown in underscoring or strike-through type are not changed); and be it

**FURTHER RESOLVED:** That the proposed amended Charter amendment text shall be as follows:

**Section 200. Composition of the Council.** The Council shall consist of eight Councilmembers, nominated and elected as hereinafter provided. The Mayor shall not be a member of the Council, but ~~he~~ shall have a vote on the Council if the Councilmembers are evenly divided in accordance with Section 305. The Council shall elect a President of the Council from among its members for a term of two years. The President of the Council shall serve as the presiding officer of the City Council and shall perform duties authorized by the Council's Rules of Procedure, which shall be passed by resolution in accordance with Charter section 210.

## Item 11 - City Auditor Salary Adjustment

**Section 202. Council Salaries.** The Public Ethics Commission shall bi-annually adjust the salary for the office of Councilmember by the increase in the consumer price index over the preceding two years, up to a total of five percent. If the increase in the consumer price index over the preceding two years exceeds five percent, the Commission shall have the discretion to adjust the salary for the office of Councilmember by an amount not exceeding five percent for each year, but not more than the total CPI per year. ~~The Commission may adjust salaries beyond the increase in the consumer price index up to a total of five percent. Any portion of an increase in compensation for the office of Councilmember that would result in an overall increase for that year in excess of five percent must be approved by the voters.~~

### **Section 204. Term of Office, Term Limits, Council.**

**Term of Office.** The Councilmembers shall be elected to a term of four years beginning at 11:00 a.m. on the Monday following January 1~~2~~ following their election. ~~The Councilmembers elected or appointed to office to serve terms beginning in 1985 shall serve in office until 11:00 a.m. on the Monday following January 1 in 1991. The Councilmembers elected or appointed to office to serve terms beginning in 1987 shall serve in office until 11:00 a.m. on the Monday following January 1, 1993.~~ In 1990-2018 Municipal Elections will be held to select City officers for four-year terms for the following offices: Councilmember, District #2; Councilmember, District #4, and, Councilmember, District #6. In 1992-2020 Municipal Elections ~~will be~~ were held to select City Councilmembers for four-year terms for the following offices: Councilmember, District #1; Councilmember, District #3; Councilmember, District #5; Councilmember, District #7; and Councilmember At-Large.

**Term Limits.** No person shall be elected to the office of Councilmember, whether district or at-large, or any combination thereof, for more than three consecutive terms; except that a person may serve up to three consecutive terms as a district Councilmember immediately followed by up to three consecutive terms as Councilmember at-large. For purposes of determining term limits, a Councilmember who fills a partial term of more than two years shall be deemed to have filled the entire term. Terms for the office of Councilmember that commenced prior to January 2023 shall not be considered in calculating limits on consecutive terms for Councilmembers.

**Section 205. Vacancy, Filling of.** All vacancies occurring in the office of Councilmember shall be filled by special election within 120 days of a vacancy. An extension of up to 60-90 days may be allowed only for the express purpose of consolidating the special election with the next Municipal Election or Statewide Election. If the special election is to take place before the first use of ranked choice voting in a Municipal Election, the Council shall have the authority to provide for a ranked choice voting election by ordinance. Otherwise, the candidate who receives the highest number of votes at the special election shall be declared the winner and thereafter sworn into office as soon as legally possible. Special elections for the office of Councilmember that take place during or after the first use of ranked choice voting in a Municipal Election shall be conducted using the same ranked choice voting procedures used to elect Councilmembers in General Municipal Elections. Whenever the period of vacancy in a Councilmember's term of office equals or exceeds 120-100 days the vacancy may be temporarily filled by appointment through the majority vote of the remaining Councilmembers, provided the appointee is may not simultaneously fill the vacancy and run as a candidate for that the office which created the vacancy and provided the appointment does not exceed 128-180 days or go beyond the date the

## Item 11 - City Auditor Salary Adjustment

new incumbent is sworn in, whichever is shortest. Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, secure electronic voting and extended voting period. Notwithstanding any other provision of this section 205 or this Charter, an election shall not be required to fill a vacancy in the office of Councilmember that occurs when the Vice Mayor Council President fills a mayoral vacancy pursuant to Sections 303 and 304 of this Charter, and the Vice Mayor-Council President shall be entitled to return to his/her their seat.

**Section 208. Meetings of the Council.** At 11:00 a.m. on the first Monday following January 24 following each General Municipal Election, the Council shall meet at the established Council meeting place, at which time and place the newly elected members of the Council shall assume the duties of their office; and at such meeting, and at its first meeting in January of each odd-numbered year, the Council shall, by resolution, elect a Vice Mayor-Council President from among its members to serve for a one two-year term. The Council also shall elect, by resolution, a President Pro Tempore of the Council from among its members to serve a one or two-year term. Thereafter, the Council shall meet regularly at the time and place fixed by resolution. Special meetings may be held at the regular place of meeting and shall be called, and notice thereof given, by the City Clerk upon the written request of the Mayor, the City Administrator or three members of the Council and such notice shall state the special subject to be considered at the special meeting; and no other subject shall be there considered. Regular or special meetings may be held at places other than the regular meeting place only in an emergency in which the regular meeting place is untenable, or for some purpose of public convenience, upon the posting of a public notice at the regular meeting place that the Council is meeting elsewhere to be designated on the notice.

**Section 221. Hearings Required for Certain Ballot Measures Proposed by the Council.** Before taking a vote, the Council shall notice and consider at no fewer than two Council open session meetings that are at least 10 calendar days apart, any (1) general obligation bond, (2) new parcel tax or increase in a parcel tax, or (3) Charter amendment that the Council proposes to place on the ballot.

**Section 303. Vacancy, Filling of.** Upon the declaration of vacancy in the office of the Mayor, the office of the Mayor shall be filled by the Vice Mayor-President of the Council. Except as otherwise provided in this Section, when the Vice Mayor-President of the Council assumes the office of Mayor upon declaration of a vacancy, they shall serve for the remainder of the unexpired term if such term is less than one year; otherwise they shall serve until the vacancy is filled as provided herein. The President Pro Tempore shall perform the duties and shall have the powers of the President of the Council during any time that the President of the Council has assumed the office of the Mayor. Whenever the period of vacancy in a Mayor's term of office is less than one year and the Vice Mayor President of the Council notifies the Council in writing that they do not wish to serve as Mayor for the unexpired term, the vacancy shall be filled by appointment through a majority vote of the Council; provided the appointee shall be ineligible to be a candidate for the next full term of the Office of Mayor. If at the time of a vacancy declaration the unexpired term is one year or more, the vacancy occurring in the office of Mayor shall be filled by special election within 120 days of such vacancy. An extension of up to 60-90 days may be allowed only for the express purpose of consolidating the special election with the

## Item 11 - City Auditor Salary Adjustment

next Municipal Election or Statewide Election. Special elections for the office of Mayor that take place after the first use of ranked choice voting in a Municipal Election shall be conducted using the same ranked choice voting procedures used to elect the Mayor in General Municipal Election. The candidate elected to fill the vacancy shall hold office for the balance of the unexpired term. Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, secure electronic voting, and extended voting period.

**Section 305. Functions, Powers and Duties.** The Mayor shall be the chief elective officer of the City, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall have the following powers, duties, and responsibilities:

(a) The Mayor shall be responsible for the submission of an annual budget to the Council which shall be prepared by the City Administrator under the direction of the Mayor and Council. The Mayor shall, at the time of the submission of the budget, submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as he may deem expedient and proper to accomplish such goals.

(b) Recommend to the Council such measures and legislation as ~~he~~ the Mayor deems necessary and to make such other recommendations to the Council concerning the affairs of the City as ~~he~~ the Mayor finds desirable are in the best interest of the residents of the City.

(c) Encourage programs for the physical, economic, social and cultural development of the City.

(d) Actively promote economic development to broaden and strengthen the commercial and employment base of the City.

(e) Appoint the City Administrator, subject to confirmation by the City Council, remove the City Administrator and give direction to the City Administrator. The Mayor shall advise the Council before removing the City Administrator.

(f) Serve as ceremonial head of the City.

(g) Represent the City in inter-governmental relations as directed by the Council.

(h) Provide community leadership.

(i) May cast a tie-breaking vote on any Ordinance, Resolution or Motion voted on by the Council, if the Council's vote is evenly divided. Solely for the purposes of determining whether the Mayor is eligible to cast a tie-breaking vote, abstentions and absences shall count as a "No" vote. A legally-required recusal shall not count as a "No" vote.

The Mayor shall, at the first meeting of the City Council in October, appear before the Council to deliver a general address on the State of the City, and recommend the adoption of such measures as he/she may deem expedient and proper. The Mayor and such staff as the Mayor ~~he/she~~ may designate shall also conduct four additional public meetings during the year to solicit and respond to comments, concerns, or questions from the public. These meetings shall be

## Item 11 - City Auditor Salary Adjustment

noticed to the public not less than two weeks in advance, and shall be scheduled approximately three months apart.

The Mayor shall devote ~~his~~ their full time and attention to the duties of the Office of the Mayor and shall not engage in outside employment while in office. However, nothing shall prevent the Mayor from the receipt of income earned from business(s) or investment(s) in which ~~he~~ the Mayor is not actively engaged and which are not in conflict with the performance of ~~his~~ the Mayor's duties and responsibilities.

**Section 306. Duties of ~~Vice Mayor~~ Council President.** In addition to any duties specified by ordinance or by the Council's Rules of Procedure Resolution passed in accordance with Charter section 210, ~~in the absence~~ during the unavailability or temporary disability of the Mayor, the ~~Vice Mayor~~ President of the Council shall perform the duties of the office of Mayor.

**Section 401(1). City Attorney.** The City Attorney shall be nominated and elected in the same manner and at the same election as the Councilmember-at-large. The salary of the elected City Attorney shall be set annually by ~~the Council, which shall be not less than 70% nor more than 90% of the average salaries of City Attorneys of California cities within the three immediate higher and the three immediate lower cities in population to Oakland, and may not be reduced during the City Attorney's term of office, except as part of a general reduction of salaries of all officers and employees in the same amount or proportion~~ the Public Ethics Commission to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Attorney and salaries for other City department heads, and shall be comparable to the salaries of City Attorneys and other comparable positions, such as County Counsel or Port Attorney, in California cities, counties and agencies selected by the Commission. The City Attorney's salary may not be reduced during the City Attorney's term of office except as part of a general reduction of salaries of all officers and employees in the same amount or proportion.

**Section 401(7). Endorsements, Campaigns, Campaign Contributions.** During the City Attorney's tenure, the City Attorney shall not make or solicit contributions to, publicly endorse or urge the endorsement of or otherwise participate in a campaign for a candidate for City elective office, other than for the City Attorney, or of a City ballot measure, or be an officer, director or employee of or hold a policy decision-making position in an organization that makes political endorsements regarding candidates for City elective office.

**Section 403(1). City Auditor.** The City Auditor shall be nominated and elected in the same manner, for the same term, and at the same election, as the Mayor. To be eligible ~~to~~ for the office a person must be a qualified elector of the State of California, a resident of the City at the time of filing nomination papers and for thirty (30) days immediately preceding the date of filing and shall be certified by the California State Board of Accountancy as a Certified Public Accountant or by the Institute of Internal Auditors as a Certified Internal Auditor, and shall have a minimum of three years of public sector experience in auditing, policy analysis, performance evaluation, investigative oversight, and/or accountancy, or equivalent private sector experience. The salary of the office ~~shall be set by the Public Ethics Commission, which shall be not less than 70% nor~~

## Item 11 - City Auditor Salary Adjustment

more than 90% of the average salaries of City Auditors of California cities within the three immediate higher and the three immediate lower cities in population to Oakland, and may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion. City Auditor shall be set annually by the Public Ethics Commission, to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Auditor and salaries for other City department heads, and shall be comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission. The City Auditor's salary may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion.

**Section 403(2). Vacancy, What Constitutes.** The Office of City Auditor shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after their term is to begin, dies, resigns, ceases to be a resident of the City or is absent from the City for a period of more than sixty days without permission from the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of the office, forfeits the office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the City Auditor. Filing to run for the office of Mayor, Councilmember or City Attorney shall constitute a resignation from the office of City Auditor, effective on the date of filing.

**Section 403(3) Vacancy, Filling of.** For all vacancies occurring in the Office of City Auditor the City Council shall cause an election to be held to fill such vacancy pursuant to the manner and method as provided for in Article II, Section 205 of the Charter.

**Section 403(4) Powers of the City Auditor.** The City Auditor, notwithstanding any other provision of this Charter, shall have the power and it shall be his or her the City Auditor's duty to audit the books, accounts, money and securities of all bureaus, departments, offices, agencies, including the Port Department, boards, commissions, and programs of the City, and such other matters as the Council may request; to report to the Council periodically the results of such audits and to advise and make recommendations to the City Administrator regarding accounting forms design, fiscal and statistical reports and the methods or procedures for maintaining the accounts and accounting system throughout all departments, offices and agencies of the City. The City Auditor shall report to the Council instances of noncompliance with accepted accounting principles where recommendations for compliance have not been implemented by the City Administrator after reasonable time and opportunity. The City Auditor shall conduct audits in accordance with Government Auditing Standards as issued by the U.S. Comptroller General.

The City Auditor shall conduct surveys, reviews, and performance audits and financial audits as the Auditor deems to be in the best public interest or as required-requested by the Council or Mayor. For these purposes the public interest shall include, but not be limited to:



## Item 11 - City Auditor Salary Adjustment

- (1) Reviewing and appraising the soundness, adequacy and application of accounting, functional, and operating controls and reliability and timeliness of accounting and other data generated within the organization.
- (2) Evaluating the city's internal controls to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste, and mismanagement.
- (3) Ascertaining compliance with Council's resolutions and policies and the Mayor's Administrative Instructions and Directives, as well as applicable State and Federal laws and regulations.
- (4) Providing assistance to City Departments to enhance the effectiveness, efficiency and economy of their operations.
- (5) Preparing an impartial financial analysis of all ballot measures, pursuant to the provisions of the Municipal Code.
- (6) Preparing impartial financial analyses of proposed major expenditures prior to the approval of such expenditures. These analyses will be for informational purposes only and will include, but not be limited to, proposals, contracts, ventures, programs and construction projects. The proposed major expenditures selected for these financial analyses will be based on requests from Mayor/Council and/or deemed to be prudently advisable in the objective and professional judgment of the City Auditor.
- (7) Responding to Council and Mayor requests for audits and reviews.
- (8) Submitting, at a public meeting of the full City Council, a ~~quarterly~~ semi-annual report to the Council and public on the extent of implementation of recommendations for corrective actions made in the City Auditor's reports.
- (9) ~~The City Auditor shall conduct~~ Conducting periodic performance audits of each department as specified in the City budget in order to help improve government performance.
- (10) Reviewing City departments, offices, agencies, boards, commissions, and bureaus to analyze if they are managing, safeguarding and using public resources, including public funds, personnel, property, equipment and space, economically, efficiently, equitably, and effectively.
- (11) Analyzing City programs, activities, services, functions, or policies as to effectiveness and cost-effectiveness, including the identification of any causes of inefficiencies.
- (12) Reviewing and recommending to the City Administrator management adjustments in operating and administrative procedures and practices, systems and accounting internal control systems and internal management controls.
- (13) Analyzing allegations of fraud, waste, abuse or illegal acts that require further investigation to substantiate.
- (14) Publishing an annual report summarizing recent audits and recommendations.
- (15) Responding to requests from the City Administrator to provide recommendations on how to make City departments and services more effective and customer-service oriented.
- (16) Preparing an annual workplan including planned audits for the year. The City Auditor shall publish such workplan in August of each year.

## Item 11 - City Auditor Salary Adjustment

The City Auditor shall have access to inspect all records, property, equipment, and facilities within the City's jurisdiction.

Effective July 2023, the budget for the Office of the City Auditor shall be sufficient to hire at least fourteen full-time equivalent ("FTE") employees of relevant classifications. The minimum staffing budget set-aside may be suspended, for a fiscal year or a two-year budget cycle, upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution or ordinance.

**Restrictions on Running for Public Office.** Filing for an elective office over which the City Auditor has audit jurisdiction will be the same as resignation, effective on the date of filing.

**Endorsements, Campaigns, Campaign Contributions.** During the City Auditor's tenure, the City Auditor shall not make or solicit contributions to, publicly endorse or urge the endorsement of or otherwise participate in a campaign for a candidate for City elective office, other than for the City Auditor, or of a City ballot measure, or be an, officer, director or employee of or hold a policy decision-making position in an organization that makes political endorsements regarding candidates for City elective office.

The City Auditor shall be represented in all legal matters by the City Attorney except as provided otherwise in Section 401.

**Section 601. Boards and Commissions.** The Council may create by ordinance such operational, advisory, appellate or rule-making boards and commissions as may be required for the proper operation of any function or agency of the City and prescribe their function, duties, powers, jurisdiction, meeting frequency, standards for conducting long-term planning, and the number of board and commission members, their terms, compensation and reimbursement for expenses, if any, subject to the provisions of this Article.

**Section 601(a).** Except as otherwise provided for in this Charter, Mmembers of boards and commissions shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council and may be removed for cause, after hearing, by the affirmative vote of at least six members of the Council and may be removed for cause, after hearing, by the affirmative vote of at least six members of the Council. Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made; provided, however, that if the Mayor does not submit for confirmation a candidate to fill the vacancy within 90 days of the date the vacancy first occurred, the Council may fill the vacancy. If the Mayor does submit for confirmation a candidate to fill a vacancy within the 90-day time frame and the Council does not confirm the candidate, the 90-day period shall commence anew. For purposes of this Section, a seat filled by a holdover appointment will be considered vacant as of 30 days after the expiration of the holdover's prior term of office.

**Section 601(b).** Notwithstanding any other language in this section 601, or elsewhere in the Charter, for vacancies on boards and commissions for which an ordinance specifies that Councilmembers may nominate a candidate for the Mayor's consideration, the designated Councilmember shall have 45 days from the date the vacancy occurs to recommend one or more

## Item 11 - City Auditor Salary Adjustment

nominees to the Mayor in writing. Upon such nomination or the expiration of the 45-day nomination period, whichever occurs first, the Mayor shall have 90 days thereafter to submit any eligible candidate for the Council's confirmation.

If the Mayor does not submit for confirmation a candidate to fill a vacancy within the time frames prescribed by this section 601(b), the Council may fill the vacancy. If the Mayor does submit for confirmation a candidate to fill the vacancy within the time frame specified in this section 601(b) and the Council does not confirm the candidate, the time frame specified in this section 601(b) shall commence anew.

For purposes of this Section 601, a seat filled by a holdover appointment will be considered vacant as of 30 days after the expiration of the holdover's term of office.

**Section 1100. Nominating Election.** Except as otherwise provided for in section 1105 of this Charter, Municipal Nominating Elections for the nomination of officers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in June in each even-numbered year. In order to consolidate Municipal Nominating Elections with Statewide Primary Elections, the Council may by ordinance provide for a date for a Municipal Nominating Election which conforms to the date of a Statewide Primary Election.

**FURTHER RESOLVED:** That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

**PROPOSED CHARTER AMENDMENT**

**MEASURE \_\_\_**

<p><b>Measure __. Shall a measure to amend the Charter to, among other things, establish Councilmember term limits, require two hearings before Council places certain measures on the ballot; count Councilmember abstentions and absences as "no" votes in determining whether Mayor may break a tie; provide Public Ethics Commission discretion in setting Councilmember salaries; authorize the Commission to set City Attorney and Auditor salaries; and add and detail duties and provide minimum staffing for the Auditor, be adopted?</b></p>	<b>Yes</b>	
	<b>No</b>	

; and be it

# Item 11 - City Auditor Salary Adjustment

**FURTHER RESOLVED:** That the City Council hereby authorizes and directs the Clerk of the City of Oakland ("City Clerk"), at least 88 days prior to the November 8, 2022 general municipal election, to file certified copies of this resolution with the Alameda County Board of Supervisors and the Registrar of Voters; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted by Office of the City Clerk; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law; and be it

**FURTHER RESOLVED:** That the City Clerk and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the next municipal election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the next municipal election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

JUL 11 2022

AYES - ~~ALLEN, BROWN, GONZALES, KALB, LEE, LEE, REID, TAYLOR, THAO AND~~ PRESIDENT FORTUNATO BAS -5

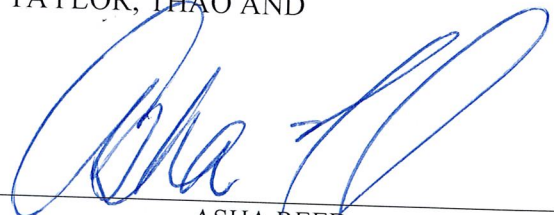
NOES - File - 1

ABSENT -

ABSTENTION -

Excused - Grillo, Kaplan - 2

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the  
City of Oakland, California

# Item 11 - City Auditor Salary Adjustment

OFFICE OF THE CITY CLERK  
OAKLAND

22 JUL 28 PM 4:27

## QUESTION

Shall a measure to amend the Charter to, among other things, establish Councilmember term limits, require two hearings before Council places certain measures on the ballot; count Councilmember abstentions and absences as “no” votes in determining whether Mayor may break a tie; provide Public Ethics Commission discretion in setting Councilmember salaries; authorize the Commission to set City Attorney and Auditor salaries; and add and detail duties and provide minimum staffing for the Auditor, be adopted?

## TITLE AND SUMMARY

**Title:** A proposed amendment to the Charter to establish term limits for members of the City Council (“Council”), require two Council hearings for certain proposed ballot measures, count Councilmember abstentions and absences as “no” votes in determining whether the Mayor may cast a tie-breaking vote at the Council, provide the Public Ethics Commission (“Commission”) discretion in setting Councilmember salaries, authorize the Commission to set the salaries of the City Auditor and the City Attorney, clarify and add to the duties of the City Auditor, and set minimum staffing for the Office of the City Auditor.

### Summary:

This measure makes a number of changes to the Charter including:

#### Councilmember Term Limits

Members of the Council are elected to four-year terms. There are no term limits. This measure would prohibit a Councilmember from serving more than three consecutive terms.

#### Hearings on Proposed Ballot Measures

State law requires the Council to hold one public hearing before voting to place a measure on the ballot. This measure would require the Council to hold two public hearings before voting to place a general obligation bond, parcel tax, or Charter amendment on the ballot.

#### Councilmember Salaries

The Public Ethics Commission (“Commission”) adjusts Councilmember salaries every two years based on any increases in the consumer price index (“CPI”). The Commission may also adjust their salaries above CPI increases, up to a total of five percent per year. This measure provides that the Commission would adjust the salaries every two years based on CPI increases, up to a total of five percent. But if the total CPI increase over the prior two years exceeds five percent, the Commission may adjust salaries up to five percent per year but may not adjust the salaries more than the CPI increase per year.

#### Mayoral Tie-Breaking Vote

The Mayor does not have a vote on the Council, but the Charter authorizes the Mayor to cast a tie-breaking vote when the Council is evenly divided. This measure provides that for purposes of determining whether there is a tie, a Councilmember’s abstention or absence shall count as a “no” vote.

#### City Attorney and City Auditor Salaries

The Council sets the salary of the City Attorney and the City Auditor using a specified formula. This measure provides that the Commission would set these salaries based on salaries of the highest paid professional employee in their respective offices, other City department heads, and comparable positions in California jurisdictions.

## Item 11 - City Auditor Salary Adjustment

### City Attorney and City Auditor Political Activities

This measure would prohibit the City Attorney and the City Auditor from making or soliciting contributions to, publicly endorsing, or participating in the campaign of a candidate for City elective office or of a City ballot measure.

### City Auditor

This measure establishes further qualifications and additional duties for the City Auditor.

The Charter does not set minimum staffing for the Office of the City Auditor. This measure provides that the budget for the Office of the City Auditor must be sufficient for at least fourteen full-time employees.

**/s/ DAVID CHIU**  
**San Francisco City Attorney**

# Item 11 - City Auditor Salary Adjustment

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

## IMPARTIAL ANALYSIS

22 JUL 28 PM 4: 27

### Councilmember Term Limits

Members of the City Council (“Council”) are elected to four-year terms. There are no term limits. This measure would prohibit a Councilmember from serving more than three consecutive terms, except that a district Councilmember may serve up to three consecutive terms followed by up to three consecutive terms as an at-large Councilmember. Councilmember terms that began before January 2023 shall not count towards the term limits.

### Hearings on Proposed Ballot Measures

State law requires the Council to hold at least one public hearing before placing a measure on the ballot. This measure would require the Council to hold at least two public hearings at least 10 calendar days apart before placing general obligation bonds, parcel taxes, or Charter amendments on the ballot.

### Councilmember Salaries

The Public Ethics Commission (“Commission”) adjusts the salary for Councilmembers every two years based on the increase in the consumer price index (“CPI”). The Commission may adjust salaries beyond the increase in CPI up to five percent per year. The voters may approve increases above five percent in a year. This measure provides that the Commission adjusts the salaries every two years based on CPI increases, up to a total of five percent for the two years. But if the total CPI increase over the prior two years exceeds five percent, the Commission may adjust salaries up to five percent per year but may not adjust the salaries more than the CPI increase per year. The measure removes the ability of the voters to approve increases above five percent by ordinance.

### Mayoral Tie-Breaking Vote

The Mayor does not have a vote on the Council, but the Charter authorizes the Mayor to cast a tie-breaking vote when the Council is evenly divided. This measure provides that for purposes of determining whether there is a tie, a Councilmember’s abstention or absence shall count as a “no” vote.

### City Attorney and City Auditor Salaries

The Council sets the salary of the City Attorney and the City Auditor. This measure provides that the Commission would set these salaries based on the salaries of the highest paid professional employee in their respective offices, other City department heads, and comparable positions in California jurisdictions.

### City Attorney and City Auditor Political Activities

This measure would prohibit the City Attorney and the City Auditor from making or soliciting contributions to, publicly endorsing, or participating in the campaign of a candidate for City elective officer, or of a City ballot measure.



## Item 11 - City Auditor Salary Adjustment

### City Auditor

This measure specifies when the Office of City Auditor becomes vacant and a process for filling the vacancy.

This measure establishes further qualifications and additional duties for the City Auditor.

The Charter does not set minimum staffing in the Office of the City Auditor. This measure provides that the budget for the Office of the City Auditor must be sufficient for at least fourteen full-time employees, unless the Council determines for a given fiscal year or two-year budget cycle that the City is facing an extreme fiscal necessity.

**/s/ DAVID CHIU**  
**San Francisco City Attorney**

22 JUL 29 AM 11:38

**BERKELEY CITY AUDITOR’S IMPARTIAL FINANCIAL ANALYSIS OF THE GOOD GOVERNANCE CHARTER REFORM BALLOT MEASURE**

If passed by more than fifty percent of the voters, the Measure would amend the City Charter to establish term limits for councilmembers, require a minimum of two council hearings before certain council-proposed ballot measures for placement on the ballot, and count councilmember abstentions and absences as a no vote on council motions, resolutions, and ordinances to determine whether the Mayor is eligible to cast a tie-breaking vote. Further, the Measure would change the formula for the Public Ethics Commission (PEC) to set councilmember salaries, authorize the PEC to set the salaries of the City Auditor and City Attorney, and clarify the duties of and provide minimum staffing for the City Auditor.

Financial Impact

This Measure will cost the City an estimated additional \$858,199 annually in staffing costs, as detailed in the tables below.

The staffing level in the Auditor’s office will increase from 11 Full Time Employees (FTEs) to a minimum staffing level of 14 FTEs, effective July 2023. City Council may suspend the minimum staffing level for a fiscal year or two-year budget cycle, in the event of extreme fiscal necessity.

<b>Cost Component</b>	<b>Current FY 2023 Budget (11 FTEs)</b>	<b>Estimated Additional Annual Cost (+3 FTEs)<sup>A</sup></b>
Staffing	\$2,568,489	\$638,229

<sup>A</sup> Estimate is based on FY 2023 staff salaries and benefit rates.

The measure will authorize the PEC to set the salary of the City Attorney and the City Auditor annually. These salaries may not be reduced during their terms of office, except as part of a general reduction of salaries for all officers and employees. The estimated additional annual costs in the table below are based on an assessment of salaries within both departments, salaries of department heads within the City of Oakland, and salaries of comparable positions in California cities.

<b>Cost Component</b>	<b>Current FY 2023 Salary and Benefits</b>	<b>Estimated Additional Annual Costs (Salary and Benefits)</b>
City Attorney	\$420,637	\$120,145
City Auditor	\$332,471	\$99,826

Limits to this financial analysis are noted below:

- Staff salaries and benefit rates may increase over time which would increase the cost to the City.
- The PEC is authorized to set the salaries for the City Auditor and the City Attorney. As such, the PEC’s methodology may vary from our estimates.
- Should a vacancy occur in the Office of the City Auditor at a time that cannot be consolidated with a municipal or statewide election, a special election may be held. As of July 2022, the County of Alameda Registrar of Voters’ costs for special elections range from \$9 to \$11 per registered voter for vote-by-mail to \$19 to \$21 per registered voter for in-person voting.

## Item 11 - City Auditor Salary Adjustment

Our independent analysis represents the best information available at the time. Actual costs may vary from these estimates.

s/JENNY WONG  
Berkeley City Auditor



# Item 12 - City Attorney Salary Adjustment

Francis Upton IV (Vice-Chair)

Alea Gage

Charlotte Hill

Vincent Steele

Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn Executive Director  
DATE: March 27, 2024, for the April 10, 2024, PEC Meeting  
RE: City Attorney Salary Adjustment as Required by City Charter Section 401(1)

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In November 2022, Oakland voters passed Measure X, which amended Oakland City Charter Section 401(1) to add setting the City Attorney salary level to the duties of the Public Ethics Commission (PEC or Commission). This memorandum provides background information for the Commission to adjust the City Attorney salary per the criteria specified by City Charter Section 401(1).

## Background

The City Attorney is the department head for the Office of the City Attorney and oversees a staff of approximately 82 full time equivalent (FTE) positions.<sup>1</sup> The current City Attorney was most recently elected in November 2022.

Prior to 2023, the City Attorney's salary was set by the City Council. In November 2022, Oakland voters passed Measure X, which amended the process for adjusting the City Attorney's salary, including by assigning this responsibility to the Commission. This process is codified at Section 401(1) of the City Charter, which provides that:

The salary of the elected City Attorney shall be set annually by the Public Ethics Commission to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Attorney and salaries for other City department heads, and shall be comparable to the salaries of City Attorneys and other comparable positions, such as County Counsel or Port Attorney, in California cities, counties and agencies selected by the Commission. The City Attorney's salary may not be reduced during the City Attorney's term of office except as part of a general reduction of salaries of all officers and employees in the same amount or proportion.

The Commission first adjusted the salary of the City Attorney position last year. At its April 12, 2023, regular meeting, the Commission adopted a resolution setting the City Attorney's salary at **\$306,990.63**, which is the current salary for the Office.<sup>2</sup>

### Prior PEC Adjustments to the City Attorney's Salary

Year	Adopted Annual Salary	Increase Over Prior Salary (%)
2023	\$306,990.63	26.0%

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<sup>1</sup> This represents the number of Full Time Equivalent (FTE) positions adopted in the most recent Budget for Fiscal Years 2023-2024.

<sup>2</sup> According to the City's current [Salary Ordinance](#), the City Attorney's salary is \$306,990.60, or a few cents below what the PEC approved, likely because the amount the PEC approved is not evenly divisible by the City's pay periods.

### Analysis

#### ***Highest Paid Professional Employee***

In adjusting the Attorney's salary, the Charter requires that the Commission take into account "the top of the range for the highest paid professional employee in the Office of the City Attorney." The Assistant City Attorney is the highest paid direct report for the City Attorney. The maximum annual salary for the Assistant City Attorney position in the Office of the City Attorney currently is **\$273,622.20** per year while the annual salary for the City Attorney is **\$306,990.63**.<sup>3</sup>

According to the City's Human Resources Department, the City's undocumented compensation practice is to have a minimum of 15 to 20 percent salary differential between a department head and their highest direct reporting employee, although among executive management this is not always achieved. For the City Attorney salary to be 15 to 20 percent above the salary of the highest direct reporting employee would be a salary between **\$314,665.53 and \$328,346.64**. The City Attorney presently makes 12.2 percent more than the highest paid professional employee, which is below that range.

In 2022, the City negotiated annual wage increases for represented employees through the collective bargaining process. The non-public safety wage increases, as opposed to Police and Fire wage increases, may be considered in establishing the new wage since it applies to both City Attorney employees and to other department heads. (Salary Ordinance 12187 C.M.S. section 2.20, as amended by Ordinance 13786 C.M.S., allows the City Administrator to provide the same negotiated wage increases to unrepresented employees, including department heads.) Upcoming scheduled wage increases under the current collective bargaining agreements with non-public safety represented employees include 2 percent in July 2024 and 2 percent in March 2025. After July 1, 2024, when the 2 percent wage increase is effective for non-sworn City employees, a 15 to 20 percent salary differential over the City Attorney's top staff position will be **\$320,958.84 to \$334,913.57**.

#### ***Other City Department Heads***

In adjusting the Attorney's salary, the Charter requires that the Commission take into account "salaries for other City department heads."

Table 1, below, provides the salaries for other City department heads as of February 2024.

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<sup>3</sup> Salary data provided by Anjali Saxena, Payroll Manager, Finance Department. February 21, 2024.

**Table 1: City Department Head Salaries**

Director Title	Annual Salary
Chief of Police	\$ 338,241.00
Chief of Fire	\$ 307,945.92
<b>City Attorney</b>	<b>\$ 306,990.58</b>
Director of Public Works	\$ 301,421.40
Director of Finance	\$ 288,007.44
Director of Transportation	\$ 259,914.60
Director of Library Services	\$ 259,914.60
Director of Planning & Building	\$ 259,914.60
Director of Information Technology	\$ 259,914.60
Director of Housing & Community Dev	\$ 259,914.60
Director of Animal Services	\$ 259,914.60
Director of Human Services	\$ 247,548.24
Director of Economic & Workforce Dev	\$ 247,548.24
Director of Workplace & Employment Stnd	\$ 241,212.84
Director of Human Resources Management	\$ 236,390.64
Inspector General	\$ 229,727.04
EEO & Civil Rights Director	\$ 229,727.04
Director of Race and Equity	\$ 229,727.04
Chief of Violence Prevention	\$ 225,499.92
Executive Director CPRA	\$ 219,220.80
City Auditor	\$ 213,137.52
City Clerk	\$ 212,257.20
Executive Director, Public Ethics Comm	\$ 191,213.76
<b>Mean (Excluding Attorney)</b>	<b>\$ 250,832.44</b>
<b>Median (Excluding Attorney)</b>	<b>\$ 247,548.24</b>

Based on the above data, the salary range for Oakland department heads is from **\$191,213.76 to \$338,241.00**. The mean annual salary for a department head (excluding the City Attorney) is **\$250,832.44** per year and the median annual salary is **\$247,548.24**. Of Oakland’s 23 department heads, the City Attorney has the **third highest salary** (3rd of 23).

In terms of staff size, the Attorney’s Office is a mid-sized City department (13th of 23). Of the four departments (excluding the City Attorney’s Office) with between 50 and 150 FTE, the mean annual salary for a department head is **\$250,942.02** per year and the median annual salary is **\$253,731.42**. However, the City Attorney’s Office likely includes more employees with post-graduate professional degrees (attorneys) than many other departments.

**Public Sector Attorney Positions**

In adjusting the Attorney’s salary, the Charter provides that the Attorney’s compensation shall be “comparable to the salaries of public sector Attorney positions in California cities and counties selected by the Commission.”

In accordance with the Charter criteria, the Commission surveyed the salaries of City Attorneys from

## Item 12 - City Attorney Salary Adjustment

other California cities within the four immediate higher and four lower populations compared to Oakland (see Table 2 below).<sup>4</sup>

**Table 2: California Cities Attorney Salaries**

Jurisdiction	Population	Annual Salary
City and County of San Francisco	831,703	\$ 308,724.00
City of Fresno	543,428	\$ 240,000.00
City of Sacramento	518,161	\$ 351,048.19
City of Long Beach	458,222	\$ 354,540.88
<b>City of Oakland</b>	<b>419,556</b>	<b>\$ 306,990.58</b>
City of Bakersfield	408,373	\$ 227,585.28
City of Anaheim	328,580	\$ 322,058.00
City of Stockton	319,731	\$ 280,800.00
City of Riverside	313,676	\$ 341,004.00
<b>Mean (Excluding Oakland)</b>		<b>\$ 303,220.04</b>
<b>Median (Excluding Oakland)</b>		<b>\$ 315,391.00</b>

Based on the data above, the salary range for the City Attorney position in comparable-size California cities is from **\$227,585.28 to \$354,540.88**. The mean annual salary is **\$303,220.04** and the median annual salary is **\$315,391.00**. Oakland’s City Attorney makes 101.2% of the mean and 97.3% of the median City Attorney salary in comparable-size cities.

In accordance with the Charter criteria, staff also surveyed City Attorney salaries for surrounding Bay Area Cities, the salary of the County Counsel for Alameda County, and the salary of the Counsel for the Oakland Port Authority (see Table 3 below).

**Table 3: Bay Area Cities City Attorney Salaries**

Jurisdiction	Annual Salary
County of Alameda	\$ 399,630.40
City and County of San Francisco	\$ 308,724.00
City of Alameda	\$ 300,481.00
City of Berkeley	\$ 336,000.08
City of Fremont	\$ 341,499.37
City of Hayward	\$ 335,608.00
City of Mountain View	\$ 335,338.38
<b>City of Oakland</b>	<b>\$ 306,990.58</b>
City of San Jose	\$ 392,718.73
City of Santa Clara	\$ 345,000.00
Oakland Port Authority	\$ 352,800.00
<b>Mean (Excluding Oakland)</b>	<b>\$ 344,780.00</b>
<b>Median (Excluding Oakland)</b>	<b>\$ 338,749.73</b>

Based on the above data, the salary range for the City Attorney position in Bay Area jurisdictions is from **\$300,481.00 to \$399,630.40**. The mean annual salary is **\$344,780.00** per year and the median

<sup>4</sup> The salary data in the tables below was provided by the human resources departments of each jurisdiction.

## Item 12 - City Attorney Salary Adjustment

annual salary is **\$338,749.73**. Oakland’s City Attorney makes 89.0% of the mean and 90.6% of the median City Attorney salary in Bay Area cities.

### Staff Recommendation

Based on the above data and the criteria set forth in City Charter Section 401(1), Commission Staff recommends adjusting the City Attorney’s annual salary to **\$320,958.84**, which is a **4.6%** increase over the Attorney’s current salary, effective in the first pay period after July 1, 2024. This adjustment would provide competitive compensation and equitable alignment of the City Attorney’s salary by providing the City Attorney with a salary that is 15 percent above the top of the range for the highest paid professional employee in the Attorney’s Office after accounting for the scheduled 2 percent negotiated wage increase for non-sworn City employees effective July 2024, that is comparable to the salaries of City Attorneys in other comparable-size cities and Bay Area jurisdictions, and that also takes into account the salaries of other City department heads.<sup>5</sup>

**Table 4: Comparison Summary**

Summary of Comparisons				
	Lowest	Highest	Mean	Median
Other Department Heads (n=22)	\$191,213.76	\$338,241.00	\$250,832.44	\$247,548.24
50-150 FTE Department Heads (4)	\$236,390.64	\$259,914.60	\$250,942.02	\$253,731.42
Top Paid Employee	+ 15%: \$314,665.53	+ 20%: \$328,346.64	+ 17.5%: \$321,506.09	-
Top Paid Employee (after 2% COLA)	+ 15%: \$320,958.84	+ 20%: \$334,913.57	+ 17.5%: \$327,936.21	-
Comparable-Size Cities (8)	\$227,585.28	\$354,540.88	\$303,220.04	\$315,391.00
Bay Area Jurisdictions (10)	\$300,481.00	\$399,630.40	\$344,780.00	\$338,749.73
<b>City Attorney - Current Salary</b>				
<b>\$306,990.58</b>				
<b>City Attorney - Recommended Salary</b>				
<b>\$320,958.84</b>				

Following the Commission’s determination of the adjustment amount, Commission Staff will transmit the salary adjustment resolution to the City Administrator, the Department of Human Resources (to amend the salary ordinance), and the Treasury Division - Payroll (to implement the increase).

**Attachment:** Draft Resolution. See also Measure X Ballot Pamphlet Packet attachment with Item 11.

<sup>5</sup> Salary adjustment calculated as follows: Highest paid City Attorney office employee salary + 15% differential + 2% increase to maintain parity with scheduled wage increase for non-public safety employees effective July 1, 2024.



# Item 12 - City Attorney Salary Adjustment

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



**RESOLUTION NO. 24-03**  
**[Proposed 4-10-24]**

## **RESOLUTION AUTHORIZING A SALARY INCREASE FOR THE OFFICE OF CITY ATTORNEY PURSUANT TO OAKLAND CITY CHARTER SECTION 401(1)**

By action of the Oakland Public Ethics Commission:

**WHEREAS**, Oakland City Charter section 401(1) provides: “The salary of the elected City Attorney shall be set annually by the Public Ethics Commission to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Attorney and salaries for other City department heads, and shall be comparable to the salaries of City Attorneys and other comparable positions, such as County Counsel or Port Attorney, in California cities, counties and agencies selected by the Commission. The City Attorney's salary may not be reduced during the City Attorney's term of office except as part of a general reduction of salaries of all officers and employees in the same amount or proportion;” and

**WHEREAS**, Oakland City Charter section 207 charges the City Council with fixing the compensation of all City employees, officers and officials unless otherwise provided by the Charter; and

**WHEREAS**, Ordinance No. 12187 C.M.S., the “Salary Ordinance,” as amended, sets forth a salary schedule reflecting all classifications of employment within the City including those of city employees and city officers; and

**WHEREAS**, a salary adjustment to \$320,958.84 would provide competitive compensation and equitable alignment of the City Attorney’s salary by providing the City Attorney with a salary that is 20 percent above the top of the range for the highest paid professional employee in the Attorney’s Office, that accounts for the scheduled 2 percent negotiated wage increase for other City employees effective July 2024, that is comparable with the salaries of City Attorneys in other comparable-size cities and Bay Area jurisdictions, and that also accounts for the salaries of other City department heads.

**Now, therefore be it:**

**RESOLVED**, that the Commission does hereby authorize an annual salary of \$320,958.84 for the office of City Attorney as mandated by City Charter Section 401(1), effective as of the first payroll period of Fiscal Year 2024-2025.

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### **CERTIFICATION RE: APPROVAL OF RESOLUTION**

The foregoing Resolution was presented for approval at a duly noticed meeting of the City of Oakland Public Ethics Commission held on April 10, 2024, where a quorum of the membership of the Commission was present. The Commission approved the resolution by a vote of \_\_\_ to \_\_\_.

AYES: GAGE, HILL, STEELE, TILAK, UPTON IV AND CHAIR MICIK  
NOES:  
ABSTAIN:  
ABSENT:

# Item 12 - City Attorney Salary Adjustment

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



**RESOLUTION NO. 24-03**  
**[Proposed 4-10-24]**

I hereby certify that the foregoing is true and correct.

\_\_\_\_\_  
Nicolas Heidorn, Executive Director  
Oakland Public Ethics Commission

\_\_\_\_\_  
Date



# Item 13 - City Charter and OMC Review and Amendments

Ryan Wicks, Chair  
Francis Upton IV, Vice Chair  
Alea Gage  
Charlotte Hill  
Vincent Steele  
Karun Tilak

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: March 27, 2024  
RE: Proposed City Charter and OMC Amendments Affecting the PEC for the April 10, 2024 PEC Meeting

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This item presents recommended changes to Section 603 of the Oakland City Charter and the Oakland Municipal Code (OMC) regarding the role, organization, and duties of the Public Ethics Commission (PEC or Commission). The proposal was developed by Commission Staff and the Charter Review Subcommittee with the primary goals of (1) strengthening the PEC's staffing, (2) strengthening the PEC's independence, and (3) aligning the Charter with the PEC's expanded mission of building a more representative, inclusive, and accountable democracy after the passage of Measure W (2022).

At its March 2024 meeting, the Commission reviewed ten of the Subcommittee's proposals and directed staff to return with draft legal language implementing those proposals for possible consideration as a November 2024 ballot measure. The Subcommittee met twice to review draft language and also to consider additional changes in furtherance of the three goals identified above or to clean-up potential ambiguities in the Charter or OMC. The Subcommittee's recommended amendments, including those previously reviewed by the Commission, are summarized in Table 1, below, and Draft Amendment Language implementing these changes is attached to this memorandum.

## Recommendation

### ***Staff recommends that the Commission pass a motion:***

1. Endorsing the policy recommendations listed in Table 1, below, and the Draft Amendment Language attached to this Staff Memo;
2. Directing Staff, in coordination with the Chair, to request that the City Council place a measure on the November 2024 ballot that includes one or more of the policy recommendations listed in Table 1 and using the language in the Draft Amendment Language, or substantially similar language.

## Background

The Oakland Public Ethics Commission's core governance features are established in Section 603 of the City Charter, which defines the Commission's organizational structure, key responsibilities and procedures, and staffing. Section 603 was adopted in 2014, when the voters approved Measure CC to significantly strengthen the independence and capacity of the Commission. However, in the ten years since Measure CC passed, there have been only minor revisions to that Charter section, and no significant re-examination of whether these provisions still reflect best practices for organizing an ethics enforcement body or meet the staffing and institutional needs of the modern Commission.

## Item 13. City Charter and OMC Review and Amendments

In late 2023, the Commission adopted a goal of reviewing City Charter provisions affecting the PEC, in anticipation of a possible ballot measure affecting the PEC later in 2024. In early 2024, a Charter Review Subcommittee (Commissioners Micik, Hill, and Tilak) was formed to review and recommend potential Charter changes. At the PEC's March 13, 2024, meeting, the Commission considered and adopted a set of ten recommendations prepared by the Subcommittee, which would update Section 603 and the Oakland Municipal Code (OMC) to strengthen the PEC's staffing, strengthen the PEC's independence, and align the Charter with the PEC's mission of building a more inclusive democracy. (The March meeting staff report describing those recommendations is attached to this memo.) The Commission further directed staff to return at a future meeting with draft language implementing these changes and reflecting other changes discussed by the Commission at that meeting. The Subcommittee also indicated it would look at other potential amendments prior to returning with draft language.

After the March PEC meeting, the Charter Review Subcommittee met twice, on March 21 and March 25, to review and provide feedback on draft Charter and OMC amendment language prepared by Staff. As part of its review, the Subcommittee also considered other proposed changes that furthered the three Charter reform goals earlier adopted and presented by the Subcommittee, or that clarified/cleaned-up existing law. (Only three new substantive proposals were added, the rest seek to clarify existing law or practice.) This item presents the final set of recommended changes proposed by Staff and the Subcommittee and proposed draft language implementing those changes.

Most of the recommendations involve amendments to the City Charter. Charter amendments may only be adopted by a vote of the electorate. For these to go into effect, the City Council (or the voters, via the initiative process) would have to place a measure on the ballot and Oakland voters would have to approve it by majority vote. For the proposed amendments to the OMC, most of these changes could be done by Council vote and are not required to be included in a ballot measure; however, to create a more comprehensive and cohesive package, the Staff and Subcommittee recommendation is that all these changes be included in a single ballot measure. To make the November 2024 ballot, the City Council would likely need to vote to place a measure on the ballot no later than August 2024. The Council is already likely to consider a proposal later this year to amend the City Charter to move the responsibility for setting the Mayor's salary from the City Council to the PEC.

### Summary of Proposals

The proposed amendments to the City Charter or OMC are summarized below and described in more detail in Table 1. For ease of reference, recommendations are listed below (and in Table 1) in the order that they appear in the Draft Amendment Language. Proposals that were not in the original set of recommendations to come before the Commission at its March meeting are *italicized*. For previously adopted recommendations ("PARs") considered at the March meeting, the number used for that recommendation in the March 2024 staff memo (attached) is also included in parentheses for reference. The proposed amendments are to:

1. **PEC Purpose:** Amend the Charter to include in the PEC's listed purposes promoting a more inclusive, representative, and accountable democracy in Oakland. (PAR #9)

## Item 13. City Charter and OMC Review and Amendments

2. **Salary Setting:** Permit the PEC to waive a salary increase for the City Council, City Attorney, or City Auditor if the City is facing an extreme fiscal necessity or revenue loss. *Change the frequency of adjusting Attorney and Auditor salaries from annually to every two years.* (PAR #10)
3. **Commissioner Qualifications:** Adopt additional minimum qualifications for a person to be appointed to the Commission to promote Commissioner independence. (PAR #5)
4. **Holdover Term:** *Clarify that a Commissioner whose term has expired may continue to serve until a replacement is appointed.*
5. **Vote Threshold:** *Clarify that the Commission acts by a majority vote of those present, except as otherwise provided.*
6. **Automatic Removal:** *Delete the requirement that Commissioners absent from the City for 30 days are automatically removed from the Commission; instead, provide that Commissioners who miss 3 consecutive regular meetings are removed unless excused.*
7. **Extended Vacancies:** Provide that, if a Commission vacancy has not been filled within 120 days by the appointing Citywide official, the responsibility for filling the vacancy transfers to the PEC. (PAR #7)
8. **Commissioner Removal:** *Permit the City Council by 6/8 vote or the Commission by a 5/7 vote to remove a Commissioner for cause.*
9. **During- & Post-Service Restrictions:** Prohibit Commissioners from running for City or OUSD office for 2 years after the expiration of their term and from being compensated by an elected official for 1 year after. (PAR #6)
10. **Records Confidentiality:** *Clarify the point in time that Enforcement files become disclosable public records.*
11. **Staffing:** Increase Enforcement staffing by 2 FTE. *Provide more flexibility in which staff positions are hired. In times of extreme fiscal necessity, limit the number of PEC staff that may be reduced to no more than the same proportion as any citywide reduction in staffing.* (PAR #2, #3)
12. **Executive Director Selection:** Have the Commission appoint its Executive Director. (PAR #1)
13. **Legal Capacity:** Require the Enforcement Chief to be an attorney and authorize the Commission to hire or contract for legal staff. (PAR #4)
14. **Amendments to PEC Governance:** *Clarify that Council amendments to the sections of the OMC establishing PEC's procedures also require notice and comment to the Commission prior to enactment.*
15. **Ballot Referral:** Authorize the Commission, by supermajority vote, to refer ordinances relating to its subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration. (PAR #8)
16. **Democracy Dollars Implementation Rules:** *Clarify that Commission rules and regulations implementing the Democracy Dollar Program go into effect immediately.*
17. **Democracy Dollars Voter Information:** *Clarify that Commission may publish a digital or online voter guide to assist voters in assigning their Democracy Dollars vouchers.*
18. **Democracy Dollars Budget:** Provide that, in an extreme fiscal necessity, limit the amount that the Democracy Dollar Program minimum budget set-aside may be reduced by no more than

## Item 13 - City Charter and OMC Review and Amendments

the same proportion as any citywide reductions in General Purpose Fund expenditures. (PAR #3)

**19. Lobbyist Gifts:** *Prohibit lobbyist gifts to elected officials and their immediate family.*

Table 1 provides additional detail as to each proposal, including the code section being amended, an explanation of current law, what change is being proposed, and the rationale for the change.

# Item 13 - City Charter and OMC Review and Amendments



Ryan Wicks, Chair  
 Francis Upton IV, Vice Chair  
 Alea Gage  
 Charlotte Hill  
 Vincent Steele  
 Karun Tilak

Nicolas Heidorn, Executive Director

## TABLE 1: PROPOSED AMENDMENTS

Recommendations are listed in the order they appear in the Draft Language. New recommendations are **Highlighted**.

Recommendation	Sections	Proposal	Rationale
<b>1. PEC Purpose</b> (PAR #9)	C.603(a), (b)	<ul style="list-style-type: none"> <li>▪ Add to the PEC’s Charter-listed purposes promoting more inclusive, representative, and accountable democracy in Oakland.</li> <li>▪ Add to the PEC’s Charter-listed responsibilities administering the Democracy Dollars Program.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Currently, the City Charter lists the PEC’s role as (1) enforcement of laws to “assure fairness, openness, honesty and integrity in City government,” (2) education on such laws, and (3) “impartial and effective administration” of its programs. This reflects the PEC’s role as a watchdog agency, but not its role in promoting better democracy.</li> <li>▪ In 2022, voters passed Measure W establishing the Democracy Dollars Program, administered by the PEC, with the goal of promoting broader and more inclusive participation in Oakland democracy. This recommendation aligns the Charter with the PEC’s expanded mission.</li> </ul>
<b>2. Salary Setting</b> (PAR #10)	C.603(c)	<ul style="list-style-type: none"> <li>▪ Permit the PEC to waive a salary increase for the City Council, City Attorney, or City Auditor if the City is facing an extreme fiscal necessity or fiscal crisis/emergency, or if General Purpose Fund Revenue declines</li> <li>▪ Change the frequency that the PEC must adjust the City Attorney and City Auditor’s salaries from annually to every two years <b>(New)</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Currently, the PEC sets the City Attorney/Auditor’s salary annually. The City’s financial situation is not a criterion in setting the salary.</li> <li>▪ When the City is facing significant financial hardship, it may be inappropriate or controversial to award elected officials a large pay increase. This recommendation gives the PEC discretion to account for this factor.</li> <li>▪ Fully reassessing the City Attorney/City Auditor’s salary every year requires a significant expenditure of staff time, although in many years the adjustment may be modest. This recommendation aligns the City Attorney/City Auditor</li> </ul>



## Item 13 - City Charter and OMC Review and Amendments

			salary adjustment schedule with the same two-year cycle used for the City Council, which is more administrable.
<b>3. Commissioner Qualifications</b> <i>(PAR #5)</i>	C.603(d)	<ul style="list-style-type: none"> <li>▪ Prohibit a person from being appointed to the Commission if, in the two years prior to the start of their term, the person was:                             <ul style="list-style-type: none"> <li>- a City/OUSD elected official, <i>or the immediate family (New)</i> of an elected official;</li> <li>- an employee of a City/OUSD elected official; <b>(New)</b></li> <li>- a candidate for City/OUSD office;</li> <li>- a paid staffer or consultant to a City/OUSD campaign;</li> <li>- an officer/employee of a political party;</li> <li>- someone who has contributed more than two times the City contribution limits to: candidates for a City or OUSD office, <i>a committee controlled by a City/OUSD elected official (New)</i>, or to a committee making independent expenditures in City/OUSD campaigns.</li> <li>- A registered City lobbyist <b>(New)</b></li> </ul> </li> <li>▪ Clarify that a person registered to vote in City <i>or OUSD (New)</i> elections is eligible to be appointed.</li> </ul> <p><i>* These prohibitions would be applied prospectively only.</i></p>	<ul style="list-style-type: none"> <li>▪ Currently, to be appointed to the Commission, an applicant must be registered to vote in Oakland elections and must have attended at least one PEC meeting. Mayor, City Attorney, and City Auditor appointees must have a specified professional background and cannot have been paid during the past two years for work by a committee controlled by the appointing official. These rules would permit the appointment of a recent candidate for office, the spouse of an elected official, or major political donors, which might undermine public confidence in the fairness of the Commission.</li> <li>▪ This recommendation adds restrictions, modelled off of best practices in other jurisdictions and other Oakland independent agencies, to prevent the appointment of a Commissioner who may appear strongly biased in favor or against of a candidate, incumbent, or political faction.</li> </ul>
<b>4. Holdover Term</b> <i>(New - Clarifying)</i>	C.603(d)(3)	<ul style="list-style-type: none"> <li>▪ Clarify that a Commissioner may continue to serve on the PEC after the expiration of their term until a replacement is appointed, up to a maximum of 1 year.</li> </ul>	<ul style="list-style-type: none"> <li>▪ This clarifies existing law: The City’s existing practice is to allow members of boards and commissions to serve in a holdover capacity until a replacement is appointed, which helps to ensure a smooth transition between commissioners. For clarity, this recommendation codifies that practice as to the PEC.</li> </ul>
<b>5. Vote Threshold</b> <i>(New - Clarifying)</i>	C.603(d)(4)	<ul style="list-style-type: none"> <li>▪ Clarify that the Commission may take action by a majority of those present at a meeting, except where a different vote threshold is required by the Charter or voter-approved law.</li> </ul>	<ul style="list-style-type: none"> <li>▪ This clarifies existing law: The Charter specifies that, for certain actions the PEC takes, a specified vote threshold is required. For example, the PEC may only impose administrative penalties with the affirmative vote of 4 Commissioners. Where no vote threshold is specified, the OMC provides that a majority vote of those present</li> </ul>



## Item 13 - City Charter and OMC Review and Amendments

			suffices. For consistency, this recommendation codifies that requirement in the Charter.
<b>6. Automatic Removal</b> <i>(New - Substantive)</i>	C.603(d)(5)	<ul style="list-style-type: none"> <li>▪ Delete the requirement that any Commissioner absent from the City for more than 30 days is removed from office.</li> <li>▪ Provide that any Commissioner who misses 3 consecutive regular meetings is removed from office unless the absence is excused by the Chair.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The PEC can only function with a quorum of its members. Extended vacancies may impact the Commission’s ability to adjudicate cases or adopt policies. Currently, a Commissioner may be removed by their appointing authority if they miss 3 consecutive meetings. However, this discretionary removal process is likely to take months. Conversely, Commissioners absent from the City for 30 days are automatically removed unless excused, which is far stricter, as the PEC typically meets only monthly.</li> <li>▪ This recommendation provides a streamlined process for removing regularly absent Commissioners, instead of a formal removal vote, and eliminates an unduly strict removal requirement for a 30-day absence from the City.</li> </ul>
<b>7. Extended Vacancy</b> <i>(PAR #7)</i>	C.603(d)(5)	<ul style="list-style-type: none"> <li>▪ Provide that, if a Commission vacancy has not been filled within 120 days by the appointing Citywide official, the responsibility for filling the vacancy transfers to the PEC.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The PEC can only function with a quorum of its members. Extended vacancies may impact the Commission’s ability to adjudicate cases or adopt policies.</li> <li>▪ Currently, Citywide officials have only 90 days to fill a PEC vacancy, which could be a short time for a newly elected official, but the remedy for failing to do so – that the Council may appoint a replacement – is rarely exercised. This recommendation ensures PEC vacancies are filled in a reasonable timeframe by providing officials 120 days to fill a vacancy while transferring the power to the PEC to fill a vacancy thereafter.</li> </ul>
<b>8. Commissioner Removal</b> <i>(New – Substantive)</i>	C.603(d)(6)	<ul style="list-style-type: none"> <li>▪ Permit the City Council by 6/8 vote or the Commission by a 5/7 vote to remove a Commissioner for cause.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Currently a Commissioner may only be removed for cause by their appointing authority with Council approval. This may create the risk or misperception that a Commissioner is beholden to their appointing official, rather than being an impartial adjudicator. The lack of a supermajority vote for removal also risks making removal seem political.</li> </ul>

## Item 13 - City Charter and OMC Review and Amendments

			<ul style="list-style-type: none"> <li>▪ This recommendation permits the Council, which does not have an appointment to the PEC, and the Commission, to remove a member for cause by supermajority vote. This recommendation is to help ensure Ethics Commissioners are, and are perceived to be, fair and impartial.</li> </ul>
<p><b>9. During &amp; Post-Service Restrictions</b>  <i>(PAR #6)</i></p>	<p>C.603(e)</p>	<ul style="list-style-type: none"> <li>▪ Prohibit Commissioners, while on the Commission, from serving as an officer or employee of a political party.</li> <li>▪ Clarify that Commissioners, while on the Commission, cannot contribute to an OUSD campaign.</li> <li>▪ Prohibit Commissioners, while on the Commission and for 2 years after, from running for City or OUSD Office.</li> <li>▪ Prohibit Commissioners, while on the Commission and for 1 year after, from being a paid staffer or paid consultant to a City or OUSD elected official or receive gifts from the same officials.</li> <li>▪ Permit Commissioners to advocate in support or opposition to ballot measures affecting the PEC.</li> </ul> <p><i>* These prohibitions would be applied prospectively only.</i></p>	<ul style="list-style-type: none"> <li>▪ Currently PEC Commissioners cannot be involved in City politics during their term and cannot, during their term and for one year after, be employed by the City or register as or employ a lobbyist. However, a Commissioner could adjudicate a claim involving an elected official then immediately run against that official or accept a campaign job with that official.</li> <li>▪ This recommendation adds a 1-year post-service prohibition on Commissioners working for the elected officials they had to regulate, similar to the existing restriction on working for the City or lobbyists, and a 2-year prohibition on running for City/OUSD office, modelled off of best practices in other jurisdictions and other Oakland independent agencies. This recommendation is to make sure Commissioners are, and are perceived to be, fair and impartial when adjudicating cases.</li> <li>▪ Currently, to avoid the risk or appearance of bias, PEC commissioners cannot advocate on any ballot measure, as the PEC may have to adjudicate a complaint against a campaign for/against a ballot measure campaign. However, this risk does not exist for ballot measures affecting the PEC, because the PEC's practice is already to refer complaints against such campaign committees to other agencies. This recommendation would therefore allow Commissioners, who are uniquely knowledgeable on PEC-related laws, to share that perspective with the public in this very limited circumstance.</li> </ul>

## Item 13 - City Charter and OMC Review and Amendments

<p><b>10. Records Confidentiality</b>  <i>(New - Clarifying)</i></p>	<p>C.603(f)(3)</p>	<ul style="list-style-type: none"> <li>▪ Clarify that confidentiality of Enforcement records applies to matters in both the “Preliminary Review” and “Investigation” stage.</li> <li>▪ Clarify the point in time when Enforcement files become disclosable public records.</li> <li>▪ Clarify that disclosing evidence to other enforcement agencies, or when charging/prosecuting/resolving a case, does not constitute a waiver of confidentiality.</li> </ul>	<ul style="list-style-type: none"> <li>▪ This codifies PEC confidentiality requirements under state law and harmonizes them with the terminology used in the PEC’s Complaint Procedures.</li> <li>▪ This codifies the PEC’s current practice and harmonizes with state law (Enforcement files are not disclosed until either Enforcement findings are made public, or the Statute of Limitations passes)</li> <li>▪ This codifies the PEC’s current practice and harmonizes with state law, which allows for disclosure of evidence in furtherance of the enforcement process.</li> </ul>
<p><b>11. Staffing</b>  <i>(PAR #2, #3)</i></p>	<p>C.603(g)(2)&amp;(3)</p>	<ul style="list-style-type: none"> <li>▪ Increase minimum Enforcement staffing by 2 FTE.</li> <li>▪ Update the Charter to reflect the PEC’s current staffing levels and titles and <i>to require a minimum number of FTEs instead of individual positions for most staff. (New)</i></li> <li>▪ Prohibit a reduction in Democracy Dollars staff <i>and other PEC staff (New)</i> that is proportionally higher than the general reduction in City staff.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Minimum staffing is an important aspect of the PEC’s independence. The PEC cannot serve as a watchdog agency if it is not adequately staffed; in addition, allowing City officials, who are regulated by the PEC, to reduce its staffing beyond certain minimums required for its effective operation may create the risk or appearance that political pressure is being exerted on the Commission.</li> <li>▪ Currently, the Charter mandates that the PEC have 2 Enforcement staff, a staffing ratio that has not been updated in a decade. The PEC’s caseload now vastly outpaces the PEC’s staff capacity, which has forced around 60% of the PEC’s cases to be placed on hold.</li> <li>▪ This recommendation provides the PEC with 2 additional enforcement staff, the minimum number the PEC estimates is required to keep pace with its caseload, to maintain an appropriate minimum staffing level.</li> <li>▪ Currently, the Charter provides the PEC with a minimum of 10 staff positions, 7 of which are specific positions. PEC staffing may only be reduced if the City is facing an extreme fiscal necessity and as part of a general reduction, however, the reduction to PEC staffing may be disproportionate to the cut taken by other Departments.</li> </ul>

## Item 13 - City Charter and OMC Review and Amendments

			<ul style="list-style-type: none"> <li>▪ This recommendation provides that cuts to the PEC's minimum staffing levels should be in proportion to cuts taken by other departments, to avoid the risk or appearance that the PEC is being uniquely targeted. The recommendation also provides greater staffing flexibility to meet current needs by identifying minimum staffing based on FTEs rather than positions, with some exceptions.</li> </ul>
<b>12. Executive Director Selection</b> <i>(PAR #1)</i>	C.603(g)(4)	<ul style="list-style-type: none"> <li>▪ Have the Commission appoint its Executive Director.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Currently, the PEC recommends Executive Director candidates to the City Administrator, who selects the Director. This may create the risk or the appearance that the Director is not independent of the City Administrator, which could undermine public confidence in the Commission.</li> <li>▪ This recommendation would allow the PEC to appoint its own Director, following best practices used in other local jurisdictions and other Oakland independent agencies.</li> </ul>
<b>13. Legal Capacity</b> <i>(PAR #4)</i>	C.603(b)(3),(g)(5),(i); OMC 2.24.050, 2.24.060	<ul style="list-style-type: none"> <li>▪ Require that the Enforcement Chief be an attorney.</li> <li>▪ Authorize the PEC to hire legal staff, including outside counsel in its discretion, to provide legal services relating to the laws the PEC administers or enforces, or when the PEC determines there is an actual or perceived conflict in the City Attorney representing the Commission.</li> <li>▪ Codify in the Charter that the City Attorney provides legal advice and assistance to the Commission.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Currently the City Attorney is the designated legal counsel for the Commission, except in cases of a legal conflict, in which case the City Attorney selects outside counsel for the Commission. Despite being a quasi-judicial agency, the Commission does not have any authorized legal positions and cannot on its own retain outside counsel.</li> <li>▪ This recommendation enables the PEC to have more in-house expertise in the laws it enforces and eliminates the potential for real and perceived conflicts of interests resulting from the fact that the City Attorney, all candidates for City Attorney, and the entire staff in the City Attorney's office are regulated by the Commission. The recommendation follows best practices used by other ethics commissions and Oakland independent agencies like the Police Commission. While important for independence,</li> </ul>

## Item 13 - City Charter and OMC Review and Amendments

			in most matters, the PEC would continue to rely on the services of the City Attorney’s Office.
<b>14. Amendments to PEC Governance</b> <i>(New - Clarifying)</i>	C. 603(h); OMC 2.24.110	<ul style="list-style-type: none"> <li>Clarify that Council amendments to the PEC’s procedures in the Municipal Code also require notice and comment to the Commission.</li> </ul>	<ul style="list-style-type: none"> <li>This clarifies existing law: Under the City Charter, before the Council may amend laws the PEC enforces, the proposed amendment must be submitted to the PEC for notice and comment. This recommendation clarifies that this provision also applies to laws the PEC administers or laws relating to the PEC’s procedures.</li> </ul>
<b>15. Ballot Referral</b> <i>(PAR #8)</i>	N/A	<ul style="list-style-type: none"> <li>Authorize the Commission, by supermajority vote, to refer ordinances relating to its subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration.</li> </ul>	<ul style="list-style-type: none"> <li>Currently, the Commission may recommend policy changes to laws it enforces to the City Council.</li> <li>This recommendation incorporates a best practice recommended by academics and good government organizations to enable the Commission to propose such changes directly to voters. San Francisco’s Ethics Commission has this authority and has proposed non-controversial reforms, generally in the wake of ethics scandals, that have received 70%/80%+ voter support.</li> </ul>
<b>16. Democracy Dollars Implementation Rules</b> <i>(New – Clarifying /Substantive)</i>	OMC 3.15.050 (C)(1)	<ul style="list-style-type: none"> <li>Clarify that Commission rules and regulations implementing the Democracy Dollar Program go into effect immediately and are not subject to Council veto.</li> </ul>	<ul style="list-style-type: none"> <li>Currently, most PEC-adopted rules and regulations go into effect 60 days after adoption, unless vetoed by the Council by a 2/3 vote. However, there is some legal ambiguity as to whether this applies to rules implementing the Democracy Dollars program, which the PEC is authorized to adopt under Measure W. Practically, it would be challenging for the PEC to implement Democracy Dollars rule changes between elections if they take two months to go into effect. Vetoes of implementing rules may also hurt public and candidate confidence in the Program.</li> <li>This recommendation ensures necessary Program implementation rules can go into effect immediately and also ensures the Program is implemented impartially, without the risk or appearance that implementing rules</li> </ul>

## Item 13 - City Charter and OMC Review and Amendments

			may be vetoed to stymie the Program or advantage incumbents.
<b>17. Democracy Dollars Voter Information</b> <i>(PAR #3)</i>	OMC 3.15.050(D)	<ul style="list-style-type: none"> <li>Clarify that Commission may publish a digital or online voter guide to assist voters in assigning their Democracy Dollars vouchers.</li> </ul>	<ul style="list-style-type: none"> <li>This codifies existing law: Measure W already permits the PEC to adopt manuals and guides to implement the Program, which may include a voter guide. This codifies that authority to make it more explicit.</li> </ul>
<b>18. Democracy Dollars Budget</b> <i>(PAR #3)</i>	OMC 3.15.060(E)	<ul style="list-style-type: none"> <li>Provide that the Democracy Dollars Program minimum budget set-aside may be reduced in an extreme fiscal necessity by no more than the same proportion as any reductions in General Purpose Fund expenditures.</li> </ul>	<ul style="list-style-type: none"> <li>Currently, the minimum funding for the Democracy Dollars Program set by Measure W (2022) may be reduced as part of general reduction in expenditures across multiple departments if the City is facing an extreme fiscal necessity. However, “general reduction” is not defined, and may lead to disproportionate cuts or cancellation of the Program.</li> <li>This recommendation clarifies that any cuts to Measure W must be in proportion to the general budget reduction, so that the PEC is contributing a fair but not disproportionate share to resolving the City’s fiscal challenges.</li> </ul>
<b>19. Lobbyist Gifts</b> <i>(New - Substantive)</i>	OMC 3.20.180	<ul style="list-style-type: none"> <li>Prohibit lobbyist gifts to elected officials and immediate family, subject to certain exceptions.</li> </ul>	<ul style="list-style-type: none"> <li>Lobbyist gifts to the lawmakers they are lobbying creates a heightened risk or appearance of corruption.</li> <li>This recommendation is intended to increase public confidence in governance and aligns Oakland with best practices in other jurisdictions, like San Francisco, that prohibit such contributions.</li> <li>Current rules for lobbyist gift-giving are confusing – such gifts may be subject to a \$240 limit, \$50 limit, or ban, depending on the context. This recommendation also provides a clearer and more administrable rule.</li> <li>This recommendation complements the preceding proposals and helps shape a cohesive message that these proposed reforms serve an anti-corruption interest.</li> </ul>

**Additional Attachments:** 1. Proposed Draft Amendment Language; 2. Staff Report for the March 2024 Meeting.

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

## Oakland City Charter

### Section 603. Public Ethics Commission.

#### (a) ~~Creation~~, ~~and Role~~ **Purpose and Responsibilities.**

~~(1)~~ There is hereby established a Public Ethics Commission as an independent department of the City whose purpose shall be to promote more inclusive, representative, and accountable democracy in Oakland and to promote fairness, openness, honesty and integrity in City government.

Commented [HN1]: Rec. 1 - Purpose

~~which~~ (2) The Commission shall be responsible for:

~~(i4)~~ enforcement of laws, regulations and policies intended to assure fairness, openness, honesty and integrity in City government, including compliance by the City of Oakland, its elected officials, officers, employees, boards and commissions, lobbyists, candidates, campaign committees, and other persons subject to laws within the jurisdiction of the Commission;

Commented [HN2]: Clean-up: adds other parties already regulated by the PEC.

~~(2ii)~~ education and responding to issues regarding the aforementioned laws, regulations and policies, and;

~~(3iii)~~ impartial and effective administration and implementation of programs to accomplish the goals and purposes of the Commission as defined by this Section, including programs to promote more inclusive, representative, and accountable democracy in Oakland.

Commented [HN3]: Rec. 1 - Purpose

Such laws, regulations, policies, and programs shall include those relating to campaign finance, lobbying, transparency, and governmental ethics, as they pertain to Oakland.

~~(3)~~ The Commission shall have the power to make recommendations to the City Council on matters relating to the foregoing.

~~(4)~~ Nothing in this Section shall preclude other City officials, agencies, boards and commissions from exercising authority heretofore or hereafter granted to them, with the exception of Charter Section 603(b)(5).

#### (b) **Functions and Duties.** It shall be the function and duty of the Public Ethics Commission to:

(1) Foster and enforce compliance with:

(i) Sections 218 ("Non-interference in Administrative Affairs"), 907 ("Nepotism"), 1200 ("Conflict of Interest") and 1202 ("Conflict in Office") of this Charter, for violations occurring on or after January 1, 2015;

(ii) The Oakland Campaign Reform Act, Oakland Fair Elections Act, False Endorsement in Campaign Literature Act, Oakland's Conflict of Interest Code, code of ethics and governmental ethics ordinance, the Oakland Lobbyist Registration Act, the Oakland Sunshine Ordinance, any ordinance intended to protect City whistleblowers from retaliation, and other Oakland laws regarding campaign finance, lobbying, transparency, or governmental ethics, as provided by ordinance or this Charter.

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

(iii) Related state laws including, but not limited to, the Political Reform Act, Ralph M. Brown Act, and Public Records Act, as they pertain to Oakland.

(2) Report to the City Council concerning the effectiveness of all local laws regarding campaign finance, lobbying, transparency, and governmental ethics.

(3) Issue oral advice and formal written opinions, which may be done in consultation with the City Attorney.

Commented [HN4]: Conforming to Rec. 13.

(4) Within the time period for submission of such information for the timely completion of the City's regular budget process, provide the Mayor and City Council with an assessment of the Commission's staffing and budgetary needs.

(5) Act as the filing officer and otherwise receive and retain documents whenever the City Clerk would otherwise be authorized to do so pursuant to Chapter 4 of the California Political Reform Act of 1974 (Government Code Section 81000, et seq.), provided that this duty shall be transferred to the Commission during the 24 months following the effective date of this provision and the Commission shall be the sole filing officer for the campaign finance programs by January 1, 2017.

(6) Educate and promote understanding regarding the requirements under the Commission's oversight and study any significant non-compliance problems or trends with Oakland's campaign finance, lobbying, transparency, and governmental ethics laws and identify possible solutions for increasing compliance.

(7) Review and make recommendations regarding all City systems used for public disclosure of information required by any law within the authority of the Commission.

(8) Administer and adopt policies to implement the Democracy Dollars Program or any other campaign public financing program.

Commented [HN5]: Rec. 1 - Purpose

(98) Perform such other functions and duties as may be prescribed by laws of this Charter or City ordinance.

**(c) ~~Councilmember-Elected Official Salary Increases.~~ ~~The~~ In every even-numbered year, the Public Ethics Commission shall set the salary for City Councilmembers, the City Attorney, and the City Auditor as provided for in Charter Sections 202, 401(1), and 403(1). Notwithstanding the requirements of any other provision of this Charter, the Commission may waive or reduce a salary increase in any year where the City Council has declared that the City is facing an extreme fiscal necessity, fiscal crisis, or fiscal emergency, or if the General Purpose Fund revenue in the fiscal year in which the salary adjustment is made is projected to be less than the revenue in the prior fiscal year. Council compensation as provided for in Charter Section 202.**

Commented [HN6]: Rec. 2 – Salary-Setting

**(d) Appointment, Qualifications, Vacancies, Terms.** The Public Ethics Commission shall consist of seven (7) members who shall be Oakland residents. Commissioners shall serve without compensation.

The Commission shall be appointed as follows in subsection (1) and (2).

(1) (i) Appointments by Mayor, City Attorney and City Auditor. The Mayor shall appoint one member who has represented a local civic organization with a demonstrated history of involvement in local governance issues.



# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

The City Attorney shall appoint one member who has a background in public policy or public law, preferably with experience in governmental ethics or open government matters.

The City Auditor shall appoint one member who has a background in campaign finance, auditing of compliance with ethics laws, protection of whistleblowers, or technology as it relates to open government.

~~Prior to appointment, all appointees must attest in their application for appointment to attendance of at least one Public Ethics Commission meeting. The Mayor, City Attorney, and City Auditor may not appoint an individual who was paid during the past two years for work by a committee controlled by the official.~~

**Commented [HN7]:** Clean-up: moved to new Qualifications Subsection.

~~Upon the effective date of this section, the three members appointed by the Mayor prior to 2015 shall continue to serve the remainder of their terms. Vacancies in the three positions appointed by the Mayor shall be filled in the following manner: the City Attorney shall appoint a member to fill the first vacancy; the City Auditor shall appoint a member to fill the second vacancy and the Mayor shall appoint the member to fill the third vacancy. Thereafter, the positions appointed by the Mayor, City Attorney and City Auditor shall be filled in the same manner and upon consideration of the same criteria as the initial appointments.~~

**Commented [HN8]:** Clean-up: method for appointing first Commissioners no longer needed.

The appointments made by the Mayor, City Attorney, and City Auditor may be rejected by City Council Resolution within 45 days of receiving formal notice of the appointment. An appointment shall become effective once written notice is made by the appointing authority to the City Clerk. Upon receiving such written notice, the Clerk shall promptly provide formal notice to the City Council and the Executive Director of the Commission.

~~(2) (ii) Commission Appointments. The four members of the Commission who are not appointed by the Mayor, City Attorney or City Auditor shall be appointed, following a public recruitment and application process, by the affirmative vote of at least four (4) members of the Commission. Any member so appointed shall reflect the interests of the greater Oakland neighborhood, nonprofit and business communities.~~

~~Prior to appointment, all appointees must attest in their application for appointment to attendance of at least one Public Ethics Commission meeting.~~

**Commented [HN9]:** Clean-up: moved to new Qualifications Subsection.

~~(2) Commissioner Qualifications.~~

**Commented [HN10]:** Rec. 3 – Commissioner Qualifications

~~(i) Each member of the Commission shall be a resident of Oakland and registered to vote in a City or Oakland Unified School District election.~~

~~(ii) Prior to appointment, all appointees must attest in their application for appointment to attendance of at least one Public Ethics Commission meeting.~~

~~(iii) A person is ineligible to be appointed to the Commission if that person, in the two (2) years preceding their appointment, has been any of the following:~~

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

(A) A City or Oakland Unified School District elected official.

(B) A spouse, registered domestic partner, parent, sibling, or child of a City or Oakland Unified School District elected official.

(C) An employee of a City or Oakland Unified School District elected official.

(D) A candidate for a City or Oakland Unified School District elected office.

(E) An employee of, or paid consultant to, a candidate running for a City or Oakland Unified School District elected office, or a campaign committee controlled by a City or Oakland Unified School District elected official.

(F) An officer or paid employee of a political party.

(G) A person who has contributed, in the aggregate, more than two times the individual contribution limits (excluding any contributions attributable to public campaign funds) to one or more candidates for a City or Oakland Unified School District elected office, to a campaign committee controlled by a City or Oakland Unified School District elected official, or to a campaign committee that supported or opposed a candidate for a City or Oakland Unified School District elected office.

(H) A registered Oakland lobbyist.

Notwithstanding the requirements of this Paragraph, a Commissioner appointed prior to January 1, 2025, shall only be subject to the qualifications in effect at the time of the Commissioner's appointment.

(3) Terms of Office. All categories of member shall be appointed to staggered terms. Members of the Commission shall be appointed to overlapping terms, to commence upon date of appointment, except that an appointment to fill a vacancy shall be for the unexpired term only. Members of the Commission shall serve for a term of three (3) years. No member may serve more than two consecutive full three-year terms. If a member is appointed to fill an unexpired term which term is for more than 1.5 years, such member may serve only one additional consecutive three-year term. If a member is appointed to fill an unexpired term which term is for less than 1.5 years, such member may serve two consecutive full three-year terms. In the event a member's replacement has not been appointed by the conclusion of the member's term, that member may continue to serve as a member of the Commission during the following term in a holdover capacity for a period not to exceed one year until a new member is appointed to serve the remainder of such following term.

(4) Quorum and Voting. Four (4) members shall constitute a quorum. Provided that a quorum exists, the Commission may take action by majority vote of the members present at a meeting, except as otherwise required in this Section or another law enacted by the voters.

Commented [HN11]: Rec. 4 – Holdover Term

Commented [HN12]: Rec. 5 – Vote Threshold

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

(5) ~~Vacancy. A vacancy on the Commission will exist whenever a member dies, resigns, ceases to be a resident of the City or is absent continuously from the City for a period of more than 30 days is absent from three (3) consecutive regular Commission meetings~~ without permission from the Chair of the Commission, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of a member, or is removed. A finding of disability shall require the affirmative vote of at least four members of the Commission after considering competent medical evidence bearing on the physical or mental capability of the member.

Commented [HN13]: Rec. 6 - Automatic Vacancy

~~Vacancies not filled by the Mayor, City Attorney, or City Auditor within 12090 days of the occurrence of such vacancy may shall be filled instead by the Commission City Council in the same manner as provided by Charter, Section 604 following a public recruitment and application process and by the affirmative vote of at least four (4) members of the Commission. The Commission's appointee shall possess the same background qualifications that would otherwise be required of an appointee of the Mayor, City Attorney, or City Auditor.~~

Commented [HN14]: Rec. 7 – Extended Vacancy

~~For purposes of this Section, a seat filled by a member acting in a holdover capacity will be considered vacant as of the expiration of the holdover's prior term of office.~~

(6) ~~Removal. Members of the Commission may be removed, after a hearing, by either the City Council by the affirmative vote of at least six (6) members of the Council or by the Commission by the affirmative vote of at least five (5) members of the Commission, by their appointing authority, with the concurrence of the Council by Resolution, only for conviction of a felony, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular meetings except on account of illness or when absent by permission of the Commission, or substantial violation of this Charter Section. Prior to the hearing, the member at risk of removal shall be provided with after~~ written notice of the grounds on which removal is sought and an opportunity for a written response.

Commented [HN15]: Rec. 8 - Removal

(e) ~~Qualifications and During and Post-Service Restrictions. Each member of the Commission shall be a resident of Oakland and registered to vote in Oakland elections. No member of the Commission shall:~~

Commented [HN16]: Rec. 9 – During & Post-Service Restrictions

(1) Have an employment or contractual relationship with the City during the member's tenure and for a period of one year after the date of separation.

~~(2) Have an employment or contractual relationship with a City or Oakland Unified School District elected official, or receive a gift or other compensation from such officials, during the member's tenure and for a period of one year after the date of separation.~~

~~(3)(2) Be a registered Oakland lobbyist or be required to register as an Oakland lobbyist, or be employed by or receive gifts or other compensation from a registered Oakland lobbyist during the member's tenure and for a period of one year after the date of separation.~~

~~(3)(4) Seek election to a City elected office or Oakland Unified School District elected office during the member's tenure and for a period of two years after the date of separation.~~

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

~~(5) Seek election to any other public office in a jurisdiction that intersects with the geographic boundaries of Oakland, during the member's tenure or participate in or contribute to an Oakland municipal campaign.~~

~~(4)(6) Endorse, support, oppose, contribute to, or volunteer or work on behalf of any candidate or ballot measure in an Oakland City or Oakland Unified School District election during the member's tenure, except for a ballot measure that expressly pertains to the activities or authority of the Commission or to the laws under the jurisdiction of the Commission.~~

~~(7) Serve as an officer or employee of a political party during the member's tenure.~~

~~Notwithstanding the requirements of this Subsection, a Commissioner appointed prior to January 1, 2025, shall only be subject to the during and post-service restrictions in effect at the time of the Commissioner's appointment.~~

## (f) Enforcement.

(1) Authority. In furtherance of Charter Section 603(b)(1) and (5), the Public Ethics Commission is authorized to:

- (i) Conduct investigations;
- (ii) Conduct audits of compliance with disclosure requirements with the Commission;
- (iii) Conduct public hearings as provided by the Commission's complaint procedures or other law;
- (iv) Issue subpoenas to compel the production of books, papers, records and documents and take testimony on any matter pending before the Commission. The Commission may seek a contempt order as provided by the general law of the state for a person's failure or refusal to appear, testify, or to produce required books, papers, records and documents;
- (v) Impose penalties, remedies and fines, as provided for by ordinance. Ordinances enforced by the Public Ethics Commission shall not be subject to the \$1,000 limit on fines provided Sections 217 and 1208 of this Charter. The Commission's decision to impose penalties and fines for violation of any regulation or ordinance over which the Commission has authority shall be appealable to the Alameda County Superior Court by filing a petition for writ of mandamus;
- (vi) Submit referrals to other enforcement authorities, including but not limited to the Alameda County District Attorney, California Fair Political Practices Commission, and California Attorney General;
- (vii) Seek remedial relief for violations and injunctive relief;
- (viii) By an affirmative vote of at least five members, reprimand, censure, or impose administrative remedies, as provided by a governmental ethics ordinance adopted by the City Council, for violations of Section 218 and 1202 of this Charter, according to the Commission's due process procedures as provided in the Commission's complaint procedures;

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

(ix) Reprimand, censure, or impose administrative remedies, as provided by a governmental ethics ordinance adopted by the City Council, for violations of Section 907 of this Charter, according to the Commission's due process procedures as provided in the Commission's complaint procedures;

(x) Perform other functions as authorized by law.

(2) Final enforcement action. Final enforcement action by the Commission on a matter, including but not limited to the imposition of fines or dismissal of a case, shall be made by an affirmative vote of at least four members.

~~(3) Investigations. Preliminary review by Commission staff of allegations. Confidentiality. Records and information obtained by the Commission during the preliminary review and investigation of a complaint shall be confidential and exempt from public disclosure, to the extent permitted by law, until any of the following occurs:~~

~~(i) Placement of the item on a Public Ethics Commission meeting agenda; Final enforcement action by the Commission;~~

~~(ii) Passage of one year since the complaint was filed;~~

~~(iii) Action by the Executive Director closing the file matter without placing it on the agenda, pursuant to the Commission's complaint procedures or policies; or~~

~~(iiiiv) Expiration of the Statute of Limitations.~~

~~Nothing in this section limits the ability of the Commission to disclose such records or information when charging, prosecuting, closing, or dismissing an investigation or complaint into alleged violations of the laws under its jurisdiction. This section does not prevent the Commission from applying any other exemption from disclosure that may be available under City or state public records disclosure laws. Disclosure of records or information in the course of making a referral to other enforcement authorities shall not constitute a waiver of the confidentiality protections under this section.~~

(4) Penalty guidelines and Enforcement Discretion. The Public Ethics Commission shall develop a policy setting forth standards for imposing penalties and exercising enforcement discretion. Commission staff shall adhere to the policy when recommending penalties under each of the different penalty provisions that the Commission has the power to enforce.

(5) Per diem late filing fees. Regarding per diem fees that are authorized due to the late filing of disclosure reports, including campaign finance statements, lobbyist reports, and other ethics-related disclosures filed with the Commission by law, the following shall apply:

(i) Assessments. Any instance of late filing that triggers the assessment of a fee of \$1,000 or more by the Commission shall be placed on a Commission meeting agenda before issuance of the fee;

(ii) Waiver guidelines. The Commission shall establish waiver guidelines in accordance with state law, which the Commission, as the filing officer, shall follow in determining whether or not to grant a waiver. These guidelines shall be published on the Commission's website. The Commission shall prescribe criteria for appeal to the Commission of waiver decisions made by the Executive Director. At each regular Commission meeting, the Executive Director shall provide a written report, which shall be published online, regarding any waivers decisions made since the previous regular meeting;

Commented [HN17]: Rec. 10 – Records Confidentiality

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

(iii) Referral of final, uncollected fees to collections. Unpaid non-investigatory, per diem late filing fees for disclosure programs that are past due for more than 90 days shall be referred to a City delinquent revenue collection office.

(6) Private right of action. Oakland residents shall have a private right of action to file suits to enforce the Oakland Campaign Reform Act, Oakland Lobbyist Registration Act, Oakland Sunshine Ordinance, and any City governmental ethics ordinance when the City does not impose or stipulate to a penalty or file suit for a particular violation. Such private right of action shall be enabled for a given ordinance once criteria for such suits, including but not limited to a required notice period, actionable violations and remedies that may be sought, are prescribed by the ordinance.

## (g) Staff Assistance & Budget.

(1) The City shall appropriate a sufficient budget for the Public Ethics Commission to fulfill the functions and duties as set forth above.

(2) Sufficient staffing shall not be less than the following minimum staffing requirement. The City shall meet a minimum staffing requirement for the Commission. The minimum staffing shall consist of the following full-time positions or their equivalent should classifications change:

(i) Executive Director;

(ii) Enforcement Chief;

~~(iii) Three other full-time equivalent non-administrative enforcement staff positions, which may include an Ethics Investigator, staff attorney, auditor, or other appropriate position to be determined as necessary by the Commission.~~ ethics Investigator;

(iv) Three full-time equivalent staff positions, which may include an Ethics Analyst I, Ethics Analyst II, Administrative Assistant I, or other appropriate position to be determined as necessary by the Commission.

(v) Effective July 1, 2023, the City shall also provide additional adequate staff necessary to properly administer the Democracy Dollars Program established by the Oakland Fair Elections Act, including, but not limited to, one full-time Democracy Dollars Program Manager and three full-time equivalent positions, to be determined as necessary by the Commission, all of whom shall report to the Executive Director of the Public Ethics Commission.

(3) The minimum staffing budget set-aside may be ~~suspended or~~ reduced, for a fiscal year or a two-year budget cycle, upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution. The proportion of such reduction may not exceed the overall reduction in staffing for all City employees paid out of the General Purpose Fund for that fiscal year or two-year budget cycle.

(4) The Executive Director shall serve at the pleasure of the Commission. By an affirmative vote of at least four (4) members, the Commission may terminate the Executive Director. Upon a vacancy, the Commission shall conduct a search for the Executive Director with staff assistance provided by the City Administrator. Upon completion of the search and its vetting of applicants, the Commission shall select ~~two or three finalists and forward the selections to the City Administrator, who shall select one as~~ the Executive Director. The City Administrator shall not have the authority to remove the Executive Director. The Commission shall periodically conduct a performance review of the Executive Director.

Commented [HN18]: Rec. 11 - Staffing

Commented [HN19]: Rec. 12 – Executive Director Selection

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

(5) The Enforcement Chief shall be a licensed attorney and shall serve at the pleasure of the Executive Director.

Commented [HN20]: Rec. 13 – Legal Capacity

(6) Other than the Executive Director and Enforcement Chief, staff shall be civil service in accordance with Article IX of the City Charter. Candidates for staff vacancies shall be selectively certified in accordance with the Civil Service Personnel Manual, as may be amended from time to time, except that said selective certification shall not be subject to discretionary approval by the Personnel Director.

(7) All staff are subject to the restrictions in Charter Section 603(e), except that staff are not prohibited from employment with the City and the ~~one-year~~ post-service restrictions shall apply only to the Executive Director.

Commented [HN21]: Conforming changes to Rec. 9.

**(h) Amendment of Laws.** Prior to adopting, or enacting any amendments to, laws that the Commission has the power to enforce or administer, or that relate to the organization or procedures of the Commission, the City Council shall make a finding that the proposed changes further the goals and purposes of the ordinance-law or program in question and provide specifics substantiating the finding. Absent an urgency finding akin to suspending compliance with the Sunshine Ordinance, amendments to such laws that the Commission has the power to enforce and proposed ballot measures that would adopt or amend such laws shall be submitted to the Commission for review and comment, prior to passage of the amendments or approval of the proposed measures for the ballot by the City Council.

Commented [HN22]: Rec. 14 - Amendment to PEC Procedures

**(i) Legal Services.**

(1) The City Attorney shall provide the Commission with legal assistance, to the extent such assistance does not constitute a conflict.

Commented [HN23]: Rec. 13 – Legal Capacity

(2) In addition to receiving legal advice and legal services from the City Attorney, the Commission may hire and/or contract for, in the discretion of the Executive Director, one or more attorneys to provide legal advice and legal services to the Commission relating to the laws that the Commission administers or enforces, including but not limited to representing the Commission in enforcement-related litigation, or when the Executive Director determines there is an actual or perceived conflict in the City Attorney providing legal assistance to the Commission. The choice of counsel shall be at the sole discretion of the Executive Director. When considering a candidate for an attorney position, the Executive Director shall consider the candidate's familiarity with laws relating to campaign finance, government ethics, lobbying, open meetings and public records.

(3) The City Council shall appropriate a reasonable budget for the Commission to contract for legal services, contract for investigatory services, and for holding administrative hearings.

**(j) Ballot Referral.** Any ordinance which the City Council is empowered to pass relating to campaign finance, lobbying, transparency, and governmental ethics may be submitted to the electors at the next succeeding general election by the Ethics Commission by a vote of at least five (5) members.

Commented [HN24]: Rec. 15 – Ballot Referral

**(k) References to Other Laws in this Section.** All references to other laws in this Section shall refer to these laws as they may be amended from time to time.

(Added by: Stats. November 2014.)

(Res. No. [89316](#), § 6, 7-11-2022; Res. No. [89280](#), 6-21-2022)



# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

**Section 401(1). City Attorney.** The City Attorney shall be nominated and elected in the same manner and at the same election as the Councilmember-at-large. The salary of the elected City Attorney shall be ~~set annually every two years~~ by the Public Ethics Commission to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Attorney and salaries for other City department heads, and shall be comparable to the salaries of City Attorneys and other comparable positions, such as County Counsel or Port Attorney, in California cities, counties and agencies selected by the Commission. The City Attorney's salary may not be reduced during the City Attorney's term of office except as part of a general reduction of salaries of all officers and employees in the same amount or proportion.

Commented [HN25]: Rec. 2 – Salary-Setting

**Section 403(1). City Auditor.** The City Auditor shall be nominated and elected in the same manner, for the same term, and at the same election, as the Mayor. To be eligible for the office a person must be a qualified elector of the State of California, and shall be a resident of the City at the time of filing nomination papers and for thirty (30) days immediately preceding the date of filing, and shall be certified by the California State Board of Accountancy as a Certified Public Accountant or by the Institute of Internal Auditors as a Certified Internal Auditor, and shall have a minimum of three years of public sector experience in auditing, policy analysis, performance evaluation, investigative oversight, and/or accountancy, or equivalent private sector experience. The salary of the City Auditor shall be ~~set annually every two years~~ by the Public Ethics Commission, to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Auditor and salaries for other City department heads, and shall be comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission. The City Auditor's salary may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion.

Commented [HN26]: Rec. 2 – Salary-Setting



# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

## Oakland Municipal Code

### Chapter 2.24 - PUBLIC ETHICS COMMISSION

#### 2.24.020 - Commission operations.

A. Implementation of City Charter enumerated role, functions, and duties. The Commission shall adopt policies, procedures, and regulations for the conduct of its business by a majority vote of the members present.

~~B. Process. A majority vote of the Commission members present is required for the adoption of any motion or resolution.~~

Commented [HN27]: Rec. 5 – Vote Threshold

C. Transmittal. The Commission shall transmit to the City Council any rules, regulations, or procedures adopted by the Commission within seven (7) calendar days of adoption. A rule, regulation or procedure adopted by the Commission shall become effective sixty (60) days after the date of adoption by the Commission unless, before the expiration of the sixty (60) day period, two-thirds (2/3) of all the members of City Council vote to veto the rule, regulation, or procedure.

D. Policies and Procedures. Policies and procedures include, but are not limited to, operations policies to guide the Commission's general operations, and complaint procedures to establish the administrative process for the investigation and enforcement of potential violations of government ethics, transparency, and campaign finance laws or policies.

#### 2.24.050 - Staff assistance.

The City ~~Manager~~Administrator and City Attorney, or designees thereof, shall provide the Commission with staff assistance as necessary to permit the Commission to fulfill the functions and duties as set forth in the City Charter and in ordinances within the Commission's jurisdiction. ([Ord. No. 13628](#), § 2, 12-15-2020; Ord. 12101, 1998; Ord. 11961 § 8, 1997)

Commented [HN28]: Rec. 13 – Legal Capacity

#### ~~2.24.060 – Legal assistance.~~

~~The City Attorney is the Commission's legal advisor. The City Attorney shall provide the Commission with legal assistance, to the extent such assistance does not constitute a conflict. In the event of a conflict, the City Attorney shall retain outside counsel. ([Ord. No. 13628](#), § 2, 12-15-2020; Ord. 11961 § 9, 1997)~~

Commented [HN29]: Rec. 13 – Legal Capacity

#### 2.24.110 - City Council amendments.

The City Council may make any amendments to this Chapter that are consistent with the purpose, responsibilities, and independence of the Commission as provided in the City Charter. Absent an urgency finding akin to suspending compliance with the Sunshine Ordinance, amendments to this Chapter and proposed ballot measures that would amend this Chapter shall be submitted to the Commission for review and comment, prior to passage of the amendments or approval of the proposed measures for the ballot by the City Council.

Commented [HN30]: Rec. 14 - Amendments

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

## Chapter 3.15 - THE CITY OF OAKLAND FAIR ELECTIONS ACT

### 3.15.050 - Duties of the Commission.

- A. The Commission shall implement and administer the program in accordance with the findings and purposes of this Act.
- B. Following the first election after the effective date of this Act and by an affirmative vote of at least five (5) of its members, the Commission may:
1. Adjust any of the following if the Commission determines that the adjustment furthers the purposes of this Act:
    - a. The number or value of Democracy Dollar vouchers to be distributed to each eligible resident, so long as the total value of the Democracy Dollars distributed to each eligible resident for a given election does not exceed the amount of the current contribution limit under Subsection [3.12.050](#) B.;
    - b. The date by which the initial distribution of Democracy Dollars occurs in an election year pursuant to [Section 3.15.090](#) A.;
    - c. The total number of qualifying contributions that candidates for each covered office must receive for certification, in the program under [Section 3.15.080](#);
    - d. The qualifying period;
    - e. Other conditions of participation in the program, including limits on use of personal funds under [Section 3.15.150](#), limits on use of campaign funds under [Section 3.15.160](#), and the number of public debates or forums in which candidates must participate under Subsection [3.15.080](#) A.3.;
    - f. Other eligibility requirements as dictated by [Section 3.15.080](#).

C. In addition to all other functions and duties of the Commission prescribed by this Act, the Commission shall:

1. Adopt rules, regulations, and procedures to carry out this Act, which shall go into effect immediately upon adoption and shall not be subject to Council veto;
2. Develop all forms and documents necessary to administer the program;
3. Design a Democracy Dollar voucher that includes all of the following elements:
  - a. The covered election for which the Commission issues the Dollar;
  - b. A means of uniquely identifying the voucher;
  - c. The amount of campaign money that the Democracy Dollar represents;
  - d. Pre-printed information for identification and verification purposes, such as the resident's name, address or other data as required;
  - e. A place to write the date on which the eligible resident assigns the Democracy Dollar;
  - f. A place to write the name of the candidate to whom the eligible resident assigns the Democracy Dollar;
  - g. A statement, in plain language, that informs each eligible resident of all of the following:
    - i. The eligible resident may not revoke an assignment of the Democracy Dollar;
    - ii. The eligible resident may not transfer the Democracy Dollar;
    - iii. The Democracy Dollar has no monetary value;
    - iv. The eligible resident may assign the Democracy Dollar only as provided under [Section 3.15.110](#);

**Commented [HN31]:** Rec 16 – Democracy Dollars Implementation Rules

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

- h. A statement that affirms the eligible resident assigns the Democracy Dollars voluntarily, free from duress, and not in exchange for any consideration;
  - i. A signature line;
  - j. Any additional information that the Commission determines is necessary to implement the Democracy Dollars Program.
4. Create a technology system that provides an option for eligible residents to receive and/or redeem Democracy Dollar vouchers electronically;
5. Educate and inform candidates and the public about the program as follows:
- a. Publish informational materials about the program written in plain language, including guides, manuals, instructions, and brochures, for candidates and the public;
  - b. Make informational materials about the program available in all of the following formats:
    - i. Online, such as the Commission's or another website;
    - ii. In paper form;
    - iii. Translated into any and all languages in which ballots are required to be provided in Alameda County pursuant to Section 203 of the Federal Voting Rights Act of 1965 (52 U.S.C. § 10503) and those languages spoken by residents of Oakland who are at least two (2) percent of the adult population and speak English "less than very well," according to the most recent U.S. Census;
  - c. Publish a timeline of important dates in the program;
  - d. Develop and conduct trainings, about the program for candidates and treasurers;
  - e. Develop a comprehensive citywide outreach plan before each election cycle. This outreach plan shall be coordinated with the City Administration and the Department of Race and Equity and should utilize City resources, including any and all databases that the Commission deems appropriate. In addition, outreach should involve collaboration with chambers of commerce, community-based organizations, neighborhood associations, business improvement districts, and good government organizations. This outreach plan shall describe how the Commission will inform all City residents about the program and include all of the following:
    - i. A statement of the Commission's outreach goals;
    - ii. An approximate timeline of proposed outreach activities, which may include, but are not limited to, attending community events, distributing informational materials to community-based organizations, posting informational materials in public places, and placing public announcements in print media, newsletters, social media, websites, radio, or television;
    - iii. A description of those proposed outreach activities that will be used to reach groups or categories of City residents that have been historically underrepresented in the political process or underserved by City government;
    - iv. The approximate cost of proposed outreach activities;
  - f. Conduct outreach activities in collaboration with chambers of commerce, community-based organizations, neighborhood organizations, business improvement districts, good government organizations, and other City departments and agencies, as informed by the outreach plan described in Subsection C.5.e.
6. Create and maintain a public-facing website that does all of the following:

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

- a. Displays the following information for each Democracy Dollar assigned by an eligible resident:
  - i. The full name of the eligible resident;
  - ii. The date on which the eligible resident assigned the Democracy Dollar;
  - iii. The name of and covered office sought by the candidate to whom the Democracy Dollar was assigned;
  - iv. The date the candidate redeemed the Democracy Dollar for proceeds with the Commission, if applicable;
  - v. The unique identifier of the Democracy Dollar;
- b. Displays the total number of Democracy Dollars assigned to and redeemed by each applicant or certified candidate to date;
- c. Displays the total number of qualifying contributions received by each applicant candidate to date;
- d. Provides electronic access to campaign statements and reports filed with the Commission by each applicant or certified candidate;
- e. Provides a mechanism by which an eligible resident may request a Democracy Dollar pursuant to Subsections [3.15.090 A.—B.](#)
7. Conduct audits and investigations of certified candidates as necessary to oversee compliance with this Act;
8. Issue oral advice and formal written opinions, in consultation with the City Attorney when necessary, regarding compliance with this Act;
9. Within six (6) months of after each election, conduct a review of the program in collaboration with the Department of Race and Equity and submit a post-election report to City Council that contains all of the following:
  - a. The number and names of, and covered offices sought by, all certified candidates, and the total amount of contributions received and expenditures made by those candidates, in the last election;
  - b. The number and names of, and covered offices sought by, all applicant candidates who were not certified in the program, and the total amount of contributions received and expenditures made by those candidates, in the last election;
  - c. The number and names of, and covered offices sought by, all candidates who did not seek certification in the program, and the total amount of contributions received and expenditures made by those candidates, in the last election;
  - d. The total number of Democracy Dollars:
    - i. Distributed to eligible residents;
    - ii. Distributed to but not used by eligible residents;
    - iii. Assigned to applicant or certified candidates;
    - iv. Redeemed by certified candidates;
  - e. Total public funding available in the fund before and after the last election;
  - f. The number and nature of program education and public outreach events conducted by the Commission for the last election, and the approximate number of public attendees at those events;
  - g. Review of the costs of the program in the last election;
  - h. Projected revenue available in the fund for each of the next three (3) election cycles;

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

- i. Analysis of the program's impact on the last election, including its equity impacts, as defined under Subsection 2.29.170.3 B. of the Oakland Municipal Code, and its effects on the sources and amounts of campaign funding and spending, the level of participation by eligible residents in each City Council District, and the number of candidates for covered offices;
- j. Legislative recommendations for improvements or adjustments to the program;
- k. Any other information that the Commission determines to be relevant;

~~D.~~ To provide voters with information which may assist them in assigning their vouchers and voting, the Commission may create and disseminate a digital or paper voter information guide, or both. The Commission may periodically update and disseminate the guide up through election day.

Commented [HN32]: Rec. 17 - Voter Guide

~~E.D.~~ In the event of a special election for a covered office, the Commission may reasonably modify conditions, procedures, or deadlines under the program, as necessary, to make the program available to candidates in the special election if it would not unduly deplete revenue available in the fund for regularly scheduled elections.

~~E.E.~~ In the first election cycle following voter approval of this article, the Commission may, by a vote of at least five (5) of its members, delay the implementation of the program in part or in its entirety if the Commission is not able to meet all of the requirements of the program as provided by this article. In making this determination, the Commission should consider all possible alternatives to avoid delaying program implementation in its entirety, including, but not limited to, partial implementation by issuing only mailed Democracy Dollars, or limiting the program to only certain races, or changing Program components.

(Res. No. [89316](#), § 2, 7-22-2022)

### 3.15.060 - Oakland Democracy Dollars Fund.

A. There is hereby established the dedicated, non-lapsing Oakland Democracy Dollars Fund to be used for disbursing proceeds to certified candidates who redeem Democracy Dollars under [Section 3.15.120](#).

For the two-year budget cycle beginning July 1, 2023 and each subsequent two-year budget cycle beginning on July 1 of odd-numbered years, the City shall appropriate to the fund no less than four million dollars (\$4,000,000.00) for the purpose of funding the Democracy Dollars Fund. The City shall consider additional appropriations to the fund as requested by the Commission to ensure sufficient money in the Fund. After July 1, 2023, for every two-year budget cycle beginning on July 1 of odd-numbered years, the required minimum appropriation under this subsection shall be increased by the increase in the Consumer Price Index over the preceding two (2) years.

- B. Additional monies may be deposited into the fund from these sources:
1. Special tax.
  2. Democracy Dollar proceeds returned by candidates under [Section 3.15.170](#).
  3. Voluntary donations made to the fund.

C. Any unspent revenue remaining in the fund after an election shall remain in the fund and accrue for making future disbursements under Subsection A. Funds remaining in the Democracy Dollars

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

Fund shall not exceed double the amount of the budgeted fund at any one time. Any excess beyond twice the amount of the four million dollars (\$4,000,000.00), as adjusted over time for inflation, shall be returned to the General Fund. In addition, after all money has been distributed to candidates in an election cycle, the Commission may use up to twenty (20) percent of the remaining Democracy Dollars Fund for outreach efforts intended to increase candidate and resident participation in the Democracy Dollar Program in future election cycles.

D. For the two-year budget cycle beginning July 1, 2023 and each subsequent two-year budget cycle beginning on July 1 of odd-numbered years, the City shall appropriate for the Public Ethics Commission no less than three hundred fifty thousand dollars (\$350,000.00) for the purpose of non-staff costs for administering the Democracy Dollars Program, in addition to staff budgeting required by Oakland City Charter Section 603(g). Upon receiving notice from the Commission under Oakland City Charter Section 603(b)(4), the City shall consider additional appropriations to the Commission to ensure sufficient funds are provided to administer the Democracy Dollars Program. After July 1, 2023, for every two-year budget cycle beginning on July 1 of odd-numbered years, the required minimum appropriations under this subsection shall be increased by the increase in the Consumer Price Index over the preceding two (2) years. For the 2023—24 fiscal year, or earlier, the City shall appropriate an additional amount of no less than seven hundred thousand dollars (\$700,000.00) for the purpose of startup costs associated with initiating the Democracy Dollars Program, with any remaining funds to be carried forward into future fiscal years.

E. The minimum budget set-aside in this Section may be reduced, for a fiscal year or a two-year budget cycle, upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution. A reduction may occur only as a part of general reduction in expenditures across multiple departments and the proportion of such reduction may not exceed the overall reduction in the General Purpose Fund expenditures for that fiscal year or two-year budget cycle.

Commented [HN33]: Rec. 17 – Democracy Dollars Budget

(Res. No. 89316 , § 2, 7-22-2022)

## Chapter 3.20 - THE CITY OF OAKLAND LOBBYIST REGISTRATION ACT

### 3.20.180 - Restrictions on payments and expenses benefiting local public officials, candidates for local office, designated employees and immediate families.

A. No local governmental lobbyist or a local governmental lobbyist's registered client shall make any payment or incur any expense that directly benefits an elected City officeholder, candidate for elected City office, a designated employee, or a member of the immediate family of one (1) of these individuals, in which the cumulative value of such payments or expenses exceeds two hundred forty dollars (\$240.00) during any calendar year.

Commented [HN34]: Rec 19 – Lobbyist Gifts

B. No local governmental lobbyist shall make any payment or incur any expense that directly benefits a designated employee, or a member of the immediate family of a designated employee, in which the cumulative value of such payments or expenses exceeds two hundred forty dollars (\$240.00) during any calendar year.

C. No local governmental lobbyist shall make any payment or incur any expense of any amount that directly benefits an elected City officeholder, candidate for elected City office, or a member of the immediate family of one (1) of these individuals.

# Item 13 - City Charter and OMC Review and Amendments

Redline of Proposed City Charter & OMC  
Amendments  
April 10, 2024 Regular Meeting

~~B~~D. The payments and expenses specified in subsections (A) ~~through (C)~~ include gifts, honoraria and any other form of compensation but- do not include (1) campaign contributions; (2) payments or expenses that, within thirty (30) days after receipt, are returned unused or are reimbursed; (3) food, beverages or occasional lodging provided in the home of an individual local governmental lobbyist or individual local governmental lobbyist's registered client when the individual or member of the individual's family is present; (4) a pass or ticket to a fundraising event for a campaign committee or candidate, or for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; (5) a pass or ticket given to a public agency and which meets the provisions of 2 Cal. Code of Regs. No. 18944. 1 (a) through (e), inclusive; (6) informational material; and (7) salaries, consulting fees or other payments for services rendered or bargained for. No other exception to, or exclusion from, the definition of gift or honoraria contained in the Political Reform Act of 1974 as amended, and the regulations issued pursuant thereto, shall apply to this Section. (Ord. 13469, § 1, 1-16-2018; Ord. 12782 § 3 (part), 2007)





# Item 13 - City Charter and OMC Review and Amendments

Ryan Wicks, Chair  
Francis Upton IV, Vice Chair  
Alea Gage  
Charlotte Hill  
Vincent Steele  
Karun Tilak  
Francis Upton IV

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: February 28, 2024  
RE: Charter Review – Recommendations for Reforming the Ethics Commission’s Governance Structure

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The Oakland Public Ethics Commission’s (PEC’s or Commission’s) core governance features are established in Section 603 of the City Charter, which defines the Commission’s organizational structure, key responsibilities and procedures, and staffing. Section 603 was adopted in 2014, when the voters approved Measure CC to significantly strengthen the independence and capacity of the Commission. However, in the ten years since Measure CC passed, there have been only minor revisions to that Charter section, and no significant re-examination of whether these provisions still reflect best practices for organizing an ethics enforcement body or meet the staffing and institutional needs of the modern Commission.

In late 2023, the Commission adopted a goal of reviewing City Charter provisions affecting the PEC, in anticipation of a possible ballot measure affecting the PEC later in 2024. In early 2024, a Charter Review Subcommittee (Commissioners Micik, Hill, and Tilak) was formed to review and recommend potential charter changes. The Subcommittee’s ten recommendations, presented below, would update Section 603 to reflect the PEC’s expanded scope and mission since the passage of Measure W (2022), establishing the Democracy Dollars Program; strengthen the PEC’s staff capacity, to better meet its expanded caseload and the new responsibilities added to the Commission by the City Council and voters; and strengthen the PEC’s independence, to ensure that, as the PEC takes on a larger role in protecting and enhancing the City’s governance and democratic process, the public and stakeholders continue to trust that the Commission is a fair and impartial body.

***Staff and the Subcommittee recommend that the Commission discuss and adopt the recommendations below and direct staff to return with potential charter amendment language for a future meeting.***

## **BACKGROUND & CHARTER REFORM GOALS**

In 2014, the City Council unanimously proposed and the voters overwhelmingly (73.9% in favor) adopted Measure CC, which added Section 603 to the City Charter. For the first time, Measure CC guaranteed minimum staffing for the Commission and adopted other reforms to significantly strengthened the Commission’s independence. Measure CC also incorporated several ethics commission best practices to ensure the Commission would be a fair, effective, and impartial watchdog over, and enforcer of, Oakland’s ethics, campaign finance, lobbying, and transparency laws. In significant part due to the success of those reforms, the PEC’s workload and assigned responsibilities have expanded significantly in the decade since Measure CC’s passage. However, there have been only minor amendments to Section 603 since then; after ten years, the provisions in Section



603 no longer reflect the Commission’s actual staffing and budgetary needs and have not kept pace with best practices for ensuring ethics commission independence.

At its August 25, 2023, retreat, the PEC set a goal of reviewing the City Charter provisions establishing the Commission as one of its 2023-2024 priorities. In January 2024, Chair Micik formed the Charter Review Subcommittee, which included himself (Chair), Commissioner Hill, and Commissioner Tilak, for the purpose of reviewing and proposing to the full Commission potential amendments to Charter Section 603 (and OMC Chapter 2.24) to recommend to the City Council. The Subcommittee met three times on February 9, February 16, and February 21.

In addition to examining each provision of City Charter Section 603, the Subcommittee also looked at the organizational structure and procedures of:

- Other City of Oakland independent commissions created after the PEC, including the City’s Independent Redistricting Commission and Police Commission;
- The State Fair Political Practices Commission (FPPC);
- Other California local ethics commissions, and especially Oakland’s closest peer commissions in Los Angeles, San Francisco, and San Diego;
- Select non-California local ethics commissions, including Seattle and New York; and
- Best practices for ethics commissions as identified by good government organizations such as the Campaign Legal Center or City Ethics.

To focus its work, the Subcommittee identified three primary principles to guide the types of reforms it would consider and propose, which build off of the important foundation set by Measure CC. Amendments should:

- I. **Strengthen PEC Staffing.** For the PEC to fulfill its functions, it must be adequately staffed. Traditionally, the PEC’s staff has almost entirely grown by ballot measure. Minimum staffing/budget helps to ensure the PEC’s independence when/if the Commission investigates or prosecutes current officeholders.
- II. **Strengthen PEC Independence.** The PEC plays a unique, important, and sensitive role in maintaining the integrity of Oakland’s government and political process. It is vital that the PEC be perceived to be and actually be impartial and not beholden to any elected official or political faction.
- III. **Align the Charter with the PEC’s New Mission of Building a More Inclusive Democracy.** The PEC’s current mission is focused primarily on the Commission being an enforcement agency. However, the PEC’s role has expanded with the passage of Measure W to encompass supporting a more inclusive, representative, and accountable democracy. The Charter should reflect that mission.

Guided by these principles, the Subcommittee adopted ten proposed charter reforms for the full Commission’s consideration.

**PROPOSALS**

**I. Strengthen PEC Staffing and Administration**

These recommendations would strengthen the PEC staff capacity and independence to better fulfill the PEC’s mission.

1. Executive Director Selection

**Current law:** The Board interviews and nominates candidates to be the PEC’s Executive Director (ED). The City Administrator appoints the ED from those candidates.

**Subcommittee proposal:** To ensure the ED is solely selected for their alignment with the Commission’s mission and priorities, the Commission should directly appoint its ED.

**Rationale:** The Commission is an independent agency of the City. It is important that its ED, the chief executive officer for the Commission, be perceived to be and actually be independent from the City’s overall administration. The duties of the ED include providing oversight over the Commission’s policy implementation and enforcement work. Giving final hiring authority to the City Administrator, even from a list of candidates selected by the PEC, could create the risk or the appearance that an ED was selected who may be less aggressive in enforcing Oakland’s laws or, worse, that they are aligned with a current administration rather than independent.

Notably, of its primary peer jurisdictions (Los Angeles, San Diego, San Francisco), Oakland is the only jurisdiction that does not have the Commission select its own ED. Having the Commission appoint the ED is also a best practice in the field, recommended, for example, by the nonprofit [City Ethics](#), which promotes local government ethics best practices. Oakland also followed this practice in establishing its Police Commission, which was created more recently than the PEC, and authorizes that Commission to directly hire the Community Police Review Agency (CPRA) Director.

**Other Jurisdictions – Executive Director Selection Process**

	<b>Executive Director Appointment Process</b>	<b>Citation</b>
<b>Oakland</b>	PEC reviews applications and nominates 2-3 candidates for ED to the City Administrator, who appoints the ED	C s603(g)(4) & (6)
<b>Oakland Police Commission</b>	Police Commission hires the Agency Director and Inspector General	C s604(e)(6)
<b>FPPC</b>	Commission appoints ED	GC s83107
<b>Los Angeles</b>	Commission appoints ED	C s701(a)&(d)
<b>San Diego</b>	Commission appoints ED, subject to confirmation by the Council	MC s26.0411
<b>San Francisco</b>	Commission appoints ED	C s15.101

## 2. Commission Enforcement Staffing

**Current law:** The City Charter mandates that the PEC have two enforcement staff: an Enforcement Chief and one Ethics Investigator. The Council may reduce this staffing set-aside by declaring that the City is facing an extreme fiscal necessity.

**Subcommittee proposal:** To ensure the PEC has sufficient staffing to fulfill its enforcement and watchdog role, the PEC's minimum staffing should provide two *additional* non-administrative enforcement staff, which could include an investigator, auditor, or staff attorney.

**Rationale:** The PEC must have sufficient staff to fulfill its core responsibility of ensuring the fair, effective, and timely enforcement of Oakland's ethics laws. The PEC's current enforcement staffing minimums of one Chief and one Ethics Investigator were set a decade ago, in 2014, with the passage of Measure CC.<sup>1</sup> Those staffing levels were based on the Commission's caseload at the time; however, over the past ten years the PEC's caseload has vastly increased, and these staffing minimums – which have not been increased through the discretionary budget process – are no longer sufficient to meet the Commission's caseload demands. Caseload now vastly exceeds staff capacity and, as of January 1, 2024, 60% of the PEC's cases had to be placed on hold. The PEC has also fallen far below the staffing levels of peer jurisdictions: for example, Oakland's PEC has an untenable staff to caseload ratio of one enforcement staffer per 44 cases, compared with San Francisco's more manageable ratio of one staffer per 14 cases. The Enforcement Program estimates that a bare minimum of two additional investigators are required to keep up with the PEC's current caseload, although the PEC's actual full staffing needs are significantly higher.

Increasing the charter-mandated minimum staffing is also important for preserving the PEC's independence. The Commission, as contrasted with every other City department or Board, regulates the conduct of Oakland's elected officials. Public confidence in the Commission is diminished if the PEC's ability to fulfill its core watchdog role through adequate staffing is perceived to depend on receiving the approval and funding of the very officials it regulates. Moreover, unlike other City programs, the PEC has no natural constituency to argue for increased funding for its services, which places the Commission at a disadvantage in the budget process; in fact, of the PEC's current 8 positions, all but one were created through the City charter, and not the biannual discretionary budget process.

## 3. Measure W Funding

**Current law:** To implement the Democracy Dollars Program, Measure W required that the PEC be provided with \$700,000 in startup funding; \$350,000 in ongoing administrative funding; \$4 million per two-year cycle for Democracy Dollars candidate funds; and four staff positions. However, these minimum budget and staffing set-asides may be reduced if the Council finds that the City is facing an extreme fiscal necessity. For this two-year budget, the Council declared a fiscal emergency and these minimums were reduced to \$525,000 in startup funding and one staff position.

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<sup>1</sup> Prior to that, the PEC as a whole had only two staff total, none dedicated solely to enforcement. Measure CC originally provided for a "Deputy Director" rather than an Enforcement Chief, although that role was envisioned as being the chief prosecutor for the Commission.

**Subcommittee proposal:** To ensure that Measure W is properly implemented, and cannot be cancelled for political reasons, the Charter should provide that the PEC’s minimum staffing and budget for the Democracy Dollars Program may only be reduced in the same general *proportion* as any general budget reduction.

**Rationale:** Measure W allows the Council to cut Measure W funding where there is an extreme fiscal necessity, but “only as a part of general reduction in expenditures across multiple departments.” While the clause “part of a general reduction” was likely intended to ensure that a budget deficit was not disproportionately balanced using Measure W funding, this is in effect what occurred. For the current two-year cycle, the PEC budget was cut 58% compared to the baseline funding required under Measure W, likely a larger proportional cut than any other department. Because Measure W has yet to be implemented, the cut this cycle (while re-establishing the Limited Public Financing Program) largely preserved the status quo for public financing in Oakland; however, this disproportionate cut may have set a dangerous precedent that cancelling Democracy Dollars will be the first fix to balance future difficult budgets, undermining the will of Oaklanders in adopting this transformational program, and potentially making this program vulnerable to incumbent veto for political reasons. Under this proposal, the Charter (or City Code) would clarify that any cuts to Measure W must be in proportion to the general budget reduction, so that the PEC is contributing a fair but not disproportionate share to resolving the City’s fiscal challenges.

#### 4. Legal Capacity

**Current law:** The City Attorney is the designated legal counsel for the Commission. If the City Attorney determines that the office may have a conflict in representing the PEC, the City Attorney may select an outside counsel to advise the Commission. None of the PEC’s staff, including the Enforcement Chief, are required to be attorneys.

**Subcommittee recommendation:** Because Oakland’s City Attorney is elected and subject to regulation by the PEC, they should not be the exclusive legal counsel to the Commission. The Charter should specify that:

- A. The Enforcement Chief is required to be an attorney.
- B. The PEC may hire legal staff, including outside counsel in its discretion, to provide legal services relating to the laws the PEC administers or enforces, or when the PEC determines there is an actual or perceived conflict in the City Attorney representing the Commission.
- C. The City Attorney should continue to provide legal advice and assistance to the Commission.

**Rationale:** The PEC administers and enforces a sometimes complex body of law, especially when applied to nuanced fact patterns. For reasons of capacity and independence, the Commission should have in-house staff with the specialized legal expertise to interpret, apply, and enforce these laws, including appearing in court when necessary (e.g., for an injunction or to enforce subpoena). The need for in-house legal expertise is especially true of the Enforcement Chief, who is the chief prosecutor for the Commission, and needs a firm understanding of the laws the Commission enforces as well as a general legal grounding in administrative law and substantive due process. Because the Commission regulates the City Attorney’s Office, the Commission should not be solely reliant on that office for legal

advice or services, which may create the appearance of a conflict; this is especially true in Oakland, where the City Attorney is an elected official who must campaign for office.

Other established ethics commissions in California either have attorneys on staff or the ability to hire outside counsel, which is generally considered to be a best or essential practice for ethics commissions. For example, the FPPC and Los Angeles Ethics Commissions are expressly authorized to employ attorneys, whereas San Diego and Sacramento require their commissions hire outside counsel to avoid the appearance that these boards are relying on the city attorney. “A commission should have its own independent experts, including investigators, auditors, general counsel, and trainers,” explains the Campaign Legal Center. “By relying on these independent experts, a commission can not only obtain independent advice and analysis of facts and law in specific cases, but also avoid the appearance that it depends on an elected official or appointee of an elected official, such as a secretary of state or city attorney.” In Oakland, likely for similar reasons, the more recently-established Police Commission is authorized to hire attorneys and outside counsel.

Under this proposal, the PEC would not exclusively rely on its own or outside counsel and would in fact continue to use the City Attorney for legal advice and services in most instances, especially for all issues outside of the Commission’s subject matter expertise. In rare cases where the City Attorney may be legally conflicted out of providing legal advice or services to the Commission, the Commission should select its outside counsel, to avoid any allegation that the Attorney may select a counsel sympathetic to their interests.

**Other Jurisdictions – Legal Capacity**

	<b>Role of City Attorney</b>	<b>Commission Legal Staff Positions?</b>	<b>Commission Can Hire Outside Counsel?</b>	<b>Citation</b>
Oakland	- City Attorney appoints one Commissioner - City Attorney is Commission’s counsel - PEC consults with City Attorney on oral advice and written opinions	None	City Attorney may retain outside counsel for Commission if there is a conflict	C. s603(b)(3) & OMC 2.24.060
<b>Oakland Police Commission (PC); CPRA</b>		PC: may hire attorneys CPRA: Requires minimum of 3 attorneys	PC: yes CPRA: not specified	C. s604(b)(12), (e)(1), (e)(4)
FPPC	May request legal advice from the Attorney General	May employ legal counsel	Can contract for services that can’t be performed by staff	GC s83117
Los Angeles	City Attorney provides legal services to commission	May employ or contract for staff counsel to give advice to the commission and to take action on matters involving the City Attorney	Yes, see previous column	C s708

San Diego	City Attorney nominates appointees	Must retain own legal counsel outside of City Attorney	Must retain own legal counsel outside City Attorney (also has attorneys on staff)	MC s 26.0411 C s41(D)
San Francisco	- City Attorney is legal advisor to Commission - Commission reports findings to City Attorney when appropriate - Commission transmits some advisory opinions to City Attorney	Commission can employ individuals who have graduated from a law school to assist with advice and opinions	None Provided	C s15.102 MC s3.699-11 MC s3.699-12
Sacramento	- City Attorney assists Commission with its investigatory procedures - Commission advises City Attorney on law firms to use to investigate sexual misconduct allegations	None Provided	Yes - required for all investigations	MC 2.112.030

**II. Strengthen PEC Independence.**

These recommendations would strengthen the Commission’s independence to promote public trust in the Commission’s work.

5. Commissioner Qualifications

**Current law:** To be eligible for appointment to the Commission, an applicant:

- **must** be a registered voter;
- **must** have attended one prior meeting of the PEC;
- for Mayor, City Attorney, and City Auditor appointees, **must** have a specified professional experience or background; and
- for Mayor, City Attorney, and City Auditor appointees, **cannot** have been paid during the past two years for work by a committee controlled by the appointing official.

**Subcommittee recommendation:** To avoid the appointment of a Commissioner who may appear biased in favor or against of a candidate, incumbent, or political faction, the Charter should **prohibit\*** the appointment of an applicant who, at any point in the two years prior to the start of their term on the Commission, was:

- A. an elected official, or the partner or spouse of an elected official;
- B. a candidate for City or OUSD office;
- C. a paid staffer or paid consultant to a City or OUSD campaign;
- D. an officer or employee of a political party political party; or
- E. a substantial local campaign donor, defined as someone who has contributed in the aggregate more than two times the City contribution limits (2 x \$600 in 2024) to candidates for a City or OUSD office or to a campaign committee making independent expenditures in City or OUSD campaigns.
- F. *\*These new qualifications would apply only prospectively to new Commissioners.*



**Rationale:** Commissioners serve in a quasi-judicial role where they will adjudicate whether or not incumbents, candidates, and City officials have violated city ethics or campaign finance laws, among other laws. Commissioners also have the sensitive responsibility of administering the Democracy Dollars Program beginning in 2026, which will likely become the largest source of funding for candidates running for City office. The selection of a Commissioner who appears to be strongly biased in favor of an official, candidate, or political faction could undermine public trust in the Commission, its adjudications, and its implementation of critical programs like Democracy Dollars. In structuring an ethics commission, the [Campaign Legal Center](#), a good government nonprofit, advises putting up minimum qualification guardrails to protect against this so that it is “clear to the public that the ethics commission serves the public interest and not the interests of those groups subject to the commission’s oversight.” [City Ethics](#), a nonprofit that advocates for local ethics reform best practices, similarly advises prohibiting the appointment of commissioners who in the prior three years have been “party officials, recent government officials, individuals who have done substantial work in local political campaigns, large contributors, or political advisers.”

Oakland’s current Ethics Commissioner qualifications are fairly similar to, and in some ways stronger than, those of other established ethics commissions, like the Fair Political Practices Commission (FPPC), Los Angeles Ethics Commission, and San Francisco Ethics Commission. However, the trend among more recently-established ethics commissions, including Sacramento’s and Orange County’s, is to include stronger requirements up front to prevent recent political actors from being appointed to the Commission, mirroring the best practices identified by City Ethics above. Oakland has followed a similar model with respect to its more-recently established Independent Redistricting Commission, which similarly excludes from appointment applicants who were recently lobbyists, candidates, or consultant to a City political campaign. The PEC should adopt similar, but less strict, restrictions, in recognition of the fact that the PEC must recruit civically-active residents to serve on the Commission on a nearly annual basis, as compared with the Redistricting Commission which only recruits applicants once every ten years.

**Other Jurisdictions - Commissioner Qualifications**

	<b>Qualifying Criteria</b>	<b>Disqualifying Criteria</b>	<b>Citation</b>
<b>Oakland</b>	-Oakland registered voter & resident -Attest to having attended one PEC meeting -Professional background requirements for Mayor, City Attorney, and Auditor appointees	-Mayor, Attorney, and Auditor may not appoint an individual who was paid during the past two years for work by a committee controlled by the official -See also during-service restrictions	C. s603(d)(1)-(2) & (e)
<b>Oakland Redistricting Commission</b>	-Oakland resident for 3 years	Cannot be: -City employee or commissioner - Redistricting consultant in prior 5 years - A person or their family who in prior 10 years was a: ~ Candidate or elected official ~ Paid consultant to a campaign ~ Registered lobbyist	C. s220((D)(1) & J)(5)

		<ul style="list-style-type: none"> <li>~ Employee/consultant to elected official</li> <li>~ Officer of a City campaign committee</li> <li>- Contributor over 50% of contribution limits to City candidate in last election</li> </ul>	
<b>FPPC</b>	<ul style="list-style-type: none"> <li>-Elector</li> <li>-Members cannot all be of the same political party</li> </ul>	-See during service restrictions	GC s83101, 83102
<b>Los Angeles</b>	- Registered voter	-See during service restrictions	C s700(d)
<b>San Diego</b>	<ul style="list-style-type: none"> <li>- Professional background requirements for 5 members</li> <li>- At most 3 members registered with same political party</li> <li>- Must be a qualified elector of the City, subject to exceptions</li> </ul>	<ul style="list-style-type: none"> <li>- Can't have run for office against a current elected City official</li> <li>- Can't have served in a staff capacity for the campaign of a candidate running against a current elected City official</li> </ul>	MC s 26.0404(b)
<b>San Francisco</b>	Mayor, City Attorney, and Assessor appointees must have certain professional backgrounds	Cannot be: <ul style="list-style-type: none"> <li>- Any person removed from federal, State, County, or City office or employment for a moral turpitude felony in prior 10 years</li> <li>- Any person removed from federal, State, County, or City office or employment for official misconduct in prior 5 years</li> <li>- See during service restrictions</li> </ul>	C s15.100 C s15.105
<b>Sacramento</b>	<ul style="list-style-type: none"> <li>-Sacramento resident</li> <li>-3 (of 5) members must meet professional background requirements</li> </ul>	<ul style="list-style-type: none"> <li>-Applicant (or partner/child) can't have given 50%+ of contribution limit in last 2 elections</li> <li>-Applicant (or partner/child) cannot have been a City employee, lobbyist, or local/state elected official appointee in prior 2 years</li> <li>-Applicant (or partner/child/parent/ sibling) cannot have been a City elected official, candidate, employee/contractor to a City elected official in prior 4 years</li> <li>-See also during-service restrictions</li> </ul>	MC s2.112.040 (B)
<b>Orange County</b>	- Registered voter	10 years prior to appointment, cannot have: <ul style="list-style-type: none"> <li>- employed a lobbyist</li> <li>- been an elective County officer or County department head/executive</li> <li>- been a partisan political committee officer</li> <li>- been convicted of a felony or misdemeanor involving dishonesty or election law</li> <li>- worked for County of Orange, or any Special District operating in the County</li> <li>- worked with an County employee representative organization</li> </ul>	CO s 1-2-354

6. Commissioner During & Post-Service Restrictions

**Current law:** PEC Commissioners cannot be involved in City politics during their term and cannot, during their term and for one year after, be employed by the City or register as or employ a lobbyist.



**Subcommittee recommendation:** To avoid the appointment of a commissioner who may appear biased in favor of or against a candidate, incumbent, or faction, amend the Charter to add:

- A. During-service restrictions\*: While serving on the Commission, Commissioners may not:
  - i. Contribute or participate in an OUSD campaign
  - ii. Serve as an officer or employee of a political party
- B. During and post-service restrictions\*: Commissioners may not:
  - i. Run for City or School Office while serving on the Commission and for 2 years after their term ends.
  - ii. Be a paid staffer or paid consultant to a City or School elected official, or receive gifts from the same officials, while serving on the Commission and for 1 year after their term ends.
- C. Exception: Commissioners should be able to advocate in support or opposition to ballot measures that affect the PEC or the laws it enforces.
  - *\*These new restrictions would apply only prospectively to new Commissioners.*

**Rationale:** The PEC already imposes a number of common sense restrictions on Commissioners while serving on the Commission, including that they cannot participate in local political campaigns, lobby, or be City employees. Because the Commission regulates campaigns, lobbyists, and city officials, these restrictions help to prevent Commissioners from having conflicts of interest or their appearance. In the campaign context in particular, these restrictions also reinforce Commissioners' impartiality, by avoiding a situation where a Commissioner's campaign activity may make it appear that they are biased for or against a candidate or ballot measure. This proposal makes modest extensions to these rules, modelled off of restrictions in other jurisdictions, by prohibiting commissioners from being staff or officers in political parties (which may suggest bias against other partisans) and clarifying that the restriction against Commissioners contributing to "municipal" campaigns also applies to OUSD campaigns.

Under current law, PEC Commissioners are also subject to two post-service restrictions: they cannot become a City employee or lobbyist (or employ a lobbyist) for one year after their term concludes. Post-service restrictions serve a slightly different purpose than during-service restrictions: they prevent the risk or appearance that a Commissioner may favor a party before the Commission in the hopes that they will receive a benefit from that party (e.g., employment) immediately after their service concludes. This proposal extends this restriction by similarly preventing Commissioners from being employed by or receiving gifts from an elected official for one year after their service. The proposal would also prohibit Commissioners from running for City or OUSD office for two years (one election cycle) after leaving the Commission. This restriction, which is fairly common among ethics commissions, prevents a situation where a Commissioner may vote to fine an elected official and shortly thereafter leave the Commission to run against that official, which could undermine public confidence in that adjudication.

One area where the proposal would *relax* restrictions is by permitting Commissioners to advocate for or against ballot measures affecting the PEC, which is the rule in San Diego. This would permit Commissioners, who are particularly knowledgeable about the Commission's structure and laws, to share this perspective with the public. Commissioners are generally prohibited from advocating for or against measures because the Commission may have to adjudicate whether a ballot measure committee has violated the City's campaign finance laws; however, for measures affecting the PEC,

the Commission’s practice is already to refer such complaint to other agencies, like another local ethics commission, to avoid the appearance of bias.

**Other Jurisdictions -- During & Post-Service Restrictions**

	<b>During Service Only</b>	<b>During &amp; Post-Service</b>	<b>Citation</b>
<b>Oakland</b>	Cannot: - Seek election to public office in a jurisdiction intersecting with Oakland - Participate or contribute in an Oakland municipal campaign - Endorse or work on behalf of candidate/measure in Oakland election	<i>During &amp; 1 year post, cannot:</i> - Be employed or contract with the City - Be a registered lobbyist or employed by/receive gifts from a registered lobbyist	C s603(e)
<b>Oakland Redistricting Commission</b>		<i>During &amp; 10 years post:</i> hold elective office for City <i>During &amp; 4 years post:</i> - hold appointive City or OUSD office - serve as paid staff/consultant to Councilmember or OUSD member - Receive a no bid City contract - Register as a City lobbyist	C s220(D)(4)
<b>FPPC</b>	Cannot: - Hold or seek election to public office - Serve as an officer of any political party or partisan organization - Participate in or contribute to an election campaign - Employ or be employed as a lobbyist -Receive a gift over \$10/month	None specified	GC s83105, 83117.5
<b>Los Angeles</b>	- Hold public office - Participate or contribute to a City or School Board campaign - Participate or contribute to a councilmember or school board member running for another office - Employ or be employed as a lobbyist	-Cannot run for City or School Board office unless it is 2 years past the end of their term	C. s700(d)
<b>San Diego</b>	Cannot: - make a financial contribution to candidate for City office - participate in a campaign supporting or opposing a candidate for City office - participate in a campaign supporting or opposing a City ballot measure (except one affecting the Commission) - become a candidate for elective governmental office - become a City lobbyist	- For 12 months, can’t be a candidate for elective governmental office	MC s 26.0406

<p><b>San Francisco</b></p>	<p>Cannot:</p> <ul style="list-style-type: none"> <li>- Hold any other City or County office or be an officer of a political party</li> <li>- Be a registered lobbyist, campaign consultant, or be employed by or receive gifts/compensation from same</li> <li>- Hold employment with the City</li> <li>- Participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure, or a City officer running for any elective office</li> </ul>	<p>None</p>	<p>C s15.100 C s15.101</p>
<p><b>Sacramento</b></p>		<p><i>During &amp; 1 year post, cannot:</i></p> <ul style="list-style-type: none"> <li>- Be appointed to a City Commission</li> <li>- Be paid staff/consultant to City elected official</li> <li>- Receive a no bid City contract</li> <li>- Register as a City lobbyist.</li> </ul> <p><i>During &amp; 4 years post, cannot:</i></p> <ul style="list-style-type: none"> <li>- Hold City elected office</li> </ul>	<p>MC s2.112.040 (B)(3)&amp;(4)</p>
<p><b>Orange County</b></p>	<p>May not:</p> <ul style="list-style-type: none"> <li>- Hold an elected or appointed position</li> <li>- Work for an elected/appointed officer</li> <li>- Work for an elected official appointee</li> <li>- Be a public employee of a body that is appointed by an elected official</li> <li>- Participate in or publicly support or oppose a candidate</li> <li>- Hire anyone working as a lobbyist</li> <li>- Have been convicted of a felony or misdemeanor involving dishonesty or election law</li> <li>- Provide services to candidates/elected officials within Orange</li> <li>- Engage in public affairs or legislative liaison services for employers doing business within Orange</li> </ul>	<p>None</p>	<p>CO s 1-2-354</p>

7. Ethics Commission Vacancy

**Current law:** Vacancies not filled by the Mayor, City Attorney, or City Auditor within 90 days **may** be filled by the City Council.

**Subcommittee recommendation:** To avoid long vacancies which could disrupt the effectiveness of the PEC, if a Commission vacancy has not been filled within 120 days by the appointing Citywide official, the responsibility for filling the vacancy should transfer to the PEC.

**Rationale:** The PEC can only function if a quorum of its members attend a Commission meeting. Extended vacancies may impact the Commission’s ability to adjudicate cases or adopt policies. Currently, the PEC has had one vacancy for over one year and had to cancel one meeting last year for

lack of a quorum. Other ethics commissions, like Los Angeles's in 2023, have been legally unable to meet for months because the number of appointed commissioners fell below quorum.

Oakland's Charter attempts to prevent this situation by authorizing the City Council to fill a PEC seat appointed by a citywide official that has been vacant for more than 90 days; however, for the Council to exercise this option it would in effect be "taking" an appointment away from a citywide elected official, which is politically sensitive, and would likely only be done if the Council and citywide official were at odds. This proposal would provide citywide officials with more time to fill a vacancy, but a stricter remedy if that deadline is missed.

#### 8. Ballot Referral

**Current law:** The PEC may recommend to the City Council changes to the laws the PEC administers or enforces.

**Subcommittee proposal:** The PEC should have the authority, by supermajority vote, to refer ordinances relating to its subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration.

**Rationale:** An important responsibility of most local ethics commissions is to periodically review and recommend improvements to the laws the commission enforces or administers to promote more honest and accountable government. Traditionally, an ethics commission, as is the case with Oakland's Ethics Commission, would only provide a recommendation for the city council's consideration. However, increasingly, academics and good government reformers have advocated that ethics commissions be authorized to place measures on the ballot by supermajority vote, in recognition of the fact that elected officials may have a conflict or appearance of a conflict in enacting or rejecting laws that directly regulate their conduct. For example, the Los Angeles Good Governance Project, which is a consortium of university research centers at UCLA, USC, Loyola Marymount, Pomona, CSU Northridge, and CSU Los Angeles, recently included this [recommendation](#) in its package of proposed ethics reforms for Los Angeles. Project authors explained in a [press conference](#) that, "for ethics matters in particular, the City Council is an interested party, so we would recommend that the Ethics Commission have the option ... to place measures directly on the ballot." Good government organizations, like nonprofit California Common Cause, have also advocated this reform as a best practice for ethics commissions, and the LA Ethics Commission has also sought this authority.

Currently, the San Francisco Ethics Commission is the only California commission to have this power, which it has used to propose limited reforms that were fairly uncontroversial with voters. Under San Francisco's City Charter, Commissioners may only place a measure on the ballot by a 4/5 vote. From 2013 to 2023, the Commission placed two measures on the ballot, accounting for less than 2% of all San Francisco ballot measures in that time period. Each measure responded to a local corruption scandal and was approved by large margins: Proposition C (2015) required additional lobbying reporting and passed with 75% of the vote and Proposition T (2016) restricted gifts from lobbyists to officials and passed with 87% of the vote. The Commission has placed a measure on the March 2024 ballot, Proposition D, which adds restrictions on gift-giving to City officials in response to another recent corruption scandal.

### ***III. Align the Charter with the PEC's New Mission***

These recommendations seek to align Section 603 with new responsibilities the PEC has taken on, principally of implementing Measure W, but also aligning the PEC's new salary-setting responsibilities for City elected officials with the Commission's best practice recommendation for setting the Mayor's salary.

#### 9. Commission Mission

**Current law:** The City Charter defines the PEC's primary roles as being the (1) "enforcement of laws, ... intended to assure fairness, openness, honesty and integrity in City government," (2) education on such laws, and (3) "impartial and effective administration" of its programs. The Charter further enumerates a number of specific duties of the Commission, including different laws the Commission enforces.

**Subcommittee proposal:** To better align the Charter with the PEC's expanded role under Measure W, the Charter should be amended to:

- A. Add that one of the PEC's roles is to promote more inclusive, representative, and accountable democracy in Oakland; and
- B. Include the administration of the Democracy Dollars Program, including the creation of an impartial voter guide to assist voters in assigning their vouchers, as one of the PEC's enumerated duties.

**Rationale:** The PEC has traditionally been primarily an enforcement and government watchdog agency. However, with the passage of Measure W, the Commission's role expanded to administering a public financing that's stated goal is to promote a more inclusive and participatory democracy. This goal should inform how the PEC approaches its work and should be added to the PEC's enumerated core roles and responsibilities. Administering the Democracy Dollars Program, and adopting and administering policies that facilitate the implementation of this Program, such as creating a voter guide to assist voters in assigning their vouchers, should also be expressly added to the Charter.

#### 10. Elected Official Salary-Setting

**Current law:** The PEC adjusts the City Council's salary every two years to account for inflation and adjusts the City Attorney and City Auditor's salary every year to provide for competitive compensation and equitable alignment.

**Subcommittee proposal:** To align the PEC's existing salary-setting process with the recommendations the Commission made for setting the Mayor's salary, the PEC, in its discretion, should have the authority to waive or reduce a salary increase for the City Council, City Attorney, or City Auditor if either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) if General Purpose Fund revenue for the current fiscal year is projected to decline.

**Rationale:** As explained in the staff report on options for adjusting the Mayor's salary for the PEC's December 2023 meeting, in years where the City is facing significant financial hardship, it may be inappropriate or controversial to award elected officials a large pay increase when the City is financially

struggling. This proposal, which the Commission endorsed for setting the Mayor's salary, would permit the PEC to waive or reduce a salary increase but only if an objectively-determined precondition is met, which is that a financial urgency exists.

### **SUMMARY OF PROPOSALS**

For ease of reference, the proposals discussed above are re-listed here:

1. Executive Director Selection: The Commission should directly appoint the Commission's Executive Director.
2. Commission Enforcement Staffing: The PEC's minimum staffing should provide two *additional* non-administrative enforcement staff, which could include an investigator, auditor, or staff attorney.
3. Measure W Funding: The Charter should provide that the PEC's minimum staffing and budget for the Democracy Dollars Program may only be reduced in the same general proportion as any general budget reduction.
4. Legal Capacity: The Charter should specify that:
  - A. The Enforcement Chief is required to be an attorney.
  - B. The PEC may hire legal staff, including outside counsel in its discretion, to provide legal services relating to the laws the PEC administers or enforces, or when the PEC determines there is an actual or perceived conflict in the City Attorney representing the Commission.
  - C. The City Attorney provides legal advice and assistance to the Commission.
5. Commissioner Qualifications: In addition to existing Commissioner qualifications, the Charter should prohibit the appointment of an applicant who, at any point in the two years prior to the start of their term on the Commission, was:
  - A. an elected official, or the partner or spouse of an elected official;
  - B. a candidate for City or OUSD office;
  - C. a paid staffer or paid consultant to a City or OUSD campaign;
  - D. an officer or employee of a political party political party; or
  - E. a substantial local campaign donor, defined as someone who has contributed in the aggregate more than two times the City contribution limits (2 x \$600 in 2024) to candidates for a City or OUSD office or to a campaign committee making independent expenditures in City or OUSD campaigns.
6. Commissioner During & Post-Service Restrictions: In addition to existing during and post-service restrictions, add:
  - A. *During-service restrictions*: While serving on the Commission, Commissioners may not:
    - i. Contribute or participate in an OUSD campaign
    - ii. Serve as an officer or employee of a political party
  - B. *During and post-service restrictions*: Commissioners may not:
    - i. Run for City or School Office while serving on the Commission and for 2 years after their term ends.



- ii. Be a paid staffer or paid consultant to a City or School elected official, or receive gifts from the same officials, while serving on the Commission and for 1 year after their term ends.
- C. *Exception:* Commissioners should be able to advocate in support or opposition to ballot measures that affect the PEC or the laws it enforces.

7. Ethics Commission Vacancy: If a Commission vacancy has not been filled within 120 days by the appointing Citywide official, the responsibility for filling the vacancy should transfer to the PEC.

8. Ballot Referral: The PEC should have the authority, by supermajority vote, to refer ordinances relating to the subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration.

9. Commission Mission: Amend the Charter to:

- A. Add that one of the PEC's roles is to promote more inclusive, representative, and accountable democracy in Oakland; and
- B. Include the administration of the Democracy Dollars Program, including the creation of an impartial voter guide to assist voters in assigning their vouchers, as one of the PEC's enumerated duties.

10. Elected Official Salary-Setting: The PEC, in its discretion, should have the authority to waive or reduce a salary increase for the City Council, City Attorney, or City Auditor if either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) if the GPF revenue for the current fiscal year is projected to decline.

## CHARTER AMENDMENT PROCESS

Charter amendments require approval by a majority of Oakland voters to go into effect. There are only two ways for a charter amendment to make it to the ballot: the City Council may place a measure on the ballot or Oakland voters, through the local initiative process, may collect sufficient signatures to place a measure on the ballot. Prior amendments to the PEC's scope and responsibilities have been placed on the ballot by the City Council. To make the November 2024 ballot, the City Council would likely need to vote to place a measure on the ballot no later than August 2024. The Council is already likely to consider a proposal later this year to amend the City Charter to move the responsibility for setting the Mayor's salary from the City Council to the PEC.

## SUBCOMMITTEE AND STAFF RECOMMENDATION

***The Subcommittee and Staff recommend that the Commission vote to direct staff to draft potential language for a charter amendment, consistent with these recommendations, and to bring them back to the Commission at a future meeting.*** The Subcommittee is also still considering other changes to the City Charter and may bring those recommendations back to the full Commission at that time as well.

**Attachment:** Oakland City Charter Section 603 and Oakland Municipal Code Chapter 2.24.

# Item 14A - Outreach Subcommittee

PEC OUTREACH EVENTS 2024

## Outreach Events Calendar

### 2024 Attended Events

Event	Date	Commissioner(s) Attended
District 3 Town Hall @ Children’s Fairyland	March 16, 2024	Chair Micik

### Suggested Free Outreach Events

Event	Frequency
Oakland Roots & Soul Games	Seasonal (Summer/Fall)
Merchants Associations events - Rockridge, Temescal, Laurel, Jack London	Seasonal
Rotary Club (and other such clubs) meetings	Monthly
High School Government Classes	Variable
Office Hours for Council Members, School Board, City Auditor & Police Inspector General	Variable
National Night Out	Annual, First Tuesday in August
Oakland Love Life Celebration	Annual
Farmers Markets	Weekly
League of Women Voters Meeting	Monthly
Mills College Public Policy Graduate Students Meetings	
Goldman School Public Policy - Info Forums	Quarterly
Open Oakland - Open Data Day	Annual
Night Out for Safety and Liberation	Annual
Acts Full Gospel Church	Weekly
Allen Temple Baptist Church	Weekly

### Staff Suggested Paid Outreach Events

Event	Date	Cost
Friday Nights at the Oakland Museum	Returns April 2024	TBD
Art and Soul Festival	September 2024	\$350
Oaktoberfest	October 2024	\$270



## Outreach Subcommittee

**Members:** Vince Steele (Chair), Alea Gage, and Ryan Micik

### March 7, 2024 Minutes

**Attendees – Members:** Commissioners Steele, Gage, Chair Micik

**Attendees – Staff:** Nicolas Heidorn, Executive Director; Jelani Killings, Ethics Analyst

#### *Discussion:*

The meeting began with a discussion of the outreach materials produced by staff. We reviewed the roadshow presentation document, roadshow outline, handouts and flyers. Chair Micik suggested we also have an elevator pitch that can be used as a shorter, concise version adaptable to various audiences.

The subcommittee discussed the outreach calendar as well. Based on committee input we decided that we will all confirm our outreach targets (date/times) and report back via email.

The subcommittee then discussed outreach goals for democracy dollars and clarifying those metrics. We plan to revisit the conversation in April/May following an upcoming presentation that will help us pinpoint the key areas democracy dollars should be focused.

#### Action Steps:

- Chair Micik will send 3-5 minute elevator pitch to committee.
- Staff will send ppt. presentation to committee for use in the field.
- Commissioners will confirm date/times of upcoming presentations based on their identified targets.

# Item 14B - Charter Review Subcommittee

## Minutes

### Charter Review Ad Hoc Subcommittee

(ad hoc, created December 13, 2023)

**Members:** Ryan Micik (Chair), Charlotte Hill, Karun Tilak

#### March 21, 2024 Minutes

**Attendees – Members:** Commissioners Micik, Hill, Tilak

**Attendees – Staff:** Director Nicolas Heidorn

#### Discussion

1. **Charter Review in Other Jurisdictions:** Commissioners reviewed charter amendment proposals affecting the Los Angeles Ethics Commission and San Diego Ethics Commission.
2. **Review of Charter Amendment Language:** Commissioners reviewed draft Charter amendment language.

# Item 14B - Charter Review Subcommittee

## Minutes

### Charter Review Ad Hoc Subcommittee

(ad hoc, created December 13, 2023)

**Members:** Ryan Micik (Chair), Charlotte Hill, Karun Tilak

#### March 25, 2024 Minutes

**Attendees – Members:** Commissioners Micik, Hill, Tilak

**Attendees – Staff:** Director Nicolas Heidorn

#### Discussion

1. **Review of New Charter Change Proposals:** Commissioners discussed several potential changes to the Charter or OMC relating to the PEC's structure, duties, and staffing, including: clarifying the vote threshold to pass motions, holdover terms, Commissioner removal, rulemaking, and lobbyist gifts.
2. **Review of Charter Amendment Language:** Commissioners reviewed draft Charter amendment language.
3. **Recommendation to PEC.** Commissioners discussed the motion to be recommended to the full Commission at the April meeting. Commissioners agreed the PEC should be asked to recommend charter amendment language that is substantially similar to the proposed language and to approve of Staff, in consultation with the Chair, requesting that the Council place one or more of the policy proposals in the draft language on the November 2024 ballot.