



Public Comment: A member of the public may speak on any item appearing on the agenda. Speakers are generally allotted a maximum of three minutes, subject to change by the Chair.

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

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

Commission Staff to attend: Nicolas Heidorn, Executive Director; Tovah Ackerman, Enforcement Chief; Suzanne Doran, Program Manager; 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 for assistance filing a complaint.

ACTION ITEM

- 4. Approval of Commission Meeting Draft Minutes.**
 - a. December 11, 2024, Regular Meeting Minutes. ([Meeting Minutes](#))
 - b. January 29, 2025, Regular Meeting Minutes ([Meeting Minutes](#))
- 5. Final Action on PEC Case No. 23-28 (In the Matter of Michael Dabney).** On October 2, 2023, PEC Enforcement Staff opened an investigation into allegations that a mobile food vendor named Michael Dabney attempted to bribe a City inspector. At the



conclusion of its investigation, Enforcement Staff charged Mr. Dabney with two violations of the Government Ethics Act: bribery and knowingly providing false information to the PEC. The case was referred to an administrative hearing, with Commissioner Karun Tilak serving as Hearing Officer. The hearing occurred on January 23, 2025, after which Hearing Officer Tilak drafted proposed Findings of Facts and Conclusions, which includes a recommended penalty of \$1,750. The Commission shall review the attached proposed Findings of Facts and Conclusions and may adopt them in their entirety or adopt the Findings of Fact and reach additional or different conclusions consistent with the Findings of Fact, which may include different conclusions as to whether or not a violation occurred as to each count or assessing different penalties. ([Staff Memo; Proposed Findings of Fact and Conclusions \(FFCs\); Enforcement's Response to the FFCs; Respondent's Response to the FFCs.](#))

6. **Form 700 Enforcement Update and Closure Recommendation (PEC ## 24-05.4, 24-05.11, 24-05.12, 24-05.14, 24-05.16, 24-05.19, 24-05.21, 24-05.24, 24-05.27, 24-05.30, 24-05.33, 24-05.37, 24-05.40, 24-05.43, 24-05.44, 24-05.45, 24-05.47, 24-05.50, 24-05.55) and Settlement Recommendation (PEC ## 24-05.28, 24-05.32, 24-05.34, 24-05.35, 24-05.39, 24-05.41, 24-05.42, 24-05.46).** Enforcement Staff presents an update on PEC staff's enforcement efforts regarding alleged non-filers of the 2023 Annual form 700 (PEC #24-05), as well as (A) a recommendation to close cases against alleged non-filers with valid reasons for non-filing and (B) a recommendation to settle cases against alleged non-filers that have since filed requiring them to complete diversion training. ([Staff Memo and Closure and Settlement Recommendations; Proposed Settlements in PEC ## 24-05.28, 24-05.32, 24-05.34, 24-05.35, 24-05.39, 24-05.41, 24-05.42, 24-05.46](#))

INFORMATION/DISCUSSION ITEMS

7. **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](#))
8. **Enforcement Program.** Enforcement Chief Tovah Ackerman 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; Completed](#)



[Mediations](#))

- 10. Revenue Options to Fund the PEC.** The Commission shall receive an update on potential options developed by the Revenue Options Ad Hoc Subcommittee for a revenue-generating ballot measure in 2026 to fund Measure W, an expanded PEC's Enforcement Unit, or the full PEC. ([Memo](#))

ACTION ITEMS

- 11. Amendments to the PEC's Operations Policies.** The Commission shall consider, and may adopt, a proposal by Chair Upton IV and Staff to amend the PEC's Operations Policies. Among other changes, the amendments include new provisions on the commissioner selection process and the filling of Commission vacancies, a requirement that ad hoc committees keep meeting minutes, changes to the Commission meeting scheduling and noticing requirements, and changes that align the Policies with new laws enacted since the Policies were first adopted. ([Memo](#); [Proposed Amendments](#))

CLOSED SESSION

- 12. Executive Director Performance.** The Commission will meet in closed session to discuss the Executive Director's performance. This is a personnel-related matter authorized to occur in closed session pursuant to Government Code Section 54957(b).

ACTION ITEM

- 13. Executive Director Compensation and Management Leave.** The Commission will consider and possibly approve increasing the Executive Director's compensation and will consider and possibly approve awarding the Executive Director additional management leave. ([Staff memorandum](#); [ED Job Description](#); [Chair Upton IV Memo](#))

INFORMATION/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. **Revenue Options Ad Hoc Subcommittee** (ad hoc, created January 29, 2025) - Upton (Chair), Gage, and Micik ([Purpose Statement](#); [Minutes](#))
- b. **Democracy Dollars Engagement Ad Hoc Subcommittee** (ad hoc, created January 29, 2025) - Tilak (Chair), Bayeva, and Gage ([Minutes](#))

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:

- **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 currently.
- **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/kc69Y2Mnzf>

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 or visit our webpage at www.oaklandca.gov/pec.

Nicolas Heidorn

03/7/25

Approved for Distribution

Date



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

Commission Staff to attend: Nicolas Heidorn, Executive Director; and Suzanne Doran, Program Manager.

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

PUBLIC ETHICS COMMISSION REGULAR MEETING MINUTES

PRELIMINARY ITEMS

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:34 p.m.

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

Members absent: None.

Staff present: Nicolas Heidorn; Suzanne Doran;

Legal Counsel: Christina Cameron.

2. Staff and Commission Announcements.

Chair Micik reminds Commissioners that the next regular meeting is in January and will include elections for Chair and Vice Chair for 2025.

The order of the agenda will be changed, moving Item 8 (Executive Director's Report) to take place after Item 3 (Open Forum). Item 8 has a guest speaker, and in order to better facilitate his time, the item has been moved up.

Public Comment: None.

3. Open Forum.

Public Comment: None.

Written public comment from Simon Russell was received prior to the meeting.

A full recording of public comments is available in the meeting video. Video recordings are



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posted on the meeting webpage, which may be found at www.oaklandca.gov/pec. Written public comments are posted on the meeting webpage, which may be found at www.oaklandca.gov/pec.

INFORMATION ITEM

8. Executive Director's Report.

Executive Director Nicolas Heidorn reported on, and Commissioners discussed, overall priorities and PEC activities, such as budget, staffing, and PEC legislative and policy initiatives not covered in other staff reports.

Suzanne Doran, Program Manager, and Niels Thorsen, Senior User Experience Designer of Open Oakland, spoke and answered questions from Commissioners regarding the Democracy Dollars project

Public Comment: None.

ACTION ITEM

4. Approval of Commission Meeting Draft Minutes.

a. October 9, 2024, Special Meeting Minutes

Public Comment: None.

Vice-Chair Upton moved, seconded by Tilak, to approve the October 9, 2024 Public Ethics Commission Special Meeting Minutes.

Ayes: Upton IV, Gage, Tilak, Micik.

Noes: None.

Abstain: Steele; Bayeva.

Vote: 4-0

Motion passed.

Executive Director Heidorn noted the Commission must approve Commissioner



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abstentions and the Commissioner should explain their reason for abstaining.

Commissioner Steele indicated he abstained because he was not present during the meeting held on October 9.

Commissioner Bayeva indicated she abstained because she was not yet a Commissioner at the time of the October 9 meeting.

Vice-Chair Upton moved, seconded by Gage, to ratify the abstentions in the previous vote regarding the October 9, 2024, Special Meeting Minutes, as well as approve the abstentions for the subsequent vote on the October 9, 2024, Regular Meeting Minutes.

Ayes: Upton IV, Bayeva, Gage, Steele, Tilak, Micik.

Noes: None.

Abstain: None.

Vote: 6-0

Motion passed.

b. October 9, 2024, Regular Meeting Minutes

Public Comment: None.

Tilak moved, seconded by Vice-Chair Upton, to approve the October 9, 2024 Public Ethics Commission Special Meeting Minutes.

Ayes: Upton IV, Gage, Tilak, Micik.

Noes: None.

Abstain: Steele; Bayeva.

Vote: 4-0

Motion passed.

INFORMATION ITEM



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5. 2024 Limited Public Financing (LPF) Program Summary.

Executive Director Nicolas Heidorn reported on, and Commissioners discussed, a summary of participation in the LPF Program by candidates for City Council District office in the 2024 election cycle.

Public Comment: None.

6. Disclosure and Engagement.

Executive Director Nicolas Heidorn reported on, and Commissioners discussed, compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting.

Public Comment: None.

7. Enforcement Program.

Executive Director Nicolas Heidorn reported on, and Commissioners discussed, the Commission's enforcement process, caseload, enforcement-related litigation, and case closures or dismissals.

Public Comment: None.

ACTION ITEMS

9. PEC Regular Meeting Schedule for 2025.

Executive Director Nicolas Heidorn explained, and the Commission discussed, the proposed regular meeting schedule for 2025.

Vice-Chair Upton requested a future agenda item discuss shortening the deadline for posting PEC regular meeting agendas.

Public Comment: None.

Gage moved, seconded by Steele, to approve the proposed 2025 Public Ethics Commission



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Meeting Schedule.

Ayes: Upton IV, Bayeva, Gage, Steele, Tilak, Micik.

Noes: None.

Abstain: None.

Vote: 6-0

Motion passed.

DISCUSSION ITEMS

10. Filling the Vacant Commission Seat Appointed by the Mayor.

Presently, the Commission has one commissioner vacancy, which is for a seat appointed by the Mayor. Executive Director Nicolas Heidorn reported on, and Commissioners discussed, whether the Commission should begin the process to appoint someone to that vacancy and, if so, the timing for taking this action.

Commissioners Micik, Upton, Gage, Steele, and Tilak indicated a preference that the Commission should appoint someone to fill the Mayoral vacancy rather than wait until after April when a new Mayor is elected.

Public Comment: None.

11. Streamlining PEC Commissioner Appointment Process.

The Commission is responsible for appointing 4 Commissioners to the Commission and, in some cases, vacancies in Commission seats appointed by citywide elected officials. Commissioners discussed ways that the Commission could streamline its process for filling vacancies to the PEC, including potentially having pre-vetted applicants who could be appointed by the Commission to any vacancy that later occurs.

Vice-Chair Upton recommended using informal Ranked Choice Voting and keeping a list of previous applicants to reconsider for vacancies at a later date.



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Vice-Chair Upton offered to work on draft text of potential amendments to operating procedures to institutionalize a process for filling vacancies going forward, including those above. The result would be brought as an action item in a future meeting.

For the current vacancy, to select the Commissioner to fill the mayoral appointment seat, Commissioners Micik, Upton, Gage, Tilak, and Steele felt that the Commission should in January 2025 consider for appointment the runner-up candidates from the previous two Commission applicant recruitments. If neither candidate is available, the Executive Director could instead conduct a recruitment for the position.

Public Comment: None.

12. Reports on Subcommittees and Commissioner Assignments.

a. Commissioner Recruitment and Selection of Finalists for Interviews Subcommittee.

The Commission is being dissolved due to having selected the new Commissioner, Tanya Bayeva.

b. Charter Review Subcommittee.

The Commission will be dissolved in the January meeting due to the successful passage of Measure OO in the recent November 2024 election. The Commission met and discussed lessons learned, the process they went through, and the path forward to recording what they did in a way that's publicly accessible and can inform future Commissions.

Executive Director Heidorn is gathering documents and putting together summaries of the proposals the Commission recommended but didn't make it into Measure OO. Chair Micik is working on a memo that will summarize those results to be available for presentation at the January meeting.

Commissioners discussed launching a new Subcommittee on recruitment based on the previous discussion regarding filling vacancies. In addition, the Commission is considering a Subcommittee on Democracy Dollars/Measure W, but will delay that Subcommittee based on the uncertainty of Measure W in the current City political environment.

Public Comment: None.



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INFORMATION ITEM

13. Future Meeting Business.

Commissioners did not have any future meeting business to discuss.

Public Comment: None

The meeting adjourned at 9:05 p.m.



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

Commission Staff to attend: Nicolas Heidorn, Executive Director; Tovah Ackerman, Enforcement Chief; Suzanne Doran, Program Manager; and Alex Van Buskirk, Lead Analyst for Compliance, Disclosure, and Engagement;

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

PUBLIC ETHICS COMMISSION REGULAR MEETING MINUTES

PRELIMINARY ITEMS

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:35 p.m.

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

Members absent: None.

Staff present: Nicolas Heidorn; Tovah Ackerman; Suzanne Doran; Alex Van Buskirk;

Legal Counsel: Christina Cameron.

2. Staff and Commission Announcements.

Chair Micik changed the order of the agenda by moving Item 8 (Election of Officers (Chair and Vice-Chair) of the Commission) to the last item on the agenda.

Public Comment: None.

3. Open Forum.

Public Comment: None.

ACTION ITEM

4. Approval of Commission Meeting Draft Minutes.



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a. December 11, 2024, Special Meeting Minutes

Commissioner Bayeva pointed out that in the draft 12/11/2024 Meeting Minutes, under Item 4a, Commissioners Bayeva and Steele are listed as both voting “Aye” and abstaining on a motion.

The Commission took no action on this item.

Staff will return with corrected Draft Meeting Minutes at a subsequent meeting.

Public Comment: None.

INFORMATION ITEM

5. Disclosure and Engagement.

Lead Analyst for Compliance, Disclosure, and Engagement, Alex Van Buskirk, reported on, and Commissioners discussed, 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.

Executive Director Nicolas Heidorn reported on, and Commissioners discussed, the Commission’s enforcement process, caseload, enforcement-related litigation, and case closures or dismissals.

The PEC’s newly hired Enforcement Chief, Tovah Ackerman, introduced herself to the Commission.

Commissioner Gage requests that updates regarding execution of settlements and collection of penalties be included in future Enforcement Reports. Commissioner Tilak asked that staff, perhaps on a quarterly basis, report to the Commission on settlements and collections on penalties outstanding.



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Public Comment: None.

7. Executive Director's Report.

Executive Director Nicolas Heidorn reported on, and Commissioners discussed, overall priorities and PEC activities, such as budget, staffing, and PEC legislative and policy initiatives not covered in other staff reports.

Chair Micik recommended that staff ask for more than 1 additional enforcement staffer in the budget process to address the PEC's caseload needs.

Program Manager Suzanne Doran, spoke on the status of the Democracy Dollars project and what the PEC staff are currently working on regarding it.

Chair Micik suggested a potential revenue measure to fund Democracy Dollars is something the Commission should investigate and eventually put before voters.

Public Comment: David Shor, Gail Wallace.

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. Written public comments are posted on the meeting webpage, which may be found at www.oaklandca.gov/pec.

ACTION ITEMS

9. Appointment to PEC Vacancy.

Chair Micik explained that both applicants that were intended to be considered for appointment to the PEC vacancy at this meeting had to withdraw for personal reasons or did not meet the qualifications and requirements specified for the seat appointed by the Mayor.

The Commission, with input from Executive Director Heidorn, discussed options for moving forward.

Commissioners Micik, Upton, Gage, and Tilak asked Director Heidorn to contact the Mayor and see if he has any prospective candidates in mind or would like candidates



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forwarded to him or would like for the PEC to use their contact lists to ask potential candidates to contact the Mayor.

Public Comment: None.

DISCUSSION ITEMS

10. Biennial Adjustment to Campaign Contribution Limits, Voluntary Spending Limits, and Maximum Democracy Dollars Proceeds.

The Commission is responsible for adjusting Oakland's Campaign Contribution and Spending Limits as well as maximum Democracy Dollars (DD) proceeds biennially according to the increase in the Consumer Price Index for the preceding two years, pursuant to the Oakland Campaign Reform Act and Oakland Fair Elections Act.

Program Manager Suzanne Doran presented, and Commissioners discussed, the adjusted contribution limits, spending limits, and DD proceeds for the 2025-2026 election cycle.

Public Comment: None.

Commissioner Tilak moved, seconded by Gage, to adopt the staff's recommendations to approve the adjusted contribution limits, spending limits, and DD proceeds for the 2025-2026 election cycle.

Ayes: Vice Chair Upton, Bayeva, Gage, Steele, Tilak, Chair Micik

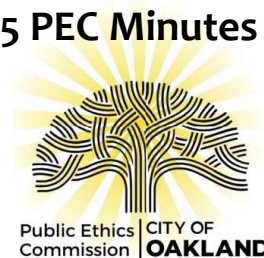
Noes: None.

Vote: 6-0

Motion passed.

11. Adjustment of the PEC's Regular Meeting Notice Period.

Executive Director Heidorn presented on, and Commissioners discussed a proposal to recommend that the City Council amend the Municipal Code to reduce from 10 days to



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7 days the notice period for the posting of the PEC's Regular Meeting agendas.

Public Comment: Gail Wallace.

Commissioner Gage moved, seconded by Upton, to endorse the staff proposal to shorten the notice period for the posting of the PEC's Regular Meeting agendas.

Ayes: Vice Chair Upton, Bayeva, Gage, Steele, Tilak, Chair Micik

Noes: None.

Vote: 6-0

Motion passed.

The Commission took a ten-minute recess at 8:28pm.

The Commission reconvened at 8:38pm.

12. Amendment to the PEC's Penalty Guidelines.

Executive Director Heidorn and Lead Analyst for Compliance, Disclosure, and Engagement Alex Van Buskirk presented on, and the Commission discussed, a proposal to amend the Commission's Penalty Guidelines to adjust the amount and process for determining streamline penalties for Form 700 late- and non-filers.

Public Comment: None.

Vice Chair Upton moved, seconded by Steele, to adopt the staff recommendations.

Ayes: Vice Chair Upton, Bayeva, Gage, Steele, Tilak, Micik

Noes: None.

Vote: 6-0



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Motion passed.

INFORMATION/DISCUSSION ITEMS

13. PEC Commissioner Appointment Process.

The Commission is responsible for appointing 4 Commissioners to the Commission and, in some cases, may fill vacancies in Commission seats appointed by citywide elected officials. Continuing a discussion begun at its December 11, 2024, meeting, Vice Chair Upton IV presented on, and Commissioners discussed, the process for appointing commissioners to the PEC, including proposed changes to the PEC's Operations Policies to streamline the process for filling vacancies and to use of Ranked Choice Voting in the selection process when there are more than two candidates for appointment.

Staff, with assistance of Vice Chair Upton IV, will return to the Commission with proposed language amending the Operations Policies that implements his proposal.

Public Comment: None.

14. Reports on Subcommittees and Commissioner Assignments.

a. Charter Review Subcommittee.

Chair Micik reported the Subcommittee completed most of its work and issued its recommendations for amending the charter mid-year last year. The City Council took those recommendations and created a modified set of amendments that were put into Measure OO, which was approved by voters in November 2024. However, some of the recommendations suggested by the Subcommittee were not included in Measure OO, and the Subcommittee wished to memorialize them.

The Subcommittee issued a closing document that includes those recommendations and also descriptions and lessons learned from the process of forwarding such a proposal to City Council and eventually ballots. To memorialize this work, Chair Micik requested that staff post on the Subcommittee's closure document to its website.

Vice Chair Upton noted that the procedures for how Subcommittees work may not be recorded. The PEC started doing Termination Statements for ending Subcommittees that



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have proven to be useful. He suggested creating guidelines on how to run and formal guidance on Subcommittees, including possibly creating a Subcommittee to discuss how to structure and run Subcommittees.

Chair Micik created the Revenue Options Ad Hoc Subcommittee and appointed Vice Chair Upton as chair, and Micik and Gage as members.

Chair Micik created the Democracy Dollars Engagement Ad Hoc Subcommittee and appointed Commissioner Tilak as chair, and Bayeva and Gage as members.
Public Comment: None.

INFORMATION ITEM

15. Future Meeting Business.

Commissioners did not have any future meeting business to discuss.

Public Comment: None.

ACTION ITEM

8. Election of Officers (Chair and Vice-Chair) of the Commission.

Commissioner Tilak nominated Vice Chair Upton to serve as Chair of the PEC.
Commissioner Upton accepted the nomination.

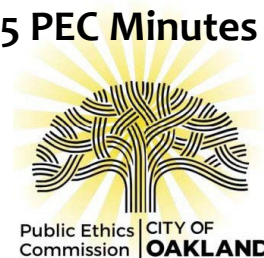
Commissioner Bayeva nominated Chair Micik to serve an additional term as Chair.
Commissioner Micik declined the nomination.

Commissioner Tilak moved, seconded by Micik, to nominate Commissioner Upton as Chair of the PEC.

Public Comment: None.

Ayes: Vice Chair Upton, Bayeva, Gage, Steele, Tilak, Chair Micik

Noes: None.



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Vote: 6-0

Motion passed.

Vice Chair Upton nominated Commissioner Tilak to serve as Vice Chair of the PEC.
Commissioner Tilak declined the nomination.

Commissioner Steele nominated Commissioner Gage to serve as Vice Chair of the PEC.
Commissioner Gage declined the nomination.

Vice Chair Upton nominated Commissioner Bayeva as Vice Chair of the PEC.
Commissioner Bayeva accepted the nomination.

Vice Chair Upton moved, seconded by Micik, to nominate Commissioner Bayeva as
Vice Chair of the PEC.

Public Comment: None.

Ayes: Vice Chair Upton, Bayeva, Gage, Steele, Tilak, Chair Micik

Noes: None.

Vote: 6-0

Motion passed.

Commissioner Gage and Director Heidorn expressed their appreciation for the work
of Commissioner Micik as Chair for the past two years.

The meeting adjourned at 9:38 p.m.



Item 5 - Final Action on PEC Case No. 23-28

Francis Upton, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: March 1, 2025
RE: Commission Final Action - In Re Dabney (PEC Case No. 23-28)

At its March 19, 2025, meeting, the Public Ethics Commission (Commission or PEC) will consider Hearing Officer Karun Tilak's Proposed Findings of Fact and Conclusions in PEC Case No. 23-28, *In the Matter of Michael Dabney*. The Commission shall review the attached proposed Findings of Facts and Conclusions and may adopt them in their entirety, or adopt the Findings of Fact and reach additional or different conclusions consistent with the Findings of Fact, which may include different conclusions as to whether or not a violation occurred as to each count or assessing different penalties. The Commission's decision and order shall constitute closure of the administrative process for this complaint.

This memo summarizes the procedural posture of this case and the Commission's role and options in reviewing the Proposed Findings of Facts and Conclusions (FFCs). Attached to this memo are: (1) the Findings of Facts and Conclusions; (2) the Enforcement Unit's (Complainant's) response to the FFCs; and (3) Michael Dabney's (Respondent's) response to the FFCs.

I. Background & Procedural Posture

On October 2, 2023, Public Ethics Commission (Commission or PEC) Enforcement Staff opened an investigation into allegations that a mobile food vendor named Michael Dabney (Respondent) attempted to bribe a City inspector. At the conclusion of its investigation, the Enforcement Unit of the PEC (Complainant) charged Mr. Dabney with two violations of the Government Ethics Act (GEA): (1) bribery (Oakland Municipal Code Sec. 2.25.070(A)) and (2) knowingly providing false information to the PEC (O.M.C. Sec. 2.25.080(C)(7)). On June 12, 2024, the Commission found that there was probable cause to believe a violation of GEA occurred and referred the case to an administrative hearing.

The hearing occurred on January 23, 2025, with Commissioner Karun Tilak serving as Hearing Officer. Deputy City Attorney Patrick Bears represented the Complainant and the Respondent. Michael Dabney represented himself at the hearing. The Respondent denied that he violated GEA. At the conclusion of the hearing, Hearing Officer Tilak drafted proposed Findings of Facts and Conclusions (FFCs) finding that the Respondent had violated GEA as to both counts and recommending a total penalty of \$1,750.

The Executive Director of the Commission provided both parties, the Complainant and the Respondent, with a copy of the proposed FFCs on January 30, 2025. Under the Commission's Complaint Procedures (CP), "No later than seven days after delivery, any party may submit a

written request to the Commission Chair that that the person(s) who conducted the hearing be directed to re-hear all or portions of the complaint.” (CP Sec. VII(1)(1)(a).) As neither party requested a re-hearing during that time, the Proposed FFCs will be considered by the full Commission at its March 19, 2025, meeting. The parties were notified of this meeting date on February 10, 2025, and were invited to provide up to a 5-page response to the FFCs for inclusion in the meeting packet. Both the Complainant and the Respondent submitted a response on March 6, 2025.

II. Hearing Officer’s Proposed Decision

The Hearing Officer’s proposed decision finds that the Respondent, Michael Dabney, committed the following violations of the Government Ethics Act:

Count 1: GEA § 2.25.070(A) (Bribery)¹

Hearing Officer Tilak found that, in violation of O.M.C. § 2.25.070(A), the Respondent offered a City inspector cash in exchange for the issuance of a mobile food vendor permit or to persuade the inspector not to cite the Respondent for operating an unpermitted mobile food vending operation.

Hearing Officer Tilak recommends a penalty of **\$1,500** for this violation.

Count 2: GEA § 2.25.080(C)(7) (Knowingly Providing False Statements)²

Hearing Officer Tilak found that, in violation of O.M.C. 2.25.080(C)(7), the Respondent intended to convey false information when he told the PEC Enforcement Unit that he was seeking a loan from a City inspector.

Hearing Officer Tilak recommends a penalty of **\$250** for this violation.

III. Possible Actions by the Commission

Under the Commission’s Complaint Procedures, upon receipt of the Hearing Officer’s proposed Findings of Fact and Conclusions (FFCs), the Commission shall either adopt the FFCs “in their entirety” or, alternatively “adopt the Findings of Fact and reach additional or different conclusions consistent with the Findings of Fact.” (Complaint Procedures Sec. VII(1)(2).) The Commission has discretion to “reach additional or different conclusions consistent with the Findings of Fact,

¹ O.M.C. Sec. 2.25.070(A) provides: “Prohibition on Bribery. No person shall offer or make, and no Public Servant shall solicit or accept, anything of value in exchange for the performance of any official act.”

² O.M.C. Sec. 2.25.080(C)(7)(a) provides: “False Charges and Information. A person shall not knowingly and intentionally furnish false or fraudulent complaints, evidence, documents, or information to the Public Ethics Commission, District Attorney or City Attorney, or knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Commission, District Attorney or City Attorney of an alleged violation of this Act.”

including the full range of options from dismissal, with or without a warning letter, through assessment of maximum penalties, including other remedial measures.” (Ibid.) The Commission’s enabling ordinance specifies that the Commission may determine that any violation of law occurred “only if the weight of the evidence shows that it was more likely than not that a violation occurred.” (O.M.C. Sec. 2.24.070(C); see also Complaint Procedures Sec. VII(I)(4).)

If the Commission decides to adopt the Hearing Officer’s proposed decision in its entirety, the proposed decision will be adopted as the Commission’s decision and the Respondent will be ordered to pay an administrative penalty of \$1,750.

Alternatively, if the Commission decides that the Hearing Officer’s factual findings warrant a different legal conclusion and/or a different penalty, the Commission may adopt the Hearing Officer’s proposed factual finding and additional or different legal conclusions and/or impose a different penalty.

Whether the Commission decides to adopt the proposed Findings of Fact and Conclusions in its entirety or adopt different legal conclusions and/or penalties, the Commission’s decision and order will constitute the closure of the administrative process for this matter. (Complaint Procedures Sec. VII(J); O.M.C. Sec. 2.24.070(C).) Under the City Charter, “[f]inal 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 (4) members.” (Charter Sec. 603(f)(2).

Attachments:

1. **Hearing Officer’s Proposed Findings of Fact and Conclusions**
2. **Enforcement’s Response to the FFCs**
3. **Respondent’s Response to the FFCs**

PEC Policies Links:

4. **Complaint Procedures:** https://cao-94612.s3.us-west-2.amazonaws.com/documents/PEC-Complaint-Procedures-effective-January-7-2024_2025-01-07-003518_bwru.pdf
5. **Penalty Guidelines:** https://cao-94612.s3.us-west-2.amazonaws.com/documents/Enforcement-Penalty-Guidelines-effective-8.11.2024_2025-01-07-003752_ndud.pdf

BEFORE THE CITY OF OAKLAND
PUBLIC ETHICS COMMISSION

ENFORCEMENT UNIT OF THE CITY OF
OAKLAND PUBLIC ETHICS COMMISSION,

Complainant,

v.

MICHAEL DABNEY,

Respondent.

Case No.: 23-28

**FINDINGS OF FACT AND
CONCLUSIONS**

1. Hearing Officer Karun Tilak heard this case on January 23, 2025, at 6:30p.m. at Oakland City Hall, 1 Frank H. Ogawa Plaza, Oakland, California, in Hearing Room 2. Patrick Bears, Deputy City Attorney, represented the Petitioner, the Public Ethics Commission (“PEC”) Enforcement Unit (“Petitioner”). Respondent Michael Dabney (“Mr. Dabney”) represented himself.
2. The record was closed and the case submitted on January 23, 2025.
3. As discussed further below, I find that it is more likely than not that Respondent Mr. Dabney made an offer to Moises Campos, an employee of the City of Oakland (“City”), of something of value in exchange for an official act. I also find that Mr. Dabney subsequently knowingly provided false information to the Public Ethics Commission as part of its investigation. As such, I conclude that Mr. Dabney engaged in conduct in violation of the Government Ethics Act (“GEA”) §§ 2.25.070(A) and 2.25.080(C)(7). I further recommend penalties in the amount of \$1,500 for the violation of GEA § 2.25.070(A) and \$250 for the violation of GEA § 2.25.080(C)(7).

1 **I. SUMMARY OF EVIDENCE PRESENTED**

2 **A. PETITIONER'S CASE**

3 4. Petitioner is the Enforcement Unit of the PEC.

4 5. On January 17, 2025, Petitioner submitted a 15-page Hearing Brief. Petitioner
5 also submitted seven exhibits (labeled E1-A, E2-B, E3-C, E4-D, E5-E, E6-F, and E7-G). Each
6 of these exhibits was admitted into the record and is attached to and incorporated into these
7 Findings and Conclusions as **Appendix A**.

8 6. Petitioner presented the testimony of two witnesses, Moises Campos and Nancy
9 Marcus.¹

10 i. **Moises Campos**

11 7. Mr. Campos works as a Special Activity Permit Inspector for the Special Activity
12 Permits Division, a role he has had for seven years. In this role, Mr. Campos is responsible for
13 conducting inspections for various categories of businesses, including as relevant here, mobile
14 food vendors. Mr. Campos's role does not involve handling permitting applications or processing
15 payments.

16 8. Under the City's regulations, mobile food vendors must have permits from the
17 City. As an inspector, Mr. Campos conducts inspections to make sure vendors have the required
18 permits. For those vendors who do not have a permit, Mr. Campos first engages in education
19 and outreach to bring them into compliance. If that does not work, citations may be issued with
20 fines ranging from \$250 to \$1500, depending on the number and seriousness of the violations.
21 In certain cases of continuing violations, a vendor's food may be seized.

22 9. Mr. Campos has conducted inspections of mobile food vendors at Lake Merritt
23 starting in at least 2020, and it appears that Mr. Campos and Mr. Dabney have had several
24 interactions during the course of these inspections. Mr. Campos could not recall exactly how
25 many times they had met but estimated he had met Mr. Dabney a couple of times. Text message
26 correspondence between Mr. Campos and Mr. Dabney goes back to at least July 2020, though
27 the text messages are infrequent. *See Exhibit E4-D*.

28 ¹ Both Petitioner and Respondent's witnesses were sequestered during the proceeding so that they did not hear each other's testimony.

1 10. Mr. Campos testified that in July 2023 he was conducting an inspection at Lake
2 Merritt and saw that Mr. Dabney was operating a mobile food vending stand without the required
3 mobile food vending permit. Mr. Campos told Mr. Dabney he was not in compliance and that if
4 he continued to vend without the required permit, he could be subject to citations.

5 11. During this encounter, Mr. Campos informed Mr. Dabney about a program
6 through the Feed the Hunger Fund (“FTHF”), an entity not associated with the City that provides
7 loans to small food businesses. Mr. Campos suggested that FTHF may have funding available
8 to help Mr. Dabney bring his business into compliance. Mr. Dabney subsequently followed up
9 by email to ask about the FHTF program, and Mr. Campos sent him a flyer with relevant
10 information. *See Exhibits E6-F and E7-G.*

11 12. To Mr. Campos’s knowledge, neither the City nor Mr. Campos’s division
12 provides money to mobile food vendors.

13 13. Subsequently, on August 17, 2023, Mr. Dabney texted Mr. Campos “Rainbow
14 Italian Ice calling you. Hit me back if you got a minute.” *See Exhibit E4-D.*

15 14. On August 18, 2023, Mr. Campos and Mr. Dabney spoke on the phone. Mr.
16 Campos was in his office at the time. Mr. Campos’s recollection of the call is that Mr. Dabney
17 indicated that he wanted to discuss “business.” At this point, Mr. Campos walked over to his
18 colleague, Ms. Marcus, and placed the call on speakerphone. Mr. Campos testified that he asked
19 Mr. Dabney what kind of business he wanted to discuss, and Mr. Dabney said it involved him
20 paying Mr. Campos in cash. Mr. Campos informed Mr. Dabney that he could not accept any
21 money and ended the call. The call lasted approximately one minute. *See Exhibit E5-E.*

22 15. Mr. Campos denied that Mr. Dabney asked for a loan during the call. Based on
23 his recollection, there was no background noise to suggest that Mr. Dabney was driving during
24 the call.

25 16. Mr. Campos stated that when Mr. Dabney said he wanted to discuss “business,”
26 this raised Mr. Campos’s suspicions because he did not have a relationship with Mr. Dabney that
27 would make it likely Mr. Dabney would want to talk business. Mr. Campos also stated that he
28 has previously had experience with other entities he inspected trying to offer him money, and

“discussing business” was used as a hint to suggest a bribe. He stated that in these kinds of circumstances, it was his practice to have another person witness the phone call to be able to confirm what occurred.

17. On August 20, 2023, Mr. Campos sent an email to his supervisor recounting the phone call. In the email, Mr. Campos stated that Mr. Dabney said he wanted to “discuss business” and said that “it involved him paying [Mr. Campos] in cash.” **Exhibit E1-A.**

18. Mr. Campos denied having a social relationship or extensive relationship with Mr. Dabney, although he acknowledged meeting him a few times prior to July 2023 in the course of prior inspections.

ii. **Nancy Marcus**

19. Ms. Marcus is an Administrator Analyst with the Special Activity Permits Division, a role she has had for sixteen years. In her role, Ms. Marcus is responsible for handling permit applications and processing payments, including for mobile food vendors.

20. Ms. Marcus testified that Mr. Dabney had applied for a mobile food vendor permit in 2020, but the permit was never issued because Mr. Dabney did not have proof of worker’s compensation (a requirement to obtain a permit).

21. Ms. Marcus indicated that Mr. Dabney’s mobile food vendor permit application ended when the State lifted certain COVID restrictions, which she believed happened in 2022. After that, a new permit would have to be submitted, subject to new fees.

22. Ms. Marcus recalled the phone call between Mr. Campos and Mr. Dabney on August 18, 2023. She indicated that Mr. Campos came over to her with the phone on speakerphone. In her recollection, Mr. Dabney said he would give Mr. Campos the money if he gave Mr. Dabney a permit. Mr. Campos said he could not accept the money and ended the call.

23. Ms. Marcus said that she had prior experience witnessing phone calls for Mr. Campos and other inspectors because they have previously been offered bribes by regulated entities.

24. Ms. Marcus denied that Mr. Dabney asked Mr. Campos for a loan. She also did not recall hearing background noise during the phone call that would suggest Mr. Dabney was

on speakerphone while driving. But she acknowledged it was possible that there would not be background noise if it was quiet in the car.

25. Ms. Marcus initially testified that there was no reason for Mr. Dabney to pay for a permit because the City Council waived permit fees during the pandemic. However, in subsequent testimony, she clarified that the waiver of fees ended in 2022, so that by the time of the phone call in August 2023, the City was once again charging for permits.

26. Ms. Marcus also explained that at one point the City tried to create a pilot program to coordinate the vendors at Lake Meritt. The City hired an organizer who tried to get an event sponsor permit that would cover certain approved vendors at the Lake (so those vendors would not be required to obtain individual permits from the City). However, the program manager was unsuccessful in getting the required information from vendors at the Lake and the program fell through.

B. RESPONDENT'S CASE

27. Respondent is Mr. Michael Dabney.

28. Mr. Dabney provided no written argument. Mr. Dabney provided one exhibit, a sworn affidavit of Christopher Williams (labeled R-1). Exhibit R-1 was admitted into the record and is attached and incorporated into these Findings and Conclusions as **Appendix B**.

29. Mr. Dabney presented his own testimony as well as the testimony of Christopher Williams.

i. Michael Dabney

30. Mr. Dabney has operated his business for twenty years. Most of his business is operated at public and private events, such as festivals or fairs, and very little of his business is done as a street vendor. However, when the COVID-19 pandemic hit in 2020 and the normal sources of revenue for his business dried up, Mr. Dabney opened up as a mobile food vendor at Lake Merritt.

1 31. Mr. Dabney applied for a mobile food vendor permit in 2020. However, getting
2 worker's compensation proved to be cost prohibitive, so he did not pursue his application any
3 further.²

4 32. As the COVID-19 restrictions lifted, Mr. Dabney's business once again began to
5 focus on events and shows, and street vending again became an insignificant part of his business.
6 Mr. Dabney indicated that by 2023, he would only operate at Lake Merritt on the few days when
7 he had no other events. He stated that he no longer needed to operate at Lake Merritt as part of
8 his business and thus had no need of a mobile food vendor permit from the City. However, he
9 did not dispute that he was vending at Lake Merritt in July 2023 without a permit.

10 33. Mr. Dabney stated that he was experiencing personal financial difficulties in 2023.
11 He agrees that he spoke with Mr. Campos on August 18, 2023, but said it was only for the purpose
12 of asking for a \$500 loan. Mr. Campos said he could not provide a loan, and that was the extent
13 of the conversation. Mr. Dabney stated that he was driving during the phone call and put the call
14 on speakerphone, and that Chris Williams was in the car with him.

15 34. Mr. Dabney explained that he reached out to Mr. Campos for money because they
16 had engaged in numerous conversations at Lake Merritt during the course of Mr. Campos's
17 inspections, had talked about non-work related matters, and had a collegial relationship. In Mr.
18 Dabney's account, he had spoken with Mr. Campos hundreds of times prior to August 2023. Mr.
19 Dabney said he asked for and obtained the loan he was seeking from others.

20 35. Mr. Dabney testified that former PEC Enforcement Chief Simon Russell
21 subsequently interviewed him about the PEC's investigation. Mr. Dabney provided the same
22 account described above, except that he did not mention that he was in the car or that Mr.
23 Williams had witnessed the call. At the time, Mr. Dabney thought nothing of it. It was only after
24 he was notified that the Enforcement Unit would be seeking a probable cause determination from
25 the PEC that Mr. Dabney began to understand the severity of the matter and obtained the affidavit
26 from Mr. Williams (**Exhibit R-1**).

27 ² In his 2020 mobile food vendor permit application, **Exhibit E3-C**, Mr. Dabney stated he had 5 employees. In his
28 testimony, however, Mr. Dabney stated that he only had independent contractors, not employees, and therefore may
not have needed worker's compensation insurance. The specific characterization of whether Mr. Dabney hires
independent contractors or employees to work at his business is immaterial for purposes of the charges at issue here.

ii. **Christopher Williams**

36. Mr. Williams has worked for Mr. Dabney for several years. Mr. Williams has also lived with Mr. Dabney for at least a couple of years and pays him rent.

37. Mr. Williams worked at the Lake Merritt stand for Mr. Dabney's business from 2017 to present, but he did not have a specific recollection of the July 2023 encounter with Mr. Campos. Mr. Williams did not remember Mr. Campos by name, and could not recall if he had previously met Mr. Campos during the course of any inspections at Lake Merritt

38. Mr. Williams said he often rode with Mr. Dabney to or from events, and that Mr. Dabney would often take phone calls on the car's hands-free system.

39. Mr. Williams confirmed Mr. Dabney's account of the phone call with Mr. Campos.³

40. Mr. Williams said he wrote the affidavit, **Exhibit R-1**, and reviewed it before signing.

II. EVIDENTIARY STANDARD

41. The standard of proof applied in this hearing is a preponderance of the evidence.⁴ The burden of proof is on the petitioner.⁵ This means that the petitioner must demonstrate that the weight of the evidence shows that it was more likely than not—i.e., more than 50% likely—that the respondent violated the law.

42. To withstand a request for re-hearing, the proposed Findings of Fact may not contain a material error of fact that necessarily affects one or more conclusions and the conclusions must be supported by substantial evidence.⁶

³ As the recording of the hearing will reflect, in questioning Mr. Williams, Mr. Dabney stated as a factual matter that they were driving and he placed a phone call on speakerphone to Mr. Campos and asked for a loan, and Mr. Campos refused. Mr. Dabney asked if that was Mr. Williams's recollection, and Mr. Williams concurred.

⁴ Cal. Evid. Code §115; PEC Complaint Procedures § VII.I.4.

⁵ Cal. Evid. Code §500

⁶ PEC Complaint Procedures §VII.I.1.a.

1 **III. FINDINGS AND CONCLUSIONS**

2 **A. Findings of Fact**

3 43. Based on the testimony and exhibits in the record, certain facts are undisputed. Mr.
4 Dabney operated a mobile food vending operation at Lake Merritt from at least 2020 through at
5 least July 2023. He initially applied for a mobile food vendor permit in 2020, but never
6 completed the permit process because he was required to obtain Worker's Compensation
7 insurance and did not (or could not) do so. His permit lapsed sometime in 2022, and as of July
8 2023 he had no pending permit application. In July 2023, Mr. Dabney was operating at Lake
9 Merritt without a permit. His stall was inspected by Mr. Campos. Mr. Campos then sent him
10 the FTHF flyer shortly thereafter. A few weeks later Mr. Dabney texted Mr. Campos and then
11 they spoke on the phone on August 18, 2023.

12 44. The crux of the dispute is what exactly was said during the August 18, 2023 phone call.
13 Rashomon-like, we are presented with radically differing accounts of the phone call. As
14 discussed above, Mr. Campos and Ms. Marcus testified that Mr. Dabney offered to pay Mr.
15 Campos cash. Mr. Dabney and Mr. Williams testified that Mr. Dabney asked for a personal loan
16 of \$500. Resolving these discrepancies will entail making credibility determinations regarding
17 the witnesses and their accounts.

18 45. Ultimately, I find it more likely than not that Mr. Dabney offered Mr. Campos cash
19 during the phone call. I make this finding for the following reasons.

20 46. First, while I find Mr. Dabney credible when he testified to experiencing personal
21 financial difficulties, I find Mr. Dabney's reasons for seeking a personal loan from Mr. Campos
22 specifically are not credible. While Mr. Dabney claims to have a jovial relationship with Mr.
23 Campos and have interacted with him hundreds of times, their text message conversations
24 suggest only sporadic conversations between 2020 and 2023—a few texts in July and October
25 2020 and then a text in August 2023. *See Exhibit E4-D.* Mr. Campos also testified that while
26 he did not remember the exact number of times he had interacted with Mr. Dabney, it was likely
27 only a handful. While Mr. Dabney and Mr. Campos certainly interacted prior to July 2023, in
28 my view they did not have the kind of relationship that Mr. Dabney described. It is also notable

that Mr. Dabney has never contended that he was following up about the FHTF program for a business loan, which might lend some plausibility to his reason for calling Mr. Campos. He has consistently maintained that he called Mr. Campos for a personal loan, which is not plausible given the evidence regarding their relationship.

47. Second, I found both Mr. Campos and Ms. Marcus's account of the phone call to be credible. Mr. Campos in particular described prior experience being offered bribes by regulated entities, and the use of "discussing business" as a potential euphemism for a bribe. Mr. Campos and Ms. Marcus both explained their practice of having someone witness a phone call with a regulated entity when there may be illicit conduct discussed. Their conduct in this case appears to be consistent with their practice when dealing with potentially illegal requests by regulated parties.

48. Third, Mr. Campos and Ms. Marcus created a near-contemporaneous record of the phone call. On August 20, 2023, Mr. Campos emailed his supervisor, Greg Minor, regarding his call with Mr. Dabney. **Exhibit E1-A**. That record is consistent with the testimony offered by Mr. Campos and Ms. Marcus.

49. Fourth, I did not find Mr. Williams's testimony to be credible. This finding is *not* based on the fact that Mr. Williams works for Mr. Dabney and lives with him. Rather, my finding of a lack of credibility is based on the fact that Mr. Williams appeared to lack any independent recollection about the phone call. He simply concurred with facts stated to him by Mr. Dabney.

50. Fifth, I found credible Mr. Campos and Ms. Marcus's consistent accounts of not hearing background noise or anything to suggest that Mr. Dabney was driving.

51. As such, on balance, I find it more likely than not that Mr. Dabney offered Mr. Campos cash during the August 18, 2023 phone call.

52. There is a lack of evidence in the record to determine the amount of cash Mr. Dabney offered. Neither Mr. Campos nor Ms. Marcus testified as to the specific amount that Mr. Dabney offered to pay. The email Mr. Campos wrote to his supervisor, **Exhibit E1-A**, likewise does not indicate the amount of the proposed bribe.

53. As to what specifically Mr. Dabney was seeking in return for the bribe, I note that Mr. Campos and Ms. Marcus's accounts differ. In his testimony, Mr. Campos did not state that Mr. Dabney specifically asked for a permit in return for the bribe. Ms. Marcus, however, claimed that Mr. Dabney asked for a permit in exchange for the money.

54. Nevertheless, I find that Mr. Dabney offered to pay Mr. Campos cash for one of two purposes: either to obtain a permit or to persuade Mr. Campos not to issue any citations to Mr. Dabney. While I found Mr. Dabney credible in his testimony that he had shifted most of his business away from Lake Merritt by 2023, he conceded that he was operating there in July 2023 and he stated that he continued to operate at the lake on days when he had no other events. Mr. Williams also testified that he worked for Mr. Dabney at the lake to the present day. As such, even if Mr. Dabney did not anticipate operating at Lake Merritt on a regular basis. Mr. Dabney still contemplated some operations as a mobile food vendor at the lake. To continue these operations, even sporadically, Mr. Dabney would need a permit or would need inspectors to look the other way.

55. In light of the above findings, I also find that the information submitted by Mr. Dabney to the PEC Enforcement Unit was false and that Mr. Dabney knew it to be false when he submitted it. Specifically, Mr. Dabney falsely informed the PEC's Enforcement Unit that he asked for a loan on the August 18, 2023 call and procured a false affidavit to support his story.

B. Conclusions

i. Count 1: GEA § 2.25.070(A) (Bribery)

56. GEA § 2.25.070(A) states that "No person shall offer to make, and no Public Servant shall solicit or accept, anything of value in exchange for the performance of any official act." To prove a violation of this provision, the Petitioner must prove three elements: (1) an offer; (2) of a thing of value; (3) in exchange for an official act. Each element is satisfied here.

57. **Offer:** As stated above, Mr. Dabney made an offer of cash to Mr. Campos.

58. **Thing of Value:** Cash is a thing of value. The fact that Mr. Dabney apparently did not state a specific amount for the bribe does not affect this conclusion. (*See, e.g.*, Judicial Council of California Criminal Jury Instructions No. 2600 ["The thing offered does not need to actually

be given, exist at the time it is offered, *or have a specific value*,” emphasis added]; *see* O.M.C. § 2.25.070(A) [not specifying a threshold amount for a thing of value].). Based on the context in which it was offered, it is reasonable to conclude that the cash that Mr. Dabney offered to Mr. Campos was a thing of value.

59. Exchange for an Official Act: As stated above, I find that the offer of a bribe was made in exchange either for the issuance of a permit or to persuade Mr. Campos not to issue any citations to Mr. Dabney. That the offer was not explicit is immaterial. (*See People v. Vollman* (1946) 73 Cal.App.2d 769, 786 [“The offer or solicitation of a bribe need not be stated in express language as such; it is sufficient that the words used carried the import of a bribe and were evidently intended to bear that meaning,” citation omitted].). Given the context of their prior interactions, including that Mr. Dabney did not have a permit and had been inspected by Mr. Campos in July 2023, it is more likely than not that the money was offered to implicitly seek the issuance of a permit or to avoid future citations. It is not necessary to decide the specific act that Mr. Dabney sought from Mr. Campos. For purposes of the statute, it is sufficient that the offer was made in connection with multiple possible official acts that could come before the Special Activity Permits Division. (*See People v. Gaio* (2000) 81 Cal.App.4th 919, 921, 932.)

ii. **Count 2: GEA § 2.25.080(C)(7) (Knowingly Providing False Statements)**

60. GEA § 2.25.080(C)(7) states that “A person shall not knowingly and intentionally furnish false or fraudulent complaints, evidence, documents, or information to the Public Ethics Commission . . . or knowingly and intentionally misrepresent any material fact . . . relevant to an investigation by the Commission . . . of an alleged violation of this Act.” This provision has three elements: (1) submitting false information or misrepresenting material facts to the PEC; (2) knowingly and intentionally; (3) in connection with a PEC investigation into a violation of the GEA. Each element is satisfied.

61. Submission of False Information/Misrepresentation of Material Fact: Based on my findings of fact, I conclude that Mr. Dabney’s statements about seeking a loan and his procurement of an affidavit from Mr. Williams to that effect are false and misrepresent material facts.

62. **Knowing and Intentional:** Mr. Dabney acted knowingly and intentionally in making the statements. Mr. Dabney clearly knew the substance of his conversation with Mr. Campos and intended to convey false information when he told the PEC Enforcement Unit that he was seeking a loan. He also knew that the PEC was investigating when he spoke with Mr. Russell, even if he did not appreciate the seriousness of the allegations.

63. **Investigation into Violation of the Act:** The charges here relate to violations of the GEA (see Count 1 above), and Mr. Dabney submitted false information and misrepresented material facts in connection to the alleged GEA violation.

IV. **RECOMMENDED PENALTIES.**

64. Having concluded that Mr. Dabney violated both GEA § 2.25.070(A) and GEA § 2.25.080(C)(7), I must now recommend penalties for each violation.

65. The PEC has adopted Enforcement Penalty Guidelines (“Guidelines”) that govern this proceeding. These Guidelines provide a non-exhaustive list of mitigating and aggravating circumstances that must be considered when setting a penalty amount. This list includes:

- The seriousness of the violation, including, but not limited to, the extent of the public impact or harm;
- The presence or absence of any intention to conceal, deceive, or mislead;
- Whether the violation was deliberate, negligent, or inadvertent;
- Whether the violation was isolated or part of a pattern;
- Whether the respondent has a prior record of violations and/or demonstrated knowledge of the rule or requirement at issue;
- The extent to which the respondent voluntarily and quickly took the steps necessary to cure the violation (either independently or after contact from the PEC);
- The degree to which the respondent cooperated with the PEC’s enforcement activity in a timely manner;
- The relative experience of the respondent;
- The respondent’s ability to pay the contemplated penalty without suffering undue financial hardship. This factor shall not apply to the portion of a penalty that

constitutes a repayment or disgorgement of the unlawful amount, except in cases of extreme financial hardship.

66. As the Hearing Officer, I have broad discretion in evaluating a violation and determining the appropriate penalty based on the totality of circumstances. This list of factors to consider is not an exhaustive list, but rather a sampling of factors that could be considered. There is no requirement or intention that each factor—or any specific number of factors—be present in an enforcement action when determining a penalty.

67. The Guidelines do not indicate who bears the burden of proof of providing evidence as to these factors.

68. The Guidelines also set forth two administrative penalty schemes: Streamline and Mainline. Streamline Penalties are reserved for cases that settle and are therefore inapplicable here. Mainline Penalties apply to cases that are brought to hearing. The Mainline Penalty provides a “base level” penalty per violation that can be adjusted downwards or upwards based on the factors discussed above.

A. Recommended Penalty for Count 1 (GEA § 2.25.070(A))

69. For cases of bribery under the GEA, the Guidelines set a base level penalty of \$5,000 or three times the amount at issue (whichever is greater). Here, we do not know the amount of the bribe at issue, so I will use \$5,000 as the baseline penalty. I can modify this amount based on my consideration of the various aggravating and mitigating factors discussed above.

70. Here, there are some aggravating factors, including that attempted bribery is a serious offense, the deliberate and intentional nature of the violation, and the lack of voluntary steps to correct the violation.

71. However, there are several mitigating factors, including the fact that this appears to be an isolated incident and there is no evidence that Mr. Dabney has a record of prior violations of the GEA or any of the other statutes enforced by the PEC.

72. The ability to pay is an important factor for me to consider, but there is very little information in the record. And, as stated above, the Guidelines do not indicate whether a petitioner or respondent has the burden of putting on evidence as to this factor. The only

information in the record on this point shows that Mr. Dabney operates a small business, that his business experienced financial struggles during the COVID-19 pandemic, and that he was experiencing personal financial difficulties as recently as 2023.

73. Ultimately, weighing these factors with an eye to the guiding principle of ensuring fairness in the PEC's enforcement actions, I recommend a penalty amount of \$1,500. This number is sufficiently severe given the seriousness of Mr. Dabney's conduct, but it is not so large as to impose a financial difficulty, particularly for a small business owner who has testified as to recent financial strain. Indeed, based on the testimony in the record, \$1,500 is the maximum citation for continuing to vend without a mobile food vendor permit—the very outcome Mr. Dabney may have been trying to avoid by offering Mr. Campos a bribe.

B. Recommended Penalty for Count 2 (GEA § 2.25.080(C)(7))

74. The Guidelines provide no mainline penalty amount for violations of GEA § 2.25.080(C)(7). I am still obligated to weigh the factors discussed above and come to a fair assessment of a penalty.

75. The assessment of factors for this violation overlaps to a considerable extent with Count 1. While the submission of a false information to the PEC is certainly a serious matter and evinces a deliberate intent to mislead the PEC, weighed against that is the fact that Mr. Dabney does not have a history of any violations before the PEC, and the evidence described above tending to suggest a limited ability to pay.

76. As such, weighing the above factors, I recommend a penalty of \$250 for this violation.

V. CONCLUSION

77. Based on all the foregoing, I find that Mr. Dabney offered Mr. Campos cash in exchange for the issuance of a mobile food vendor permit or to persuade Mr. Campos not to cite Mr. Dabney for operating an unpermitted mobile food vending operation. I also find that the information provided by Mr. Dabney to the PEC Enforcement Unit stating that he requested a loan from Mr. Campos is false. I conclude that Mr. Dabney violated GEA § 2.25.070(A) and recommend a fine of \$1,500 for this violation. I further conclude that Mr. Dabney violated GEA § 2.25.080(C)(7) and recommend a fine of \$250 for this violation.

Dated: January 28, 2025

By: /s/Karun A. Tilak

Commissioner Karun Tilak

In the Matter of Michael Dabney; Case No. 23-28

APPENDIX A

Exhibit List

| Exhibit No. | Description | Page No.: |
|--------------------|-----------------------------------|------------------|
| E1-A | Email to Greg Minor | 1 |
| E2-B | Emails Mobile Food Vending Permit | 2-3 |
| E3-C | Mobile Food Vending Application | 4 |
| E4-D | Text Messages 2020-2023 | 8-9 |
| E5-E | Log of Phone Call 8.18.23 | 10 |
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| E7-G | Flyer Food Truck Program | 11 |

From: [Minor, Gregory](#)
To: [Campos, Moises](#)
Cc: [Marcus, Nancy](#); [Flores, Gladylen](#); [Navarro, Sofia](#); [Russell, Simon](#)
Subject: Re: Bribery 8/18/2023
Date: Monday, August 21, 2023 7:04:37 AM

Thank you Moises for reporting this and for your integrity.
Gladylen or Simon do you recommend any next steps? FYI mr. Dabney is a mobile food vendor who needs to obtain a permit from our office.
Thank you,
Greg

Sent from my iPhone

On Aug 20, 2023, at 7:26 PM, Campos, Moises <MCampos2@oaklandca.gov> wrote:

Hi Greg,

On August 18th, I received a phone call from Michael Dabney, the owner of Italian Ice Cream, who stated that he wanted to discuss business with me. I asked what type of business and he said it involved him paying me in cash. I immediately told him that I could not take cash and he said okay and hung up the phone. I had the conversation on speaker phone with Nancy, who also heard the encounter.

I just wanted to bring this up to your attention.

Best,

Moises

From: [Mobile Food Vending](#)
To: [Michael Dabney](#)
Cc: [Mobile Food Vending](#)
Subject: FW: APPLICATION FOR COVID-19 MOBILE FOOD VENDING PERMIT - RAINBOW ITALIAN ICE (again)
Date: Wednesday, October 7, 2020 12:43:56 PM

The status of your application is on hold until you provide the appropriate insurance certificate with Worker's Compensation. (See email below)

Nancy Marcus

Special Business Permits
Office of the City Administrator
1 Frank H. Ogawa Plaza – 1st Fl.
Oakland, CA 94612
510-238-3294
510-238-7084 (fax)

HOME OF THE 2015, 2017 & 2018

NBA CHAMPIONS – WARRIORS

City offices are currently closed, but we are working remotely.

From: Mobile Food Vending <MobileFoodVending@oaklandca.gov>

Sent: Friday, October 2, 2020 2:44 PM

To: Michael Dabney <[REDACTED]> Mobile Food Vending
<MobileFoodVending@oaklandca.gov>

Subject: RE: APPLICATION FOR COVID-19 MOBILE FOOD VENDING PERMIT - RAINBOW ITALIAN ICE (again)

Thank you for your application.

Your insurance certificate does not show Worker's Compensation. You identified you had 5 employees, and therefore are required to show Worker's Compensation coverage. Please send us this document at your earliest convenience.

Thanks,

Nancy Marcus

Special Business Permits
Office of the City Administrator
1 Frank H. Ogawa Plaza – 1st Fl.
Oakland, CA 94612
510-238-3294
510-238-7084 (fax)

HOME OF THE 2015, 2017 & 2018

NBA CHAMPIONS – WARRIORS

City offices are currently closed, but we are working remotely.

From: Michael Dabney <[REDACTED]>[com](#)>

Sent: Thursday, October 1, 2020 11:51 AM

To: Mobile Food Vending <[MobileFoodVending@oaklandca.gov](#)>; Mobile Food Vending
<[MobileFoodVending@oaklandca.gov](#)>

Subject: APPLICATION FOR COVID-19 MOBILE FOOD VENDING PERMIT - RAINBOW ITALIAN ICE (again)

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

YOUR URGENT ACTION REQUESTED:

Morning,

Attached is my application (again) for Mobile Food Vending Permit.

Required attachments and supporting documentation also attached.

I am and have been a key vendor as part of the Lake Merritt Vending Pilot Program.

Please expedite this application as best as possible.

Please advise if you require any additional information.

Regards,

Michael Dabney

Rainbow Italian Ice

Bringin' the Flavor...Not the Fat!

f: [REDACTED]
Insta: [REDACTED]
Tw: [REDACTED]



APPLICATION FOR A FOOD AND MOBILE VENDING PERMIT

VENDING PERMIT

Special Activity Permits: 1 Frank H. Ogawa Plaza, Suite 123, Oakland, CA 94612
City Administrator's Office: 510-238-2273

You can submit your application via email to mobilefoodvending@oaklandca.gov or in person by calling (510)238-2273 to schedule an appointment. Please note only completed applications will be accepted. City of Oakland vending regulations during COVID-19 can be found on the Mobile Food Vending Program website: <https://www.oaklandca.gov/topics/food-and-mobile-vending-permits>

1. GENERAL INFORMATION

BUSINESS NAME: Rainbow Italian Ice

DAYS OF WEEK / HOURS OF OPERATION: 11a-8pm

TYPE OF VENDING: ☐ Roaming ☒ Stationary (Public Right of Way) ☐ Private Property

TYPE OF VEHICLE: ☐ Sidewalk Trailer ☐ Food Truck ☐ Attached Trailer
(License Plate #) (License Plate #) (License Plate #)

☐ Pushcart ☒ Other Stationary Cart NUMBER OF EMPLOYEES: 5 (Not including vendor.)

2. VENDOR INFORMATION

Vendor Name: Rainbow Italian Ice

Vendor Mailing Address: [REDACTED]

City/State: San Leandro Zip: 94577

Vendor Phone No.: [REDACTED] Vendor E-mail: [REDACTED]

Have you identified an authorized agent to submit the application on your behalf? If no, skip to Section 3. If yes, please complete below.

(Authorized Agent) Name: _____

Mailing Address: _____

City/State: _____ Zip: _____

Phone No.: _____ E-mail: _____

3. VENDING LOCATION

If Vending on Private or City Owned Property, Please List the Proposed Address:

El Embarcadero, Oakland (tween Lakeshore & Grand Ave

☐ Attach, approved zoning clearance form from the Planning Department

☐ Attach lease, or letter of authorization from property owner.

4. SCHOOL WAIVER To be completed only if vendor obtains a school waiver as detailed below.

Vendors may **not** sell within 300 feet of any school, between 7 a.m. and 6 p.m., Monday through Friday, unless a waiver from the school's **supervising entity*** to serve healthy food is on file with the City of Oakland.

Applicant must complete this section if they are requesting a waiver from a school's supervising entity* to help the supervising entity make a determination:

Name of School: _____

Address of School: _____

I, the undersigned, have attached a copy of the menu, which shows that the vendor will only sell "healthy foods," such as fruits; non-fried vegetables; dairy foods; food made from nuts, seeds, legumes, cheese; foods made from whole grains (defined as 51% or more); foods which do not contain trans-fat. Beverages for sale in this definition include: water; 100% fruit or vegetable juice; nonfat and 1% milk; and non-dairy milk, such as soy. Sugar-sweetened beverages, candy and soda are not considered "healthy" under these guidelines.

Signature of Vendor

Date

TO BE COMPLETED BY SCHOOL'S SUPERVISING ENTITY* (if waiver is granted):

Specify if there is any time of day when food vending is prohibited: _____

Please list any Restrictions: _____

School's Supervising Entity*: _____

(Printed Name, Title)

(Phone Number)

(Signature)

(Date)

*For Oakland Unified School District schools (and certain Charter schools served by OUSD Nutrition Services), the supervising entity is the Executive Director of OUSD Nutritional Services.

**For Oakland Unified District schools (and certain Charter schools served by OUSD Nutrition Services), the supervising entity is the Executive Director of OUSD Nutritional Services.*

5. RESTAURANT WAIVER

To be completed if Food Truck or Attached Trailer is vending within 300-feet of a brick and mortar restaurant.

To be completed if Sidewalk Roaming vendor will be vending within 100-feet of a brick and mortar restaurant.

Vendor must complete this section if they are requesting a waiver from a brick and mortar Restaurant:

For the owners of a restaurant or café within a buffer distance of a site where a food vendor is seeking a permit to vend food: With my signature, I authorize this application from a food vending business to sell Within the above-described buffer distances.

Café/Restaurant #1

Restaurant Name: _____

Address: _____

Owner's Name: _____

Contact information: _____

Signature: _____ Date: _____

Café/Restaurant #2

Restaurant Name: _____

Address: _____

Owner's Name: _____

Contact information: _____

Signature: _____ Date: _____

Café/Restaurant #3

Restaurant Name: _____

Address: _____

Owner's Name: _____

Contact information: _____

Signature: _____ Date: _____

**6. SEND SUBMISSION REQUIREMENTS TO MOBILEFOODVENDING@OAKLANDCA.GOV
OR IF YOU NEED AN IN PERSON APPOINTMENT CALL 510-238-2273**

The following items are required for ALL applications unless otherwise noted. Each and every item is required at the time of application submittal. APPLICATIONS WITH MISSING ITEMS WILL NOT BE ACCEPTED.

- ☒ (1) Mobile Food Vending Application (signed and completed)
- ☒ (2) Photographs - showing front, side view and back (including the license plate and Alameda County Health decal) of the vending vehicle
- ☒ (3) Proposed Menu (of items to be offered at the food vending vehicle)
- ☒ (4) Copy of Health Permit(s) from Alameda County's Department of Environmental Health
- ☒ (5) Verified Insurance Certificate

If applicable:

- ☐ (6) Proof of Fire Permit and/or Inspection Report
- ☐ (7) Lease, or letter of authorization from property owner (vending on private property)

¹ This fee is currently waived for the COVID-19 Applications. Permits issued are subject to change without prior notice. Note: Fees may apply for the permits or clearances required by other departments or agencies as part of this submittal.

I certify that I am the vendor and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of food vending permits as determined by the City Administrator's Office. I understand that approval of this application does not confer any form of permanent land use entitlement to the person, group, entity or property associated with this permit. I also understand that the COVID-19 permit cannot be transferred or otherwise assigned to another person or entity. I agree to abide by all local, State and Federal requirements, including, but not limited to those listed in an associated Approval Letter issued by the City of Oakland, buffer, clearance and permission requirements related to the location of vending, and those laws relating to minimum wage and sick leave for employees.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE READ THE ABOVE AND THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.



29 Sep 2020

Date



Michael >



Jul 31, 2020 at 4:41 PM

Michael - Rainbow calling

Oct 7, 2020 at 11:02 AM

Michael-Rainbow Italian Ice calling.
Call when you get a minute

Oct 7, 2020 at 2:12 PM

Hey Michael could you give me a call

Oct 7, 2020 at 3:17 PM

Sorry, I can't talk right now.

Read 10/7/20

No worries. I was on phone long time with sacto earlier

Oct 7, 2020 at 4:45 PM

If you did get a status you can txt me. Know it's your off day so deal manana

Thursday 5:33 PM

Rainbow Italian ice calling you. Hit me back if got a minute



Michael Italian Ice Cream



message



call



video



mail



pay

August 18, 2023

10:37 AM **Outgoing Call**

1 minute

phone RECENT



FaceTime 09-19-2025 PEC Regular Meeting Packet - 49



From: [Campos, Moises](#)
To: [Russell, Simon](#)
Subject: Fwd: Rainbow Italian Ice
Date: Wednesday, August 23, 2023 4:27:48 PM
Attachments: [Flyer FTHF Abril 2023.pdf](#)

Here you go.

Moises Campos
Special Activity Permits Division
250 Frank H. Ogawa Plaza, 3rd Floor
Phone: (510) 238-6521
Cell: (510) 913-7029
Email: mcampos2@oaklandca.gov

From: Campos, Moises
Sent: Monday, July 24, 2023 2:27:52 PM
To: Michael Dabney <[REDACTED]>
Subject: RE: Rainbow Italian Ice

Hi Michael,

Please see the attached.

Best,

Moises

From: Michael Dabney <[REDACTED]>
Sent: Monday, July 24, 2023 2:23 PM
To: Campos, Moises <MCampos2@oaklandca.gov>
Subject: Rainbow Italian Ice

| |
|--|
| [EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message. |
|--|

Moises,
Per our conversation Sunday, share that financial info.
Thank you

--
Michael Dabney
Bringin' the Flavor...Not the Fat!
Rainbow Italian Ice
f: [REDACTED]
Insta: [REDACTED]
Tw: [REDACTED]



ATTENTION

FOOD ENTREPRENEURS

*Unique opportunity to obtain
very low-interest loans.*

About us:

*Feed The Hunger Fund (FTHF) is a
certified Community Development
Financial Institution committed to
providing free business assistance and
low-interest flexible loan capital to food
production entrepreneurs in California.*

Type of Businesses:

*cafes, restaurants, food trucks, small
markets, and small health food stores.*

Loans:

- *up to \$100,000*
- *5% fixed interest*
- *5-year term*

COMERCIANTES DE COMIDA

*Oportunidad única préstamos a
muy bajo interés.*

Quienes somos:

*El Fondo (FTHF) es una organización
financiera de desarrollo comunitario
comprometida a proveer asistencia de
negocios gratuita y préstamos flexibles de
bajo interés a negocios de producción de
comida en California.*

Tipos de negocios:

*Cafés, restaurantes, camiones o carritos de
comida, mercados y alimentos saludables.*

Prestamos:

- *Hasta \$100,000*
- *interés fijo del 5% anual*
- *a pagar en 5 años máximo*

Mas información/Inquiries:

Meche Sansores.

Meche@feed-hunger.com 415-533-7171

In the Matter of Michael Dabney; Case No. 23-28

APPENDIX B

IN RE MICHAEL DABNEY

PEC CASE NO. 23-28

Respondent's Exhibit List

R1. Sworn Affidavit of Christopher Williams

Affidavit of Christopher Williams

State of California

County of Alameda

Christopher Williams, being duly sworn deposes and states as follows under penalty of perjury:

1. My name is Christopher Williams. I am presently 34 years old, and my current address of residence is [REDACTED] San Leandro, California 94577.
2. The purpose of this Affidavit is to Swear witness to a phone conversation of Michael Dabney with Moises Campos, City of Oakland employee on August 18, 2023.
3. I was with Michael Dabney at the time of the phone call received by Michael from Moises Campos. Michael was driving and the phone was on hands free speaker. Moises asked Michael what his call/txt about. Michael asked Moises if he would consider lending \$500 on a short term basis to help Michael out as personal loan. Moises stated that he couldn't do anything in the way of a loan to Michael and wished him the best with finding help. That was the end of the call.

I hereby Swear or affirm that the information above is true, accurate and complete to the best of my knowledge, and that no relevant information has been omitted.

Dated:

05/09/2024

Signature of Individual:

[REDACTED]

SEE ATTACHED
FOR NOTARIZATION

Notary Public

Title and Rank

Date of Commission Expiry:

CALIFORNIA JURAT

GOVERNMENT CODE § 8202

~~~~~

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Alameda

Subscribed and sworn to (or affirmed) before me on  
this 09 day of May, 2024, by  
Date Month Year



(1) Christopher Williams

(and (2) \_\_\_\_\_),  
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature [Signature]  
Signature of Notary Public

Place Notary Seal and/or Stamp Above

**OPTIONAL**

*Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

~~~~~

**Enforcement's
Reply to the Findings of Facts and
Conclusions**

Item 5 - Final Action on PEC Case No. 23-28



Ryan Micik, Chair
Francis Upton IV, Vice-Chair
Tanya Bayeva
Alea Gage
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Patrick W. Bears, Attorney for Enforcement Unit of the Public Ethics Commission
DATE: March 6, 2025
RE: *In the Matter of Michael Dabney (Case No. 23-28)*; Post Hearing Recommendation for the March 19, 2025, PEC Meeting

INTRODUCTION

The Enforcement Unit of the City of Oakland Public Ethics Commission (“Complainant”) brought this action to address violations of the Government Ethics Act (“GEA”) by local mobile food vendor Michael Dabney (“Respondent”). Complainant charged Respondent with two violations of the City of Oakland’s GEA: Soliciting a Bribe from a Public Official to Perform an Official Act and Lying to an Enforcement Officer During the Course of an Official Investigation. A hearing before Hearing Officer Karun Tilak occurred on January 23, 2025. Complainant was required to show that the violations occurred by a preponderance of the evidence.

Complainant presented evidence consisting of witness testimony by two city staff members and supporting documentary evidence showing Respondent violated the GEA. Complainant also recommended a base-level penalty amount of \$5,000 per GEA violation pursuant to the Public Ethics Commission (“PEC”) Penalty Guidelines, for a total of \$10,000.

Respondent also presented witness testimony and denied that he committed any violations of the GEA.

Hearing Officer Tilak submitted a recommendation to the Commission with findings of fact that conclude Respondent violated two provisions of the GEA and a recommended an administrative penalty in the amount of \$1,750.

Complainant reviewed the Hearing Officer’s report and joins in the recommendation that the Commission adopt the findings of facts as determined by the Hearing Officer. Complainant will defer to the Commission on the imposition of an appropriate penalty amount.

I. BRIEF HISTORY

Respondent owns a mobile food vending company and operates throughout the Bay Area. From 2020 to July 2023, Respondent operated his business in the Lake Merritt area of the city even though he did not have a mobile food vending permit required by the City. Respondent applied for a mobile food vending permit in the fall of 2020, however, City staff never issued the permit because he did not meet the City’s

Item 5 - Final Action on PEC Case No. 23-28

requirements. Despite never issuing the permit for mobile food vending, City staff documented Respondent operating without a permit on multiple occasions from 2020 to July 2023 and warned him that he could be fined if he continued to operate in Oakland.

In August 2023, Respondent contacted a City Special Permit Inspector about his mobile food operation. On August 18, 2023, Respondent offered that City staff member money to assist with his unpermitted mobile food vending business. This conversation was overheard by two City staff members; they immediately reported the bribery attempt to the PEC resulting in an official investigation occurring from 2023-2024.

During the investigation, PEC Enforcement Investigator Simon Russell interviewed Respondent at his home. Respondent denied the bribery incident occurred and claimed that he asked City staff for a loan. Months later Respondent contacted PEC Investigator Russell and informed him of the existence of a witness that could corroborate his version of events. Following the interviews with Respondent, PEC Investigator Russell interviewed City staff again and they denied that Respondent asked for a loan. The staff members reiterated that Respondent attempted to bribe the Special Permit Inspector.

II. PROPOSED DECISION

a. VIOLATIONS

The Hearing Officer's proposed decision finds Respondent, Michael Dabney, committed the following violations of the GEA:

1. Count 1: Soliciting Bribes from a Public Official to Perform an Official Act

On August 18, 2023, Respondent violated O.M.C. § 2.25.070(A) by attempting to bribe a City Special Permit Inspector by offering money in exchange for help with his unpermitted business.

On August 18, 2023, Respondent violated Section 2.25.070(A) of the GEA by 1) making an offer 2) for a thing of value (money) 3) in exchange for an official act. Respondent offered money to one of Oakland's Special Permit Inspectors in exchange for help with his business, to either avoid enforcement penalties or to obtain a permit despite not meeting the City's requirements.

2. Count 2: Lying to an Enforcement Officer During the Course of an Official Investigation

From October 1, 2023, through June 1, 2024, Respondent violated O.M.C. § 2.25.080(C)(7) provided false statements to the PEC during an official investigation.

Respondent violated Section 2.25.080(C)(7) of the GEA because he 1) submitted false information/misrepresentation of a material fact 2) knowingly and intentionally 3) to PEC investigator during an official investigation. Respondent on multiple occasions knowingly and deliberately provided false information to PEC Investigator Simon Russell while he was investigating Respondent's bribery allegations. Respondent knowingly provided false statements to PEC investigator Russell during an initial interview and months later during another conversation.

b. PENALTY

The Hearing Officer's proposed decision recommends that the Commission impose a total administrative penalty of **\$1,750** for the two violations of the GEA. The decision recommends a penalty of \$1500 for the first violation (bribery) and \$250 for the second violation (providing false statements to PEC's enforcement unit).

III. POSSIBLE ACTIONS BY THE COMMISSION

Pursuant to the Commission's Complaint Procedures, the Commission may either adopt the proposed decision in its entirety, or in the alternative, adopt the proposed decisions' actual finding, but reach additional or different conclusions consistent with the proposed decision's factual findings. (Commission's Complaint Procedures § VII(I)(2).)

If the Commission decides to adopt the proposed decision in its entirety, the proposed decision will be adopted as the Commission's decision and the Respondent will be ordered to pay an administrative penalty of \$1,750.

If the Commission decides that the proposed decision's factual findings warrant a different legal conclusion and/or a different penalty, the Commission may adopt the proposed decision's factual finding and additional or different legal conclusions and/or impose a different penalty.

Whether the Commission decides to adopt the proposed decision in its entirety or adopt different legal conclusions and/or penalties, the Commission's decision and order regarding a proposed decision will constitute the closure of the administrative process for this matter. (Commission's Complaint Procedures § VII(J).)

a. Aggravating Factors and Mitigating Factors

The PEC has broad discretion in evaluating a violation and determining the appropriate penalty based on the totality of circumstances. This list of factors to consider is not an exhaustive list, but rather a sampling of factors that could be considered. There is no requirement or intention that each factor – or any specific number of factors - be present in an enforcement action when determining a penalty. As such, the ability or inability to prove or disprove any factor or group of factors shall in no way restrict the PEC's power to bring an enforcement action or impose a penalty

For serious violations, such as Bribery and violations that do not qualify for a warning letter or the streamlined stipulation program, the PEC will start a penalty amount with a "base-level" amount and then adjust the penalty amount based on mitigating and aggravating factors of the enforcement action. The PEC's guidelines for Bribery start with a recommended penalty of \$5,000; the guidelines do not have a recommended amount for lying to an enforcement officer during an official investigation.

1. Aggravating Factors

Here, the circumstances of Respondent's conduct demonstrate the following aggravating factors:

1. Respondent is a mobile food vendor that attempted to bribe staff so that he could operate without a mobile food vending permit. The permit is designed to protect Respondent's employees and the public by requiring certain health and safety standards Respondent was unable to attain;
2. Respondent attempted to deceive PEC staff member Simon Russell by providing a false statement about the bribery incident;
3. Respondent's conduct was deliberate as he knowingly and willing attempted to bribe a city official and deceive the PEC;
4. Respondent failed to take any steps to cure any of the enumerated violations. He never attempted to obtain a mobile food vending permit to legally operate in the City nor did he provide truthful information to the PEC.

2. Mitigating Factors

There are also mitigating factors present consistent with the penalty assessed in the findings of fact and conclusions:

1. The bribery attempt was an isolated incident;
2. Respondent has no history of ethics violations with the City of Oakland;
3. Respondent testified at the hearing that his business was struggling financially.

Complainant believes that it is necessary to impose some penalty for Respondent's violations as it will deter future violations by him and other potential offenders. However, Complainant will defer to the PEC on the appropriate amount of civil penalties based upon how it decides to weigh the aggravating and mitigating factors.


IV. COMMISSION RECOMMENDATION

Complainant recommends that the Commission adopt the Hearing Officer's proposed factual and legal findings. Complainant will defer to the Commission the imposition of the appropriate administrative penalty.

Dated: March 6, 2025

Ryan Richardson, City Attorney

By:



PATRICK W. BEARS, Deputy City Attorney
Attorneys for Complainant,
CITY OF OAKLAND PUBLIC ETHICS COMMISSION

**Respondent Michael Dabney's
Reply to the Findings of Facts and
Conclusions**

PEC CASE 23-28

March 6, 2025

It is a serious travesty that City officials/employees decided to lie and falsely accuse me of offering to bribe one Moises Campo. I had no motivation at the time to bribe Moises as I had no need of any services or actions by him for my business operations. The City of Oakland is wrong for building a case on such unfounded basis and wasting time and money when their resources could be better served rounding up the myriad of illegal food operators around the greater Oakland area. With the exception of the short time during COVID shut-down, I have operated my business compliant with requirements for permits, licenses, and other rules. In 20 years of operations, I never needed a Vendor Permit for Oakland except to try to comply during the COVID response around lake meritt. Which is why I initiated the Vendor Permit application. Except for the operations around lake meritt, my business does not require such permit as 99% of my business operations are performed under special event permits by event coordinators or promoters all over Northern California. For which an Oakland Vendor permit is not relevant. Unfortunately, the Commissioner has ruled in favor of the PEC. So now I'm just a wrongly accused black man/business owner.

I do not regret my actions with Moises as it was a harmless request for a loan and not to offer HIM money. He lied as if he had a vendetta and incorporated a co-worker to corroborate. The city attorney simply made every effort to push the allegations through.

This is my story and I'm sticking to it. I will never admit to being guilty of these findings.

Fact:

In Oct 2020 I did initiate an application for a permit to properly vend around lake merritt. This was at the height of COVID. Lake Merritt had become a prime location to operate, given all other routine and normal revenue sources were shut down.

The application, however, stalled because I would be required to purchase Workers Comp Insurance to complete the application. This coverage was simply cost prohibitive at the time, so I did not continue to pursue the permit.

Fact:

Three years later, by August 2023, I was no longer operating around lake merritt as COVID restrictions were long since lifted and my business had resumed normal operations at public events. The need for a City Permit no longer existed.

Fact:

In 2023, I was experiencing some final hardship. I contacted Moises solely to ask him if he would loan me \$500 to help. He simply stated that he could not do this, I said ok and that was the extent of the phone call. I did not offer to give him money. I had no need to attempt to bribe a city official. There was nothing I needed from Moises during this time. So I had no reason or cause or objective that be could be aided by Moises. I simply was not needing to complete the permit application or needing assistance with any other city related matters.

False:

I never offered Moises money.

I never asked Moises to perform any official act related to my business

I provided a true statement to city investigator that I “simply asked Moises to loan me money”. Nothing in this one-time call involved me “offering” Moises money.

Statement:

I regret that Moises felt a need to twist my request for a loan into an offer of money! I regret that the City has spent all this time and money to build a case of “bribery” on a statement/allegation. That I had motivation or need to offer money to Moises is unfounded. That I would be so unsophisticated and unprofessional to attempt to establish that I would try to bribe a City official even where there is no real purpose or need, is an insult and borders on attempt to strike a blow or defame a proper Oakland Small Business.

Item 6 - Form 700 Enforcement Updates



Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Ryan Micik
Alea Gage
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Alex Van Buskirk, Lead Analyst, Compliance and Disclosure
DATE: March 6, 2025
RE: Update on Form 700 Enforcement Efforts (PEC # 24-05) and Recommendation to Close or Settle Certain Cases

In 2024, the Commission initiated its first comprehensive enforcement review to ensure compliance with the requirement that City elected officials, commissioners, and staff identified in the City's Conflict of Interest Code file their annual Statement of Economic Interest, commonly known as the "Form 700." This report and request for Commission action:

- (1) provides an update on 2024's ongoing, City-wide Form 700 enforcement program;
- (2) recommends that the Commission close some complaints where either no violation was found or sufficient mitigating circumstances exist to justify closure without further action; and
- (3) recommends that the Commission approve settlements of diversion training for some Form 700 late filers that promptly filed their form upon being notified by Enforcement Staff.

Form 700 Background

Every year, many City officials need to file what is called a Statement of Economic Interest or "Form 700." On this form, they report any financial or business interests that might affect their impartiality when performing their City duties. Among the things that need to be reported are outside sources of income, stock and real estate holdings, community property, and gifts from persons other than family and friends.¹ Though not every City official needs to file a Form 700, a broad range of officials fall within the annual filing requirement, from Councilmembers and Commissioners to administrative and frontline staff.²

¹ This is a simplified description of what is required to be reported. For details, see the California Government Code sections 87200-87210 and the accompanying regulations.

² The complete list of City positions required to file a Form 700 can be found in the City's Conflict of Interest Code, OMC Chapter 3.16.

Form 700s are filed with the City Clerk's office. The list of persons required to file a Form 700 is generated through data provided by Human Resources, which in turn relies upon timely and accurate hiring and leave data from individual departments and commissions. The Public Ethics Commission (PEC) and the state Fair Political Practices Commission (FPPC) enforce the filing requirement, usually after receiving notices from the City Clerk or complaints from the public that a particular official has missed the filing deadline.

A 2022 grand jury report found that many Oakland officials were not filing their required Form 700s.³ In response, the PEC initiated a pilot program in 2023 to (1) obtain comprehensive data from the City Clerk on which required filers had not filed the Form 700 due that year (called the "2022 annual" because it covered officials' finances from 1/1/22 – 12/31/22) and (2) bring enforcement actions on any elected official, commissioner, or senior-level department staff who had not filed. The idea behind focusing on a subset of officials last year was to allow the PEC to build the internal processes to do a more comprehensive, City-wide enforcement program in 2024.

In accordance with that plan, last year the PEC initiated its City-wide monitoring and enforcement program for compliance with this year's Form 700 filing requirement (called the "2023 annual" because it covers officials' finances from 1/1/23 – 12/31/23). That form was due on April 2, 2024, and anyone who missed the deadline is subject to penalties ranging from diversion training to gradually-increasing fines of up to \$5,000.

Ongoing Results of the Citywide Enforcement of 2023 Annual Form 700 Non-Filers

The initial list of 2023 Annual Form 700 non-filers, provided to the PEC on April 12, 2024, included 512 names. Of those, PEC staff determined that 416 were likely no longer with the City anymore, and therefore did not need to file. We provided this information to the City Clerk.

Of the remaining names, we sent notifications and gave them a short grace period to file without opening an enforcement action. We also kept track of filers who responded and told us that they had been on leave or otherwise had some other serious extenuating circumstance. A number of filers also told us that they had filed paper copies of their Form 700 with the City Clerk (the default is to e-file), but that these had not been registered on the system yet. After the short grace period was over, we opened 61 cases against alleged non-filers. Of those 61 cases:

³ "2021-2022 Alameda County Grand Jury Final Report," section titled "Oakland Fails to Enforce Financial Disclosure Rules to Protect the Public," pp. 33-46.

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- In 19 cases, Staff is recommending closure with a finding of no violation (this is in addition to the 11 closures with a finding of no violation in June 2024 and July 2024) at this meeting, as discussed below.
- 15 cases where the respondent filed less than 6 months late were settled under the Executive Director's streamlined settlement authority with diversion (training), pursuant to the Penalty Guidelines. This includes 8 new cases being reported to the Commission, as discussed below.
- In 7 cases where the respondent filed more than 6 months late but after Enforcement's first contact, Staff is recommending that the Commission approve diversion (training) settlements at this meeting, as discussed below.
- 9 cases are in different stages of final resolution, including four cases where the Respondent has filed their Form 700 but not signed a proposed settlement offer, two case where Enforcement is awaiting technical assistance to enable the person to file, and three cases where Enforcement Staff expects to bring monetary penalties to the Commission.

Due to the unreliability of the non-filer data for 2022 Annual filers, it is very difficult for the PEC to calculate a year-on-trend regarding whether the rate of filing has increased with the 2023 Annual filers. Anecdotally, Enforcement staff was pleasantly surprised by the relatively low number of 2023 Annual non-filer cases that we had to open. We attribute this to the greater prominence this issue has received since we initiated last year's pilot program, including our reminders to City departments and Commissions to verify the integrity of the City's non-filer data and ensure that their officials had filed by the deadline. The City Clerk's office has also been reminding departments and commissions of the filing requirement.

Recommended Case Closures

A number of the cases we opened ended up concerning people who turned out to have been either (1) on long-term leave, (2) had resigned their position without this being noted in the City's data used to compile the non-filer list, or (3) had transitioned to a new position with a different filing officer (not the City Clerk). **In addition to 11 cases that were already closed, Enforcement Staff is recommending that these 19 cases be closed with no further action (following prior practice, we are omitting the respondents' names for their privacy):**

| Case # | City Position | Date Filed | Notes |
|---------|---|------------|---------------------------------|
| 24-05.4 | Commissioner, Community Policing Advisory Board | 4/30/2024 | On leave, complied upon return. |

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| Case # | City Position | Date Filed | Notes |
|----------|---|-------------|---|
| 24-05.11 | Commissioner, Public Safety and Services Violence Oversight Commission | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.12 | 30672 - Street Cleaning, Public Works Supervisor I | 3/8/2024 | Error in City Clerk system/data that flagged as a non-filer. |
| 24-05.14 | 88453 - Infrastructure Inspection, Specialty Combination Inspector | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.16 | Member, Cultural Affairs Commission | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.19 | 30235 - Surveying, City Land Surveyor | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.21 | 30674 - Illegal Dumping, Public Works Supervisor I | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.24 | Commissioner, Oakland Police Commission | 5/14/2024 | Filed after leaving City service. |
| 24-05.27 | 30121 - PWA Fiscal Services, Facilities Complex Manager | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.30 | Member, Workforce Development Board | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.33 | 20411 - Emergency Service/Suppression, Assistant Chief of Fire Department | (Not Filed) | On long-term leave. |
| 24-05.37 | 00711 - District Seven Unit, City Council PSE 14 | 11/5/2024 | On long-term leave; filed upon return. |
| 24-05.40 | 07111 - City Auditor Unit, Consultant | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.43 | 88989 - Home Ownership Programs, Home Management Counselor III | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.44 | 85231 - Real Estate, Real Estate Agent | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.45 | Member, Community Policing Advisory Board | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.47 | Commissioner, Privacy Advisory Commission | (Not Filed) | Left City service prior to filing obligation. |
| 24-05.50 | 30275 - IPPD Plans and Programming, Transportation Planner, Senior | 3/20/2024 | Filed 2023 Assuming Office, precluding requirement to file 2023 Annual. |

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| Case # | City Position | Date Filed | Notes |
|----------|---|-------------|---------------------|
| 24-05.55 | 85221 - Project Implementation: Staffing, 85411 - Economic Development, 85411 - Economic Development, Urban Economic Analyst II, Urban Economic Analyst III, Urban Economic Analyst IV, Projects | (Not Filed) | On long-term leave. |

Simultaneous enforcement of these matters could also be handled by the FPPC upon referral from the City Clerk's office. We have not been notified of any such referrals being made.

Streamlined Settlements for Late Filers

Of those 61 initial non-filers, 18 people subsequently filed and entered "streamlined" settlement agreements with the Commission. Pursuant to recent amendments to the Commission's Complaint Procedures,⁴ because these non-filers responded to Enforcement Staff's first contact regarding non-filing and because their subsequent filing was less than six months late, the Executive Director was able to resolve these minor violations on his own authority. These streamlined settlements include the following 8 cases which settled since the last report:

| Respondent | City Position | Date Filed | Resolution | Case # |
|---------------------------|---|------------|----------------------|----------|
| Hicks, Brian | 20411 - Emergency Service/Suppression, Lieutenant of Fire Department | 5/13/2024 | Diversion (training) | 24-05.22 |
| Beene-Clarke, Asha | Commissioner, Commission on Aging | 5/7/2024 | Diversion (training) | 24-05.3 |
| Merriouns, Iris | 00411 - District Four Unit, Elmhurst Community Development District Board (District 7), City Council PSE-51, Member | 4/30/2024 | Diversion (training) | 24-05.42 |
| Price, Cedric | 20411 - Emergency Service/Suppression, Captain of Fire Department | 4/17/2024 | Diversion (training) | 24-05.51 |
| Shirazi, Sahar | Commissioner, City Planning Commission | 5/8/2024 | Diversion (training) | 24-05.54 |
| Vindiola De Haro, Ricardo | 00511 - District Five Unit, City Council PSE 14 | 4/15/2024 | Diversion (training) | 24-05.58 |
| Walker, David | Member, Alameda County-Oakland Community Action Partnership Administering Board | 4/23/2024 | Diversion (training) | 24-05.59 |

⁴ Complaint Procedures, Section VI(D) and (H); and, Penalty Guidelines, "Penalty Options" Section (2)(a).

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| Respondent | City Position | Date Filed | Resolution | Case # |
|-----------------|---|------------|-------------------------|----------|
| Watkins, Robert | Commissioner, Parks and Recreation Advisory Commission | 5/3/2024 | Diversion (training) | 24-05.62 |

Recommended Diversion Settlements

Several individuals filed their Form 700 after the PEC's first contact about their non-filing status, but more than six months after the deadline (date) for filing Form 700s. Under the PEC's Penalty Guidelines, a Form 700 non-filer is generally eligible for a penalty of diversion training if they come into "compliance prior to or in response to first PEC enforcement contact," but not if they filed more than six months late.⁵

In these cases, Enforcement Staff nonetheless recommends that the Commission approve a mainline settlement of diversion training for these eight late filers due to significant mitigating factors, including delays receiving necessary personnel data and significant Enforcement Unit staffing transitions and medical leaves that delayed Enforcement's ability to contact and follow-up with these individuals until later in the calendar year. Without these delays, it seems likely these respondents would have filed within the six month window given their responsiveness to Enforcement Staff. One late filer case in this group involves a senior-level official (Artisha McCullough) who was additionally ineligible for streamlined resolution under the Executive Director's own authority due to being a department head. McCullough's case and resolution details are included below.

For this reason, staff recommends that the Commission approve the following Form 700 non-filer settlements:

| Respondent | City Position | Date Filed | Resolution | Case # |
|---------------------|--|------------|-------------------------|----------|
| McCullough, Artisha | 02311 - Equal Opportunity Programs, 02311 - Equal Opportunity Programs, EEO & Civil Rights Director, Human Resource Analyst, Principal | 10/23/2024 | Diversion (training) | 24-05.39 |
| Johnson, Aaron | Member, Workforce Development Board | 11/24/2024 | Diversion (training) | 24-05.28 |
| Young, Lawrence | 20411 - Emergency Service/Suppression, Lieutenant of Fire Department | 11/20/2024 | Diversion (training) | 24-05.32 |
| Lothlen, Mariah | 89919 - Admin: Housing & Community Development, Administrative Assistant I | 11/21/2024 | Diversion (training) | 24-05.34 |

⁵ In five of these cases, the Executive Director signed a settlement agreement with a respondent settling the case with diversion training. However, these settlements were invalid because the respondents had filed more than six months after the filing deadline. Those settlements were rescinded and new settlements with the same resolution of diversion training are being recommended to the Commission for approval.

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| Respondent | City Position | Date Filed | Resolution | Case # |
|-----------------------|---|------------|-------------------------|----------|
| Loud, Kamil | 20411 - Emergency Service/Suppression, Captain of Fire Department | 12/4/2024 | Diversion (training) | 24-05.35 |
| Mercado, Christian | 20411 - Emergency Service/Suppression, Lieutenant of Fire Department | 11/23/2024 | Diversion (training) | 24-05.41 |
| Obad, Ali | Member, Sugar Sweetened Beverages Community Advisory Board | 1/12/2025 | Diversion (training) | 24-05.46 |

Recommendation

1. Enforcement staff recommends **closing** the cases listed below due to verified legitimate exemptions, including individuals no longer serving with the City, extended leaves, or data inaccuracies:

- 24-05.4
- 24-05.11
- 24-05.12
- 24-05.14
- 24-05.16
- 24-05.19
- 24-05.21
- 24-05.24
- 24-05.27
- 24-05.30
- 24-05.33
- 24-05.37
- 24-05.40
- 24-05.43
- 24-05.44
- 24-05.45
- 24-05.47
- 24-05.50
- 24-05.55

2. Enforcement recommends that the Commission **approve settlements** in the cases listed below by imposing a penalty of diversion education on the respondents:

- 24-05.39
- 24-05.28
- 24-05.32

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- 24-05.34
- 24-05.35
- 24-05.41
- 24-05.46

Attachment: Proposed Settlements in 24-05.39; 24-05.28; 24-05.32; 24-05.34; 24-05.35; 24-05.41; and 24-05.46.



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ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

PUBLIC ETHICS COMMISSION STIPULATION (FORM 700 LATE FILER)

PEC NO.: 24-05.28

RESPONDENT NAME AND POSITION: Johnson, Aaron (Member, Workforce Development Board)

DESCRIPTION OF VIOLATION: Failure to timely file statement of economic interests (Form 700), in violation of Oakland Government Ethics Act section 2.25.040(B):

| FORM 700 TYPE | REPORTING PERIOD | DUE DATE | DATE FILED | DAYS LATE |
|------------------|---------------------|---------------|----------------------|-----------|
| Annual | 1/1/23 – 12/31/23 | April 2, 2024 | November 24, 2024 | 236 |

OF PEC ENFORCEMENT CONTACTS PRIOR TO FILING: 1

POSSIBLE CONFLICTS OF INTEREST FLAGGED: None

PROPOSED RESOLUTION: Diversion (Training)

With regard to the above, the Public Ethics Commission and Respondent hereby agree to the following:

STIPULATION

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This agreement shall become effective upon execution by the Commission Chair;
3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondents;
4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, the Public Ethics Commission Complaint Procedures, and

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Form 700 Late-Filer – Stipulation
PEC # 24-05.28; Johnson, Aaron

all other sources of procedural rights applicable to this PEC enforcement action. These procedural rights include, but are not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at their own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed.

5. Respondent represents that they have accurately furnished to the Commission all discoverable information and documents sought by the Commission that are relevant and necessary to the Commission's determination of a fair and comprehensive resolution to this matter.
6. Upon approval of this agreement and full performance of the terms outlined herein, the Commission will take no future action against Respondent regarding the violation(s) of law described in this agreement, and this agreement shall constitute the complete resolution of all claims by the Commission against Respondent related to such violation(s).
7. If Respondent fails to comply with the terms of this agreement, then the Commission may reopen this matter and prosecute Respondent to the full extent permitted by law, except that the Statute of Limitations shall be waived for the underlying violation as well as for any other violations that were not discoverable by the Commission due to non-compliance with any of the terms of this agreement.
8. This agreement is not binding on any other law enforcement or regulatory agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it.
9. It is further stipulated and agreed that Respondent violated the Oakland Government Ethics Act as described in this agreement.
10. **The term of this agreement shall be for forty-five (45) calendar days, beginning on the date this agreement is executed by both parties and terminating forty-five (45) calendar days thereafter, or until the parties have satisfied all of the requirements of this agreement, whichever is earlier.**
11. **During the term of this agreement, Respondent shall do the following:**
 - a. **Attend and successfully complete the following training: "Form 700 Diversion**

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Form 700 Late-Filer – Stipulation
PEC # 24-05.28; Johnson, Aaron

Training” (available online via NeoGov); and

b. Ensure the submission of the corresponding completion certificate to the PEC (preferred method is via email to ethicscommission@oaklandca.gov).

- 12. Respondent acknowledges that a failure to timely complete this requirement may be grounds for the unilateral extension or termination of this agreement by the Commission.**
13. Following completion of Respondent’s obligation(s) under this agreement as described above, the Commission shall do the following:
 - a. Close PEC case # 24-05.28 with no further action.
14. Any subsequent complaint received or initiated by the PEC during the term of this agreement that alleges Respondent violated a provision of any other law under the PEC’s jurisdiction, regardless of whether that matter is related or unrelated to the facts stipulated to in this agreement, is a basis for the unilateral extension or termination of this agreement by the PEC.
15. In the event the PEC has a reason to believe that there is a basis to extend or terminate the agreement, PEC staff shall make reasonable efforts to provide the Respondent with an opportunity to be heard through written submission concerning the alleged non-compliance. Thereafter, PEC staff shall determine whether to unilaterally terminate or extend this agreement.
16. During the term of this agreement, Respondent shall notify the PEC, in writing, of any change of e-mail address, mailing address, or telephone number within 10 business days of the change. Should PEC staff be unable to contact Respondent due to the latter’s failure to comply with the terms of this Section, or if Respondent should otherwise fail to respond within a reasonable time to PEC staff’s attempts to contact Respondent using the contact information which the PEC has on record, PEC staff shall be deemed to have made “reasonable efforts” to contact Respondent pursuant to the terms of this agreement.
17. In the event that the Respondent fails to comply with the terms of this agreement, they agree that all of the facts stated herein shall be deemed true in any subsequent evidentiary hearing.
18. The parties acknowledge that this agreement, Respondent’s compliance with this

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PEC # 24-05.28; Johnson, Aaron

agreement, and the disposition of this matter upon completion or termination of the agreement, are matters of public record. Respondent further acknowledges that the Complainant (if any) will be made aware that this matter was resolved through this agreement and may be provided with a copy of this agreement upon request.

SO AGREED:

Date

Tovah Ackerman, Enforcement Chief of
the City of Oakland Public Ethics
Commission, Petitioner

Date

Aaron Johnson, Respondent

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PEC # 24-05.28; Johnson, Aaron

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Aaron Johnson” PEC Case No. 24-05.28 is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Francis Upton IV, Chair
City of Oakland Public Ethics Commission



Item 6 - Form 700 Enforcement Updates

ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

PUBLIC ETHICS COMMISSION STIPULATION (FORM 700 LATE FILER)

PEC NO.: 24-05.32

RESPONDENT NAME AND POSITION: Young, Lawrence (20411 - Emergency Service/Suppression, Lieutenant of Fire Department)

DESCRIPTION OF VIOLATION: Failure to timely file statement of economic interests (Form 700), in violation of Oakland Government Ethics Act section 2.25.040(B):

| FORM 700 TYPE | REPORTING PERIOD | DUE DATE | DATE FILED | DAYS LATE |
|------------------|---------------------|---------------|----------------------|-----------|
| Annual | 1/1/23 – 12/31/23 | April 2, 2024 | November 20, 2024 | 232 |

OF PEC ENFORCEMENT CONTACTS PRIOR TO FILING: 1

POSSIBLE CONFLICTS OF INTEREST FLAGGED: None

PROPOSED RESOLUTION: Diversion (Training)

With regard to the above, the Public Ethics Commission and Respondent hereby agree to the following:

STIPULATION

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This agreement shall become effective upon execution by the Commission Chair;
3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondents;

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PEC # 24-05.32; Young, Lawrence

4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, the Public Ethics Commission Complaint Procedures, and all other sources of procedural rights applicable to this PEC enforcement action. These procedural rights include, but are not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at their own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed.
5. Respondent represents that they have accurately furnished to the Commission all discoverable information and documents sought by the Commission that are relevant and necessary to the Commission's determination of a fair and comprehensive resolution to this matter.
6. Upon approval of this agreement and full performance of the terms outlined herein, the Commission will take no future action against Respondent regarding the violation(s) of law described in this agreement, and this agreement shall constitute the complete resolution of all claims by the Commission against Respondent related to such violation(s).
7. If Respondent fails to comply with the terms of this agreement, then the Commission may reopen this matter and prosecute Respondent to the full extent permitted by law, except that the Statute of Limitations shall be waived for the underlying violation as well as for any other violations that were not discoverable by the Commission due to non-compliance with any of the terms of this agreement.
8. This agreement is not binding on any other law enforcement or regulatory agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it.
9. It is further stipulated and agreed that Respondent violated the Oakland Government Ethics Act as described in this agreement.
10. **The term of this agreement shall be for forty-five (45) calendar days, beginning on the date this agreement is executed by both parties and terminating forty-five (45) calendar days thereafter, or until the parties have satisfied all of the requirements of this agreement, whichever is earlier.**
11. **During the term of this agreement, Respondent shall do the following:**

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PEC # 24-05.32; Young, Lawrence

- a. **Attend and successfully complete the following training: “Form 700 Diversion Training” (available online via NeoGov); and**
 - b. **Ensure the submission of the corresponding completion certificate to the PEC (preferred method is via email to ethicscommission@oaklandca.gov).**
12. **Respondent acknowledges that a failure to timely complete this requirement may be grounds for the unilateral extension or termination of this agreement by the Commission.**
13. Following completion of Respondent’s obligation(s) under this agreement as described above, the Commission shall do the following:
 - a. Close PEC case # 24-05.32 with no further action.
14. Any subsequent complaint received or initiated by the PEC during the term of this agreement that alleges Respondent violated a provision of any other law under the PEC’s jurisdiction, regardless of whether that matter is related or unrelated to the facts stipulated to in this agreement, is a basis for the unilateral extension or termination of this agreement by the PEC.
15. In the event the PEC has a reason to believe that there is a basis to extend or terminate the agreement, PEC staff shall make reasonable efforts to provide the Respondent with an opportunity to be heard through written submission concerning the alleged non-compliance. Thereafter, PEC staff shall determine whether to unilaterally terminate or extend this agreement.
16. During the term of this agreement, Respondent shall notify the PEC, in writing, of any change of e-mail address, mailing address, or telephone number within 10 business days of the change. Should PEC staff be unable to contact Respondent due to the latter’s failure to comply with the terms of this Section, or if Respondent should otherwise fail to respond within a reasonable time to PEC staff’s attempts to contact Respondent using the contact information which the PEC has on record, PEC staff shall be deemed to have made “reasonable efforts” to contact Respondent pursuant to the terms of this agreement.
17. In the event that the Respondent fails to comply with the terms of this agreement, they agree that all of the facts stated herein shall be deemed true in any subsequent evidentiary hearing.

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PEC # 24-05.32; Young, Lawrence

18. The parties acknowledge that this agreement, Respondent's compliance with this agreement, and the disposition of this matter upon completion or termination of the agreement, are matters of public record. Respondent further acknowledges that the Complainant (if any) will be made aware that this matter was resolved through this agreement and may be provided with a copy of this agreement upon request.

SO AGREED:

Date

Tovah Ackerman, Enforcement Chief of
the City of Oakland Public Ethics
Commission, Petitioner

Date

Lawrence Young, Respondent

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Form 700 Late-Filer – Stipulation
PEC # 24-05.32; Young, Lawrence

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Lawrence Young” PEC Case No. 24-05.32 is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Francis Upton IV, Chair
City of Oakland Public Ethics Commission



Item 6 - Form 700 Enforcement Updates

ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

PUBLIC ETHICS COMMISSION STIPULATION (FORM 700 LATE FILER)

PEC NO.: 24-05.34

RESPONDENT NAME AND POSITION: Lothlen, Mariah (89919 - Admin: Housing & Community Development, Administrative Assistant I)

DESCRIPTION OF VIOLATION: Failure to timely file statement of economic interests (Form 700), in violation of Oakland Government Ethics Act section 2.25.040(B):

| FORM 700 TYPE | REPORTING PERIOD | DUE DATE | DATE FILED | DAYS LATE |
|------------------|---------------------|---------------|----------------------|-----------|
| Annual | 1/1/23 – 12/31/23 | April 2, 2024 | November 21, 2024 | 233 |

OF PEC ENFORCEMENT CONTACTS PRIOR TO FILING: 1

POSSIBLE CONFLICTS OF INTEREST FLAGGED: None

PROPOSED RESOLUTION: Diversion (Training)

With regard to the above, the Public Ethics Commission and Respondent hereby agree to the following:

STIPULATION

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This agreement shall become effective upon execution by the Commission Chair;
3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondents;

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Form 700 Late-Filer – Stipulation
PEC # 24-05.34; Lothlen, Mariah

4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, the Public Ethics Commission Complaint Procedures, and all other sources of procedural rights applicable to this PEC enforcement action. These procedural rights include, but are not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at their own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed.
5. Respondent represents that they have accurately furnished to the Commission all discoverable information and documents sought by the Commission that are relevant and necessary to the Commission's determination of a fair and comprehensive resolution to this matter.
6. Upon approval of this agreement and full performance of the terms outlined herein, the Commission will take no future action against Respondent regarding the violation(s) of law described in this agreement, and this agreement shall constitute the complete resolution of all claims by the Commission against Respondent related to such violation(s).
7. If Respondent fails to comply with the terms of this agreement, then the Commission may reopen this matter and prosecute Respondent to the full extent permitted by law, except that the Statute of Limitations shall be waived for the underlying violation as well as for any other violations that were not discoverable by the Commission due to non-compliance with any of the terms of this agreement.
8. This agreement is not binding on any other law enforcement or regulatory agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it.
9. It is further stipulated and agreed that Respondent violated the Oakland Government Ethics Act as described in this agreement.
10. **The term of this agreement shall be for forty-five (45) calendar days, beginning on the date this agreement is executed by both parties and terminating forty-five (45) calendar days thereafter, or until the parties have satisfied all of the requirements of this agreement, whichever is earlier.**
11. **During the term of this agreement, Respondent shall do the following:**

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.34; Lothlen, Mariah

- a. **Attend and successfully complete the following training: “Form 700 Diversion Training” (available online via NeoGov); and**
 - b. **Ensure the submission of the corresponding completion certificate to the PEC (preferred method is via email to ethicscommission@oaklandca.gov).**
12. **Respondent acknowledges that a failure to timely complete this requirement may be grounds for the unilateral extension or termination of this agreement by the Commission.**
13. Following completion of Respondent’s obligation(s) under this agreement as described above, the Commission shall do the following:
 - a. Close PEC case # 24-05.34 with no further action.
14. Any subsequent complaint received or initiated by the PEC during the term of this agreement that alleges Respondent violated a provision of any other law under the PEC’s jurisdiction, regardless of whether that matter is related or unrelated to the facts stipulated to in this agreement, is a basis for the unilateral extension or termination of this agreement by the PEC.
15. In the event the PEC has a reason to believe that there is a basis to extend or terminate the agreement, PEC staff shall make reasonable efforts to provide the Respondent with an opportunity to be heard through written submission concerning the alleged non-compliance. Thereafter, PEC staff shall determine whether to unilaterally terminate or extend this agreement.
16. During the term of this agreement, Respondent shall notify the PEC, in writing, of any change of e-mail address, mailing address, or telephone number within 10 business days of the change. Should PEC staff be unable to contact Respondent due to the latter’s failure to comply with the terms of this Section, or if Respondent should otherwise fail to respond within a reasonable time to PEC staff’s attempts to contact Respondent using the contact information which the PEC has on record, PEC staff shall be deemed to have made “reasonable efforts” to contact Respondent pursuant to the terms of this agreement.
17. In the event that the Respondent fails to comply with the terms of this agreement, they agree that all of the facts stated herein shall be deemed true in any subsequent evidentiary hearing.

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.34; Lothlen, Mariah

18. The parties acknowledge that this agreement, Respondent's compliance with this agreement, and the disposition of this matter upon completion or termination of the agreement, are matters of public record. Respondent further acknowledges that the Complainant (if any) will be made aware that this matter was resolved through this agreement and may be provided with a copy of this agreement upon request.

SO AGREED:

Date

Tovah Ackerman, Enforcement Chief of
the City of Oakland Public Ethics
Commission, Petitioner

Date

Mariah Lothlen, Respondent

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.34; Lothlen, Mariah

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Mariah Lothlen” PEC Case No. 24-05.34 is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Francis Upton IV, Chair
City of Oakland Public Ethics Commission



Item 6 - Form 700 Enforcement Updates

ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

PUBLIC ETHICS COMMISSION STIPULATION (FORM 700 LATE FILER)

PEC NO.: 24-05.35

RESPONDENT NAME AND POSITION: Loud, Kamil (20411 - Emergency Service/Suppression, Captain of Fire Department)

DESCRIPTION OF VIOLATION: Failure to timely file statement of economic interests (Form 700), in violation of Oakland Government Ethics Act section 2.25.040(B):

| FORM 700 TYPE | REPORTING PERIOD | DUE DATE | DATE FILED | DAYS LATE |
|------------------|---------------------|---------------|---------------------|-----------|
| Annual | 1/1/23 – 12/31/23 | April 2, 2024 | December 4, 2024 | 246 |

OF PEC ENFORCEMENT CONTACTS PRIOR TO FILING: 1

POSSIBLE CONFLICTS OF INTEREST FLAGGED: None

PROPOSED RESOLUTION: Diversion (Training)

With regard to the above, the Public Ethics Commission and Respondent hereby agree to the following:

STIPULATION

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This agreement shall become effective upon execution by the Commission Chair;
3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondents;

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.35; Loud, Kamil

4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, the Public Ethics Commission Complaint Procedures, and all other sources of procedural rights applicable to this PEC enforcement action. These procedural rights include, but are not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at their own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed.
5. Respondent represents that they have accurately furnished to the Commission all discoverable information and documents sought by the Commission that are relevant and necessary to the Commission's determination of a fair and comprehensive resolution to this matter.
6. Upon approval of this agreement and full performance of the terms outlined herein, the Commission will take no future action against Respondent regarding the violation(s) of law described in this agreement, and this agreement shall constitute the complete resolution of all claims by the Commission against Respondent related to such violation(s).
7. If Respondent fails to comply with the terms of this agreement, then the Commission may reopen this matter and prosecute Respondent to the full extent permitted by law, except that the Statute of Limitations shall be waived for the underlying violation as well as for any other violations that were not discoverable by the Commission due to non-compliance with any of the terms of this agreement.
8. This agreement is not binding on any other law enforcement or regulatory agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it.
9. It is further stipulated and agreed that Respondent violated the Oakland Government Ethics Act as described in this agreement.
10. **The term of this agreement shall be for forty-five (45) calendar days, beginning on the date this agreement is executed by both parties and terminating forty-five (45) calendar days thereafter, or until the parties have satisfied all of the requirements of this agreement, whichever is earlier.**
11. **During the term of this agreement, Respondent shall do the following:**

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.35; Loud, Kamil

- a. **Attend and successfully complete the following training: “Form 700 Diversion Training” (available online via NeoGov); and**
 - b. **Ensure the submission of the corresponding completion certificate to the PEC (preferred method is via email to ethicscommission@oaklandca.gov).**
12. **Respondent acknowledges that a failure to timely complete this requirement may be grounds for the unilateral extension or termination of this agreement by the Commission.**
13. Following completion of Respondent’s obligation(s) under this agreement as described above, the Commission shall do the following:
 - a. Close PEC case # 24-05.35 with no further action.
14. Any subsequent complaint received or initiated by the PEC during the term of this agreement that alleges Respondent violated a provision of any other law under the PEC’s jurisdiction, regardless of whether that matter is related or unrelated to the facts stipulated to in this agreement, is a basis for the unilateral extension or termination of this agreement by the PEC.
15. In the event the PEC has a reason to believe that there is a basis to extend or terminate the agreement, PEC staff shall make reasonable efforts to provide the Respondent with an opportunity to be heard through written submission concerning the alleged non-compliance. Thereafter, PEC staff shall determine whether to unilaterally terminate or extend this agreement.
16. During the term of this agreement, Respondent shall notify the PEC, in writing, of any change of e-mail address, mailing address, or telephone number within 10 business days of the change. Should PEC staff be unable to contact Respondent due to the latter’s failure to comply with the terms of this Section, or if Respondent should otherwise fail to respond within a reasonable time to PEC staff’s attempts to contact Respondent using the contact information which the PEC has on record, PEC staff shall be deemed to have made “reasonable efforts” to contact Respondent pursuant to the terms of this agreement.
17. In the event that the Respondent fails to comply with the terms of this agreement, they agree that all of the facts stated herein shall be deemed true in any subsequent evidentiary hearing.

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.35; Loud, Kamil

18. The parties acknowledge that this agreement, Respondent's compliance with this agreement, and the disposition of this matter upon completion or termination of the agreement, are matters of public record. Respondent further acknowledges that the Complainant (if any) will be made aware that this matter was resolved through this agreement and may be provided with a copy of this agreement upon request.

SO AGREED:

Date

Tovah Ackerman, Enforcement Chief of
the City of Oakland Public Ethics
Commission, Petitioner

Date

Kamil Loud, Respondent

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.35; Loud, Kamil

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Kamil Loud” PEC Case No. 24-05.35 is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Francis Upton IV, Chair
City of Oakland Public Ethics Commission



Item 6 - Form 700 Enforcement Updates

ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

PUBLIC ETHICS COMMISSION STIPULATION (FORM 700 LATE FILER)

PEC NO.: 24-05.39

RESPONDENT NAME AND POSITION: McCullough, Artisha (02311 - Equal Opportunity Programs, 02311 - Equal Opportunity Programs, EEO & Civil Rights Director, Human Resource Analyst, Principal)

DESCRIPTION OF VIOLATION: Failure to timely file statement of economic interests (Form 700), in violation of Oakland Government Ethics Act section 2.25.040(B):

| FORM 700 TYPE | REPORTING PERIOD | DUE DATE | DATE FILED | DAYS LATE |
|------------------|---------------------|---------------|------------------|-----------|
| Annual | 1/1/23 – 12/31/23 | April 2, 2024 | October 23, 2024 | 204 |

OF PEC ENFORCEMENT CONTACTS PRIOR TO FILING: 1

POSSIBLE CONFLICTS OF INTEREST FLAGGED: None

PROPOSED RESOLUTION: Diversion (Training)

With regard to the above, the Public Ethics Commission and Respondent hereby agree to the following:

STIPULATION

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This agreement shall become effective upon execution by the Commission Chair;
3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondents;

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.39; McCullough, Artisha

4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, the Public Ethics Commission Complaint Procedures, and all other sources of procedural rights applicable to this PEC enforcement action. These procedural rights include, but are not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at their own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed.
5. Respondent represents that they have accurately furnished to the Commission all discoverable information and documents sought by the Commission that are relevant and necessary to the Commission's determination of a fair and comprehensive resolution to this matter.
6. Upon approval of this agreement and full performance of the terms outlined herein, the Commission will take no future action against Respondent regarding the violation(s) of law described in this agreement, and this agreement shall constitute the complete resolution of all claims by the Commission against Respondent related to such violation(s).
7. If Respondent fails to comply with the terms of this agreement, then the Commission may reopen this matter and prosecute Respondent to the full extent permitted by law, except that the Statute of Limitations shall be waived for the underlying violation as well as for any other violations that were not discoverable by the Commission due to non-compliance with any of the terms of this agreement.
8. This agreement is not binding on any other law enforcement or regulatory agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it.
9. It is further stipulated and agreed that Respondent violated the Oakland Government Ethics Act as described in this agreement.
10. **The term of this agreement shall be for forty-five (45) calendar days, beginning on the date this agreement is executed by both parties and terminating forty-five (45) calendar days thereafter, or until the parties have satisfied all of the requirements of this agreement, whichever is earlier.**
11. **During the term of this agreement, Respondent shall do the following:**

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.39; McCullough, Artisha

- a. **Attend and successfully complete the following training: “Form 700 Diversion Training” (available online via NeoGov); and**
 - b. **Ensure the submission of the corresponding completion certificate to the PEC (preferred method is via email to ethicscommission@oaklandca.gov).**
 12. **Respondent acknowledges that a failure to timely complete this requirement may be grounds for the unilateral extension or termination of this agreement by the Commission.**
 13. Following completion of Respondent’s obligation(s) under this agreement as described above, the Commission shall do the following:
 - a. Close PEC case # 24-05.39 with no further action.
 14. Any subsequent complaint received or initiated by the PEC during the term of this agreement that alleges Respondent violated a provision of any other law under the PEC’s jurisdiction, regardless of whether that matter is related or unrelated to the facts stipulated to in this agreement, is a basis for the unilateral extension or termination of this agreement by the PEC.
 15. In the event the PEC has a reason to believe that there is a basis to extend or terminate the agreement, PEC staff shall make reasonable efforts to provide the Respondent with an opportunity to be heard through written submission concerning the alleged non-compliance. Thereafter, PEC staff shall determine whether to unilaterally terminate or extend this agreement.
 16. During the term of this agreement, Respondent shall notify the PEC, in writing, of any change of e-mail address, mailing address, or telephone number within 10 business days of the change. Should PEC staff be unable to contact Respondent due to the latter’s failure to comply with the terms of this Section, or if Respondent should otherwise fail to respond within a reasonable time to PEC staff’s attempts to contact Respondent using the contact information which the PEC has on record, PEC staff shall be deemed to have made “reasonable efforts” to contact Respondent pursuant to the terms of this agreement.
 17. In the event that the Respondent fails to comply with the terms of this agreement, they agree that all of the facts stated herein shall be deemed true in any subsequent evidentiary hearing.
-

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.39; McCullough, Artisha

18. The parties acknowledge that this agreement, Respondent's compliance with this agreement, and the disposition of this matter upon completion or termination of the agreement, are matters of public record. Respondent further acknowledges that the Complainant (if any) will be made aware that this matter was resolved through this agreement and may be provided with a copy of this agreement upon request.

SO AGREED:

Date

Tovah Ackerman, Enforcement Chief of
the City of Oakland Public Ethics
Commission, Petitioner

Date

Artisha McCullough, Respondent

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.39; McCullough, Artisha

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Artisha McCullough” PEC Case No. 24-05.39 is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Francis Upton IV, Chair
City of Oakland Public Ethics Commission



Item 6 - Form 700 Enforcement Updates

ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

PUBLIC ETHICS COMMISSION STIPULATION (FORM 700 LATE FILER)

PEC NO.: 24-05.41

RESPONDENT NAME AND POSITION: Mercado, Christian (20411 - Emergency Service/Suppression, Lieutenant of Fire Department)

DESCRIPTION OF VIOLATION: Failure to timely file statement of economic interests (Form 700), in violation of Oakland Government Ethics Act section 2.25.040(B):

| FORM 700 TYPE | REPORTING PERIOD | DUE DATE | DATE FILED | DAYS LATE |
|------------------|---------------------|---------------|----------------------|-----------|
| Annual | 1/1/23 – 12/31/23 | April 2, 2024 | November 23, 2024 | 235 |

OF PEC ENFORCEMENT CONTACTS PRIOR TO FILING: 1

POSSIBLE CONFLICTS OF INTEREST FLAGGED: None

PROPOSED RESOLUTION: Diversion (Training)

With regard to the above, the Public Ethics Commission and Respondent hereby agree to the following:

STIPULATION

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This agreement shall become effective upon execution by the Commission Chair;
3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondents;

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.41; Mercado, Christian

4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, the Public Ethics Commission Complaint Procedures, and all other sources of procedural rights applicable to this PEC enforcement action. These procedural rights include, but are not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at their own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed.
 5. Respondent represents that they have accurately furnished to the Commission all discoverable information and documents sought by the Commission that are relevant and necessary to the Commission's determination of a fair and comprehensive resolution to this matter.
 6. Upon approval of this agreement and full performance of the terms outlined herein, the Commission will take no future action against Respondent regarding the violation(s) of law described in this agreement, and this agreement shall constitute the complete resolution of all claims by the Commission against Respondent related to such violation(s).
 7. If Respondent fails to comply with the terms of this agreement, then the Commission may reopen this matter and prosecute Respondent to the full extent permitted by law, except that the Statute of Limitations shall be waived for the underlying violation as well as for any other violations that were not discoverable by the Commission due to non-compliance with any of the terms of this agreement.
 8. This agreement is not binding on any other law enforcement or regulatory agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it.
 9. It is further stipulated and agreed that Respondent violated the Oakland Government Ethics Act as described in this agreement.
 10. **The term of this agreement shall be for forty-five (45) calendar days, beginning on the date this agreement is executed by both parties and terminating forty-five (45) calendar days thereafter, or until the parties have satisfied all of the requirements of this agreement, whichever is earlier.**
 11. **During the term of this agreement, Respondent shall do the following:**
-

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.41; Mercado, Christian

- a. **Attend and successfully complete the following training: “Form 700 Diversion Training” (available online via NeoGov); and**
 - b. **Ensure the submission of the corresponding completion certificate to the PEC (preferred method is via email to ethicscommission@oaklandca.gov).**
12. **Respondent acknowledges that a failure to timely complete this requirement may be grounds for the unilateral extension or termination of this agreement by the Commission.**
13. Following completion of Respondent’s obligation(s) under this agreement as described above, the Commission shall do the following:
 - a. Close PEC case # 24-05.41 with no further action.
14. Any subsequent complaint received or initiated by the PEC during the term of this agreement that alleges Respondent violated a provision of any other law under the PEC’s jurisdiction, regardless of whether that matter is related or unrelated to the facts stipulated to in this agreement, is a basis for the unilateral extension or termination of this agreement by the PEC.
15. In the event the PEC has a reason to believe that there is a basis to extend or terminate the agreement, PEC staff shall make reasonable efforts to provide the Respondent with an opportunity to be heard through written submission concerning the alleged non-compliance. Thereafter, PEC staff shall determine whether to unilaterally terminate or extend this agreement.
16. During the term of this agreement, Respondent shall notify the PEC, in writing, of any change of e-mail address, mailing address, or telephone number within 10 business days of the change. Should PEC staff be unable to contact Respondent due to the latter’s failure to comply with the terms of this Section, or if Respondent should otherwise fail to respond within a reasonable time to PEC staff’s attempts to contact Respondent using the contact information which the PEC has on record, PEC staff shall be deemed to have made “reasonable efforts” to contact Respondent pursuant to the terms of this agreement.
17. In the event that the Respondent fails to comply with the terms of this agreement, they agree that all of the facts stated herein shall be deemed true in any subsequent evidentiary hearing.

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.41; Mercado, Christian

18. The parties acknowledge that this agreement, Respondent's compliance with this agreement, and the disposition of this matter upon completion or termination of the agreement, are matters of public record. Respondent further acknowledges that the Complainant (if any) will be made aware that this matter was resolved through this agreement and may be provided with a copy of this agreement upon request.

SO AGREED:

Date

Tovah Ackerman, Enforcement Chief of
the City of Oakland Public Ethics
Commission, Petitioner

Date

Christian Mercado, Respondent

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.41; Mercado, Christian

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Christian Mercado” PEC Case No. 24-05.41 is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Francis Upton IV, Chair
City of Oakland Public Ethics Commission



Item 6 - Form 700 Enforcement Updates

ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

PUBLIC ETHICS COMMISSION STIPULATION (FORM 700 LATE FILER)

PEC NO.: 24-05.46

RESPONDENT NAME AND POSITION: Obad, Ali (Member, Sugar Sweetened Beverages Community Advisory Board)

DESCRIPTION OF VIOLATION: Failure to timely file statement of economic interests (Form 700), in violation of Oakland Government Ethics Act section 2.25.040(B):

| FORM 700 TYPE | REPORTING PERIOD | DUE DATE | DATE FILED | DAYS LATE |
|------------------|---------------------|---------------|------------------|-----------|
| Annual | 1/1/23 – 12/31/23 | April 2, 2024 | January 12, 2025 | 285 |

OF PEC ENFORCEMENT CONTACTS PRIOR TO FILING: 1

POSSIBLE CONFLICTS OF INTEREST FLAGGED: None

PROPOSED RESOLUTION: Diversion (Training)

With regard to the above, the Public Ethics Commission and Respondent hereby agree to the following:

STIPULATION

1. This Stipulation will be submitted for consideration by the City of Oakland Public Ethics Commission (Commission) at its next regularly scheduled meeting;
2. This agreement shall become effective upon execution by the Commission Chair;
3. This Stipulation resolves all factual and legal issues raised in this matter and represents the final resolution to this matter without the necessity of holding an administrative hearing to determine the liability of Respondents;
4. Respondent knowingly and voluntarily waives all procedural rights under the Oakland City Charter, Oakland Municipal Code, the Public Ethics Commission Complaint Procedures, and

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.46; Obad, Ali

all other sources of procedural rights applicable to this PEC enforcement action. These procedural rights include, but are not limited to, the right to personally appear at an administrative hearing held in this matter, to be represented by an attorney at their own expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the matter judicially reviewed.

5. Respondent represents that they have accurately furnished to the Commission all discoverable information and documents sought by the Commission that are relevant and necessary to the Commission's determination of a fair and comprehensive resolution to this matter.
6. Upon approval of this agreement and full performance of the terms outlined herein, the Commission will take no future action against Respondent regarding the violation(s) of law described in this agreement, and this agreement shall constitute the complete resolution of all claims by the Commission against Respondent related to such violation(s).
7. If Respondent fails to comply with the terms of this agreement, then the Commission may reopen this matter and prosecute Respondent to the full extent permitted by law, except that the Statute of Limitations shall be waived for the underlying violation as well as for any other violations that were not discoverable by the Commission due to non-compliance with any of the terms of this agreement.
8. This agreement is not binding on any other law enforcement or regulatory agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to this matter, or any other matter related to it.
9. It is further stipulated and agreed that Respondent violated the Oakland Government Ethics Act as described in this agreement.
10. **The term of this agreement shall be for forty-five (45) calendar days, beginning on the date this agreement is executed by both parties and terminating forty-five (45) calendar days thereafter, or until the parties have satisfied all of the requirements of this agreement, whichever is earlier.**
11. **During the term of this agreement, Respondent shall do the following:**
 - a. **Attend and successfully complete the following training: "Form 700 Diversion**

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.46; Obad, Ali

Training” (available online via NeoGov); and

b. Ensure the submission of the corresponding completion certificate to the PEC (preferred method is via email to ethicscommission@oaklandca.gov).

- 12. Respondent acknowledges that a failure to timely complete this requirement may be grounds for the unilateral extension or termination of this agreement by the Commission.**
13. Following completion of Respondent’s obligation(s) under this agreement as described above, the Commission shall do the following:
 - a. Close PEC case # 24-05.46 with no further action.
14. Any subsequent complaint received or initiated by the PEC during the term of this agreement that alleges Respondent violated a provision of any other law under the PEC’s jurisdiction, regardless of whether that matter is related or unrelated to the facts stipulated to in this agreement, is a basis for the unilateral extension or termination of this agreement by the PEC.
15. In the event the PEC has a reason to believe that there is a basis to extend or terminate the agreement, PEC staff shall make reasonable efforts to provide the Respondent with an opportunity to be heard through written submission concerning the alleged non-compliance. Thereafter, PEC staff shall determine whether to unilaterally terminate or extend this agreement.
16. During the term of this agreement, Respondent shall notify the PEC, in writing, of any change of e-mail address, mailing address, or telephone number within 10 business days of the change. Should PEC staff be unable to contact Respondent due to the latter’s failure to comply with the terms of this Section, or if Respondent should otherwise fail to respond within a reasonable time to PEC staff’s attempts to contact Respondent using the contact information which the PEC has on record, PEC staff shall be deemed to have made “reasonable efforts” to contact Respondent pursuant to the terms of this agreement.
17. In the event that the Respondent fails to comply with the terms of this agreement, they agree that all of the facts stated herein shall be deemed true in any subsequent evidentiary hearing.
18. The parties acknowledge that this agreement, Respondent’s compliance with this

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.46; Obad, Ali

agreement, and the disposition of this matter upon completion or termination of the agreement, are matters of public record. Respondent further acknowledges that the Complainant (if any) will be made aware that this matter was resolved through this agreement and may be provided with a copy of this agreement upon request.

SO AGREED:

Date

Tovah Ackerman, Enforcement Chief of
the City of Oakland Public Ethics
Commission, Petitioner

Date

Ali Obad, Respondent

Item 6 - Form 700 Enforcement Updates

Form 700 Late-Filer – Stipulation
PEC # 24-05.46; Obad, Ali

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Ali Obad” PEC Case No. 24-05.46 is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Francis Upton IV, Chair
City of Oakland Public Ethics Commission



Item 7 - Disclosure and Engagement Report

Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Ryan Micik
Alea Gage
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: City of Oakland, Public Ethics Commission
FROM: Alex Van Buskirk, Lead Analyst, Compliance and Disclosure
Jelani Killings, Lead Analyst, Education and Engagement
DATE: March 5, 2025
RE: Disclosure and Engagement Monthly Report for the March 19, 2025,
Public Ethics Commission Meeting

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 Public Ethics Commission 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 (Includes 2024 General Election Spending Analysis)

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.

2025 Special Election Campaign Finance Disclosure – On April 15, 2025, there is a Special Election in the City of Oakland for the positions of Mayor and City Council District 2. As of March 5, 2025, there are ten candidates for Mayor and six candidates for City Council District 2 who have qualified to appear on the ballot.

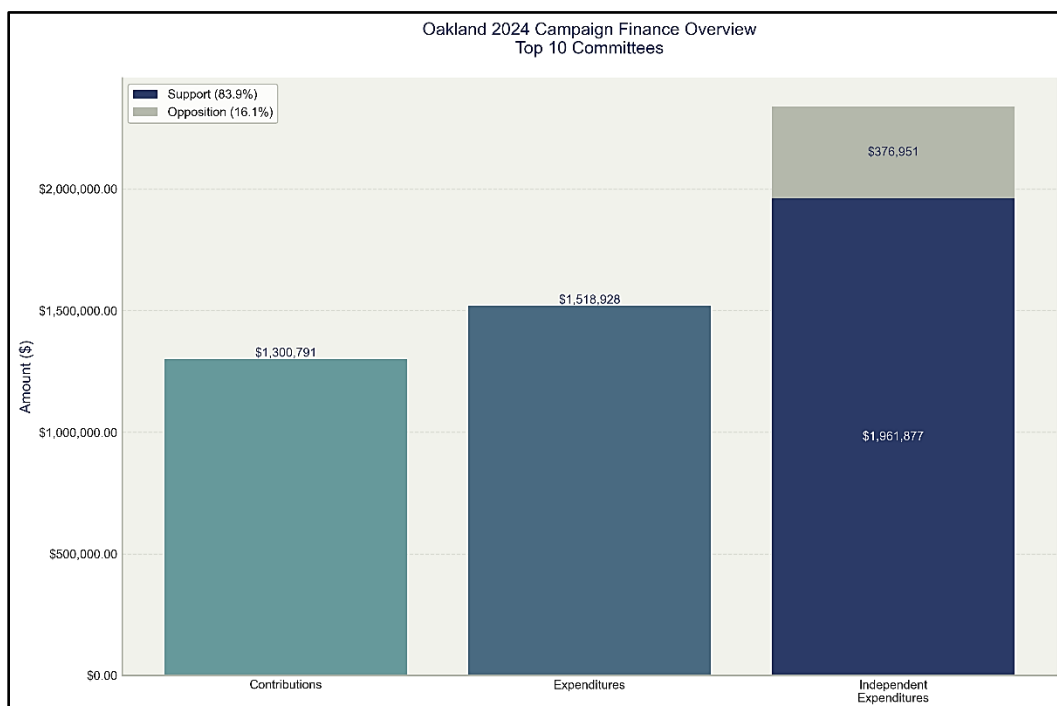
The nomination period for Mayoral and City Council District 2 candidates in the April 15, 2025, Special Election closed on January 17, 2025 (the nomination period first opened on December 23, 2024).

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Commission Staff coordinated with the California Fair Political Practices Commission (FPPC) on setting up a special election filing schedule, which includes pre-election statements (March 6, 2025 and April 3, 2025), for the April 15, 2025, Special Election. Commission Staff provided the details of the Special Election filing schedule to relevant Oakland committees and included a copy of the schedule on the PEC website for education and information purposes.

The next campaign finance filing deadline is the First Pre-Election statement due March 6, 2025, covering activity from January 1, 2025 through March 1, 2025. All candidates appearing on the April 15, 2025 Special Election ballot must file this First Pre-Election statement for their committees. These filings are made on either a Form 460 (for candidates raising or spending \$2,000 or more on their campaigns) or Form 470 (for candidates raising or spending less than \$2,000).

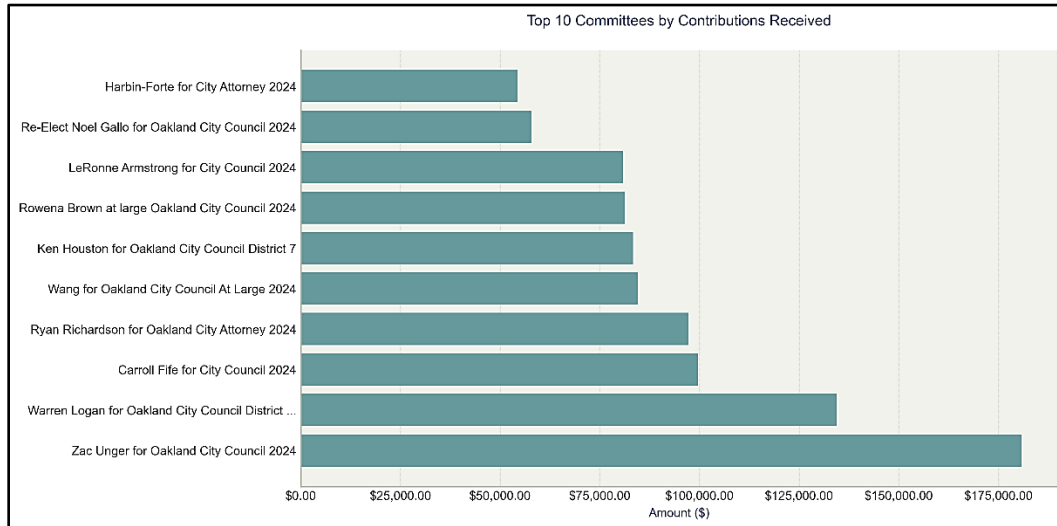
General Election 2024 Spending Analysis¹ – The Oakland 2024 campaign finance landscape is characterized by significant financial activity across various committees and independent expenditure groups. A total of \$1,300,791.45 in contributions was raised by the top 10 candidate committees, while total expenditures from these committees amounted to \$1,518,928.01. (It is likely committees spent more than they raised because they entered the 2024 election cycle with sufficient cash on hand. Other committees may have reported loans/debt.) Additionally, independent expenditures supporting or opposing candidates reached a total of \$2,338,828.28, with \$1,961,877.25 allocated towards support spending (83.9%) and \$376,951.03 directed toward opposition spending (16.1%).



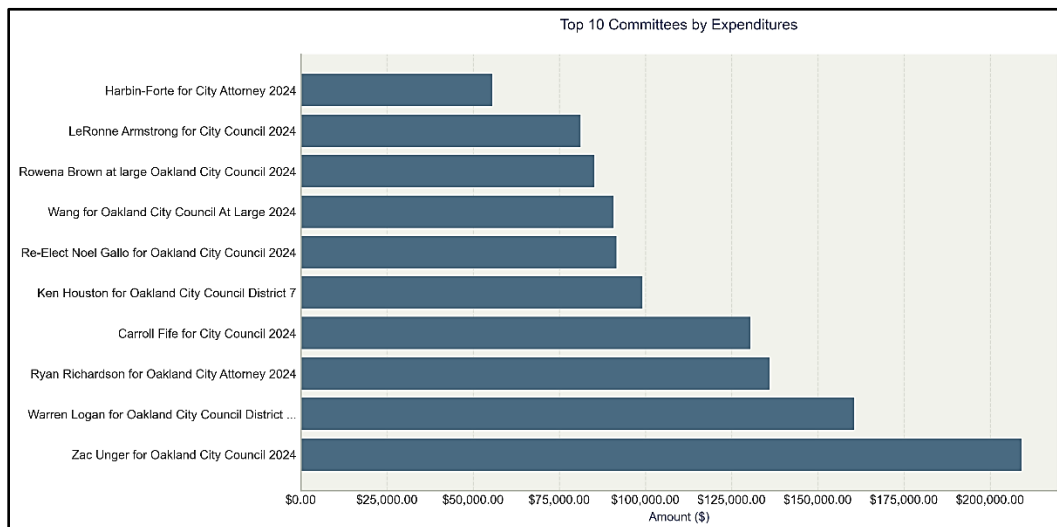
¹ This is based on data from <https://public.netfile.com/pub2/excel/COAKBrowsable/> as reported (as is) by committees.

Item 7 - Disclosure and Engagement Report

Among the top candidate committee fundraisers, the Zac Unger for Oakland City Council 2024 (D1 candidate) committee led with total contributions of \$180,706.91, followed by Warren Logan for Oakland City Council District 3 2024 (D3 candidate) at \$134,446.00 and Carroll Fife for City Council 2024 (D3 candidate) at \$99,602.36. Other notable committees include Ryan Richardson for Oakland City Attorney 2024 (City Attorney candidate) (\$97,202.82), Wang for Oakland City Council At Large 2024 (At-Large candidate) (\$84,557.65), and Ken Houston for Oakland City Council District 7 (D7 candidate) (\$83,339.85).



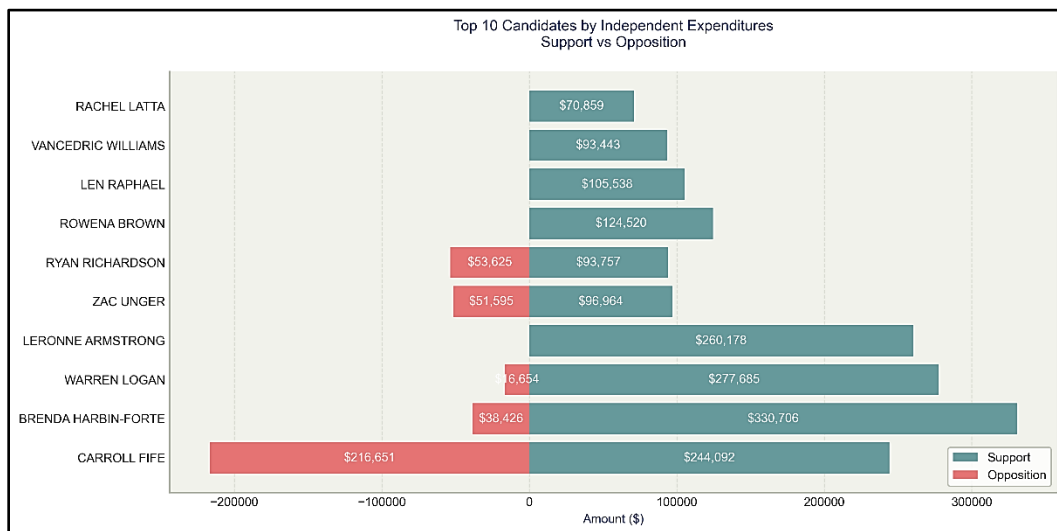
On the expenditure side, Zac Unger for Oakland City Council 2024 (D1 candidate) was again the highest spender at \$209,046.42. Warren Logan for Oakland City Council District 3 2024 (D3 candidate) followed with \$160,526.15 in expenditures, while Ryan Richardson for Oakland City Attorney 2024 (City Attorney candidate) spent \$135,990.19. The committee for Carroll Fife for City Council 2024 (D3 candidate) recorded expenditures of \$130,509.86, with Ken Houston for Oakland City Council District 7 (D7 candidate) spending \$99,137.66.



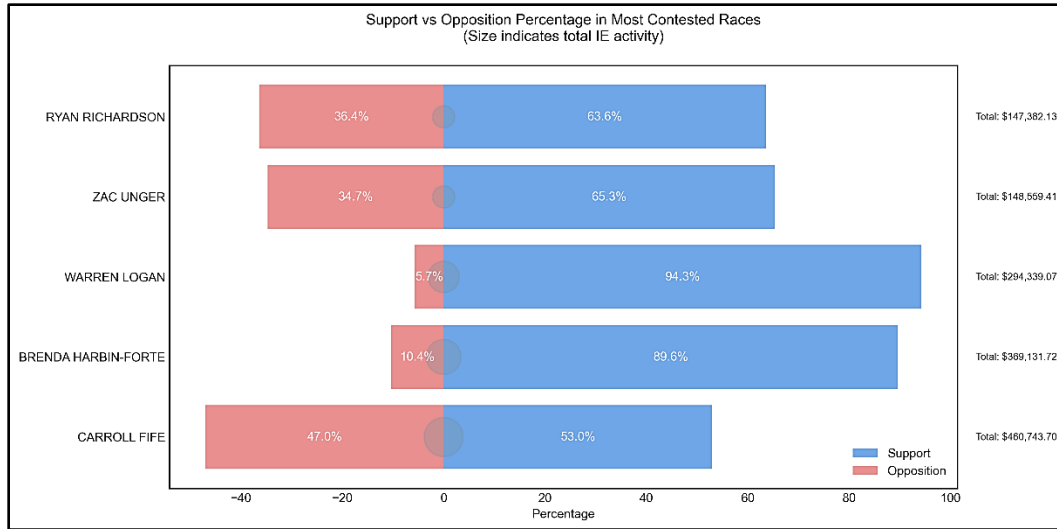
Item 7 - Disclosure and Engagement Report

Independent expenditures were arguably a major factor in the election, with Carroll Fife (D3 candidate) being the candidate with the highest total independent expenditure activity at \$460,743.70, which included \$244,092.43 in support spending and \$216,651.27 in opposition spending. Brenda Harbin-Forte (City Attorney candidate) followed with \$369,131.72 in total independent expenditures, the majority (\$330,706.14) for support. Warren Logan (D3 candidate) received \$277,685.21 in support spending and faced \$16,653.86 in opposition, bringing total independent expenditure activity to \$294,339.07. LeRonne Armstrong (At-Large candidate), with no recorded opposition spending, benefited from \$260,177.63 in independent expenditure support.

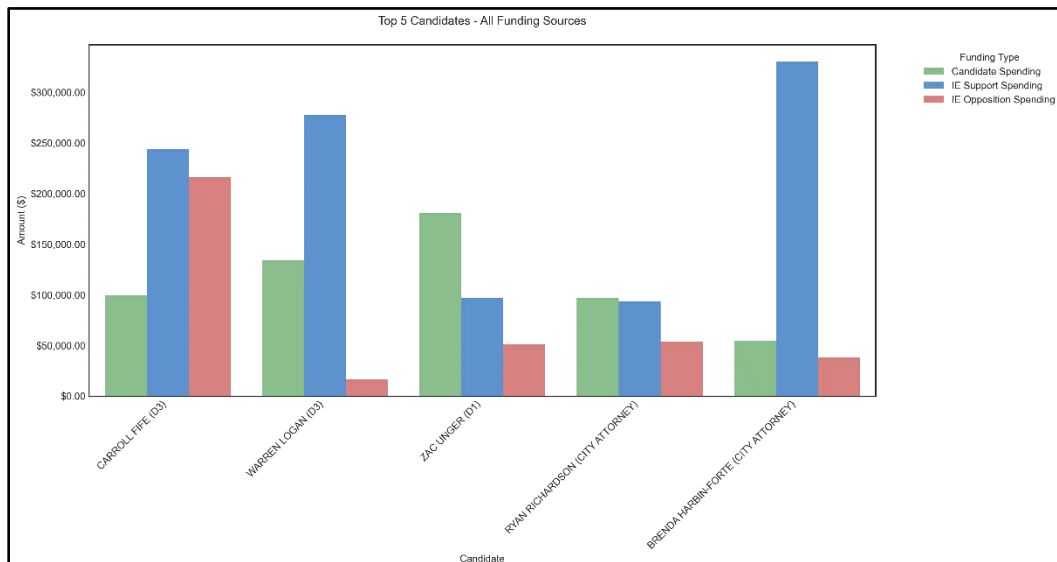
Among other candidates receiving significant independent expenditures, Zac Unger (D1 candidate) had a total of \$148,559.41 in independent spending, with \$96,964.09 in support and \$51,595.32 in opposition. Ryan Richardson (City Attorney candidate) saw \$147,382.13 in independent expenditures, with \$93,757.13 in support and \$53,625.00 in opposition. Rowena Brown (At-Large candidate) and Len Raphael (D1 candidate) received \$124,519.63 and \$105,538.32 in independent support spending, respectively, without any opposition expenditures. VanCedric Williams (OUSD D3 candidate) and Rachel Latta (OUSD D1 candidate) also received independent support, totaling \$93,442.75 and \$70,858.60, respectively, with no reported opposition spending.



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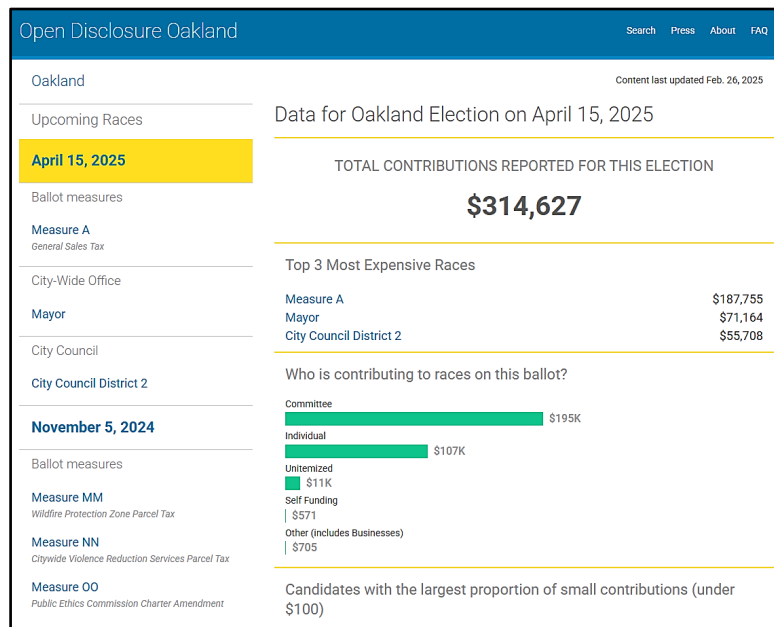
Comparing candidate expenditures versus independent expenditure spending, Carroll Fife’s direct campaign spending was \$130,509.86, while independent expenditures totaled \$460,743.70, meaning external spending on her behalf was more than three times her own campaign’s expenditures (this includes total spending against Fife in the D3 contest). Warren Logan’s direct campaign expenditures were \$160,526.15, compared to independent expenditures of \$294,339.07 (\$277,685.21 in support). Zac Unger spent \$209,046.42 from his campaign, with an additional \$148,559.41 in independent expenditures (\$96,964.09 in support). Ryan Richardson’s campaign expenditures totaled \$135,990.19, while independent expenditures amounted to \$147,382.13 (\$93,757.13 in support). Note that opposition spending does not include spending in favor of an opponent. Independent expenditures are either marked “support” or “oppose” on their Form 496 filing, and the corresponding totals reflect which “support” or “oppose” for a given candidate was marked.



Campaign statements are available to view and download at the Commission's [Public Portal for Campaign Finance Disclosure](#). Campaign finance data, graphs, and visualizations are available via the [City's Open Data portal](#) and Commission-sponsored apps [Show Me the Money](#) and [Open Disclosure Oakland](#), as well as links on the PEC website.

Illuminating Disclosure Data

Open Disclosure Oakland – The [opendisclosure.io](#) campaign finance app is live with the data for the April 15, 2025 Special Election. Open Disclosure Oakland, a nonpartisan tool, was developed by volunteers from [OpenOakland](#), a civic technologist group, in partnership with Commission Staff to give all Oakland residents equal access to campaign finance data. The Open Disclosure Oakland website shows funds donated to both political candidates and ballot measure committees and provides clear summaries of money raised and spent as well as financial trends for each election. The website also includes a search function that makes campaign donation records easy to search and sort and allows users to search campaign donors by name across multiple campaigns and elections.



Open Disclosure Oakland is updated regularly with data imported directly from the [City's campaign finance database](#) and includes a notification system that sends subscribers alerts about new campaign reports.

As in prior elections, in March the PEC will purchase advertisements to increase public awareness of these transparency tools.

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, 2025.

To date, as of March 5, 2025, 43 lobbyists are currently registered with the City of Oakland for 2025. Note that Commission Staff is pleased to report that with the assistance of the Information Technology Department over many months in 2024, a new point-of-sale (POS) system has been implemented that went live on January 13, 2025. This new POS system allows

Item 7 - Disclosure and Engagement Report

new lobbyists to pay their fee electronically upon registering with the PEC. The benefit is real time service and a greatly reduced burden for Commission Staff in processing/issuing invoices to these new lobbyists. (Lobbyists are still able to submit a waiver application, which will be reviewed for determination on a case-by-case basis.) Commission Staff is in the process of working with two registered lobbyists in 2025 who need to pay the \$500 registration fee – as noted in prior reports to the Commission, the registration fee process can take several weeks after an initial registration, as invoices need to be created and issued, then paid. These two lobbyists registered prior to the POS system being implemented.

January 31, 2025, was the deadline for lobbyists to file their Quarterly Activity Report for Quarter 4 2024. Only one lobbyist has not filed for Q4 2024, and three of lobbyists filed late. Commission Staff is in the process of issuing late fee notices to the lobbyists who filed late, and is in the process of referring the one non-filer to the Enforcement Unit after multiple filing notices were issued without a response.

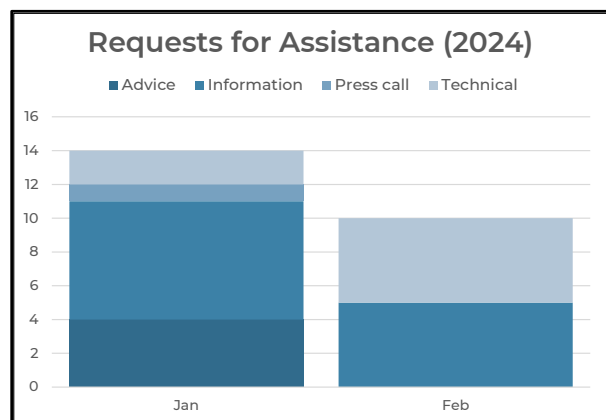
In November 2023, the Oakland City Council adopted amendments to the Lobbyist Registration Act including a new requirement that lobbyists take a training provided by the Commission. Under PEC Rules, lobbyists have 60 days from their date of registration to complete the training, which is required every two years. Because most lobbyists took the training last year, they are not required to take it this year. Commission Staff is working with two new registered lobbyists to ensure full compliance with this training requirement.

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

Advice and Engagement

The Commission's Advice and 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 – In the months of January 2025 and February 2025, Commission Staff responded to 24 requests for information, advice or assistance regarding campaign finance, ethics, Sunshine law, or lobbyist issues.



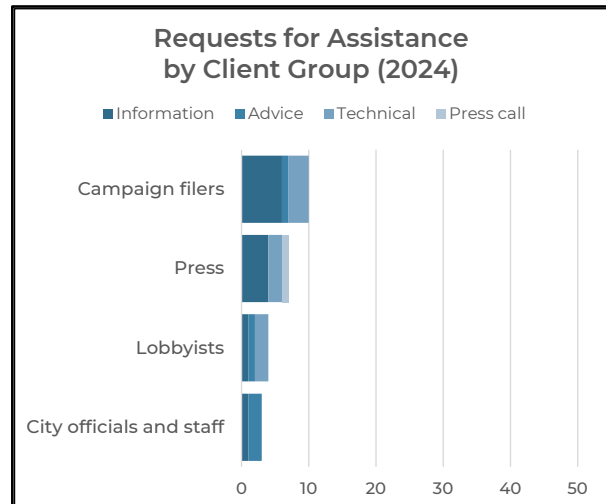
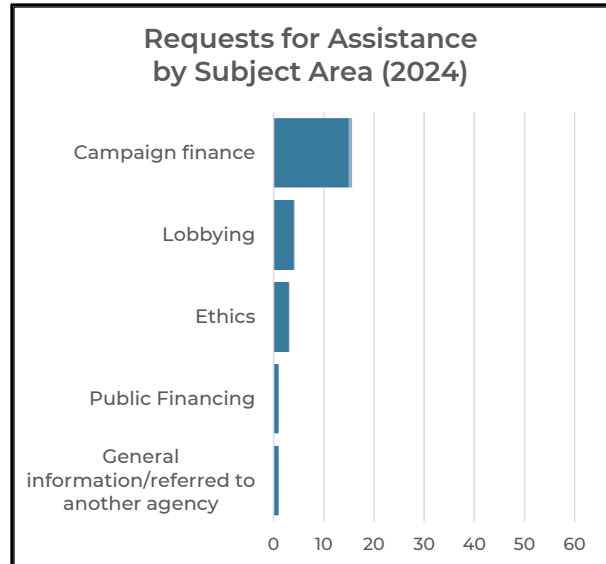
New Employee Orientation – Commission Staff continues to make presentations at the City’s monthly New Employee Orientation (NEO) providing new employees with an introduction to the Public Ethics Commission and overview of the Government Ethics Act (GEA).

In the months of January and February, Commission Staff provided an overview of the City’s ethics rules to 41 new City employees. Employees required to file Form 700 disclosure statements were also assigned the Commission’s mandatory online Government Ethics Training for Form 700 filers.

Supervisor Academy – On January 23, 2025, staff facilitated an ethics discussion for the City’s quarterly Supervisory Academy. The discussions are intended to allow for more meaningful dialogue concerning ethical values in decision making with a focus on identifying ethical dilemmas that City staff face in carrying out their daily duties. Commission Staff provided an overview of the Government Ethics Act including conflicts of interests, gift restrictions, and postemployment restrictions. A total of 27 employees attended the training.

Ethics Check-Ins – Commission Staff has been conducting ethics check-ins with individual City councilmembers and their staff to provide an overview of the Commission and its work and to share information about recent changes in both local and state ethics and transparency laws. Topics covered include gift rules, changes to the Lobbyist Registration Act, social media disclaimer requirements, changes to the state’s Levine Act regarding limitations on campaign contributions to local elected officials from certain parties and disqualifications based on past campaign contributions, and future outreach opportunities.

Check-ins allow Commission Staff to better understand the support needs of elected officials and their staff in complying with local ethics laws. Commission Staff also shared about ethics training requirements and provided a link to the PEC’s ethics resource binder. So far, Commission Staff has met with the following Council offices:



Item 7 - Disclosure and Engagement Report

- Council President Gallo
- Councilmember Kaplan
- Councilmember Brown
- Councilmember Unger

PEC Advisories – As part of our continuing education efforts, Commission Staff issues routine advisories to ensure that stakeholders subject to the laws under the PEC’s jurisdiction are aware of local rules impacting them. In January and February, Commission Staff sent out the following seven advisories:

| Date | Targeted Group | Advisory Topic |
|-----------|--------------------------|---|
| 1/1/2025 | Campaign Filers | Reminder about January 31, 2025 Semi-Annual Report filing deadline. |
| 1/15/2025 | Lobbyist Filers | Reminder about January 31, 2025 Quarterly Report filing deadline. |
| 1/15/2025 | Campaign Filers | Notification of Start of 24-Hour Reporting Period on January 15 |
| 1/17/2025 | City Staff and Officials | Reporting Rules for Behested Payments |
| 1/23/2025 | Campaign Filers | Special Election Filing Schedule |
| 2/25/2025 | City Staff and Officials | Election-season guidance for City staff |
| 2/27/2025 | Campaign Filers | Avoiding Common Filing Errors |

Limited Public Financing (LPF) Program – The final deadline for LPF participants that received public financing during the November 2024 election to return any surplus funds to the City was January 31, 2025. Under the Limited Public Financing Act, candidates who participated and had a remaining cash balance (less any outstanding debts) as of December 31, 2024, were required to return a portion of the funds to the City by January 31. Only one LPF participant was required to return surplus funds in the amount of \$248.20, and they met the deadline.

Publications – 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 was updated to reflect recent changes to the City’s contribution limits.

Online Engagement

Social Media – In January 2025 and February 2025, Commission Staff continued producing monthly social media content, including six posts highlighting PEC meetings, new contribution limits, PEC advisories, and the City’s budget workshops.

Item 8 - Enforcement Report



Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Ryan Micik
Alea Gage
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Tovah Ackerman, Enforcement Chief
DATE: March 6, 2025
RE: Enforcement Program Report for the March 19, 2025 PEC Meeting

Since the last Enforcement Unit Program Update submitted to the Commission on January 14, 2025, Commission staff received four (4) formal (sworn) complaints, nineteen (19) informal (unsworn) complaints, and filed one (1) proactive (staff-generated) complaint, for a total of twenty-four (24) new complaints.

In the same period of time, Commission staff:

- dismissed two (2) formal complaints without opening an investigation;
- moved six (6) cases from “on hold” to “preliminary review;”
- opened one (1) investigation;
- completed one (1) investigation and are conducting an internal legal review of the evidence gathered;
- initiated settlement discussions in three (3) cases;
- recommended to the Commission that nineteen (19) Form 700 cases be closed without prosecution;
- recommended to the Commission that seven (7) Form 700 cases be settled through diversion training;
- and entered into streamlined settlements for seven (7) Form 700 cases.
- Since the last Program Update, a total of thirty-five (35) complaints or cases have been resolved, or have been submitted to the Commission for resolution, by way of dismissal, closure, or settlement.

Case Resolutions or Submissions

Since the last Enforcement Unit Program report, the following cases or formal complaints have been resolved or submitted to the Commission:

- **In the Matter of Unknown (hearing officer, Oakland Animal Services, 29th Avenue Shelter) (PEC No. 23-27).** On August 1, 2023, the PEC received a formal complaint alleging that the Complainant had not received a fair hearing from Oakland Animal Services regarding confiscation of their dog. The Enforcement Unit conducted a preliminary review and determined that there was insufficient evidence of any violation of a law within the PEC's jurisdiction. The PEC lacks jurisdiction to review general claims of unfair hearings unless there is an allegation that a position was misused for personal or financial gain. As such, the complaint was dismissed, and Oakland Animal Services was made aware of the complaint.
- **In the Matter of Corean Todd (Home Management Specialist II, Department of Housing & Community Development, Rent Adjustment Program); Gregory Garrett (Development/Redevelop. Program Manager, Department of Housing & Community Development) (PEC No. 23-25).** On July 7, 2023, the PEC received a formal complaint alleging that Respondents had issued relocation permits to tenants without notifying the property owner. They also stated they have code violations that needed to be corrected, and that two remaining tenants who received relocation payments in the previous year were still occupying the units. While the Government Ethics Act (GEA) prohibits the misuse of position for private advantage, the Complainant did not allege that City officials were acting to confer a private advantage to any person, only that their actions were improper. As such, the complaint was dismissed, and the Housing and Community Development Department and Rent Adjustment Program (RAP) were made aware of the complaint.
- On April 18, 2024, the PEC opened an investigation into allegations that various City officials had failed to timely file their 2023 Annual Form 700. Enforcement staff has completed its investigation into certain respondents and has submitted its Update on Form 700 Enforcement Efforts (PEC #24-05) to the Commission, which includes a recommendation that the Commission approve certain cases for closure or settlement, as follows:
 - a. **In the Matter of Various 2023 Annual Form 700 Non-Filers (Recommending Closure with Finding of No Violation) (PEC ## 24-05.4, 24-05.11, 24-05.12, 24-**

05.14, 24-05.16, 24-05.19, 24-05.21, 24-05.24, 24-05.27, 24-05.30, 24-05.33, 24-05.37, 24-05.40, 24-05.43, 24-05.44, 24-05.45, 24-05.47, 24-05.50, and 24-05.55).

- b. In the Matter of Various 2023 Annual Form 700 Non-Filers (Recommending Closure with Settlements Allowing for Diversion) (Training) (PEC ## 24-05.28, 24-05.32, 24-05.34, 24-05.35, 24-05.39, 24-05.41, and 24-05.46).**

We also entered “streamlined” settlement agreements for the following low-level violations. Pursuant to recent amendments to the Commission’s Complaint Procedures, the Executive Director has the authority to resolve these minor violations on their own authority, without a Commission vote, so long as they meet the specific requirements laid out in our Complaint Procedures (Section VI(D), (H)) and Penalty Guidelines.

| Respondent | City Position | Date Filed | Resolution | Case # |
|---------------------------|---|------------|----------------------|----------|
| Hicks, Brian | 20411 - Emergency Service/Suppression, Lieutenant of Fire Department | 5/13/2024 | Diversion (training) | 24-05.22 |
| Beene-Clarke, Asha | Commissioner, Commission on Aging | 5/7/2024 | Diversion (training) | 24-05.3 |
| Price, Cedric | 20411 - Emergency Service/Suppression, Captain of Fire Department | 4/17/2024 | Diversion (training) | 24-05.51 |
| Shirazi, Sahar | Commissioner, City Planning Commission | 5/8/2024 | Diversion (training) | 24-05.54 |
| Vindiola De Haro, Ricardo | 00511 - District Five Unit, City Council PSE 14 | 4/15/2024 | Diversion (training) | 24-05.58 |
| Walker, David | Member, Alameda County-Oakland Community Action Partnership Administering Board | 4/23/2024 | Diversion (training) | 24-05.59 |
| Watkins, Robert | Commissioner, Parks and Recreation Advisory Commission | 5/3/2024 | Diversion (training) | 24-05.62 |

This brings the total Enforcement caseload to one hundred and seventy-one (171) open complaints or cases (this includes forty-two (42) outstanding 2023 Form 700 non-filer proactive cases opened in 2024).¹ Of the remaining one hundred and twenty-nine (129) cases, this includes:

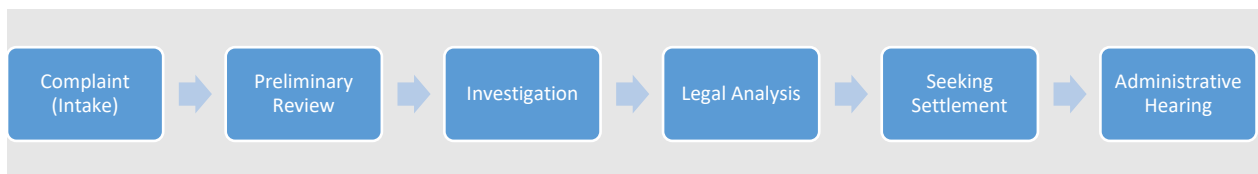
- Fifty-one (51) cases in the Intake or Preliminary Review stage;
- Eighteen (18) cases under investigation;

¹ The PEC opened 61 Form 700 cases, but 18 have been closed, with 42 remaining as of this report. Of these, 19 are being recommended for closure without prosecution, 7 are being recommended to be settled through diversion training, and 7 have entered into streamlined settlements.

- Four (4) cases under post-investigation legal analysis;
- Twenty (20) cases in which Enforcement staff is seeking a negotiated settlement;
- Four (4) cases pending an administrative hearing;
- And thirty-two (32) cases currently on hold.

Enforcement's current staffing is: one (1) Enforcement Chief and one (1) permanent full-time Investigator.

Overview of the Enforcement Process



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 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.

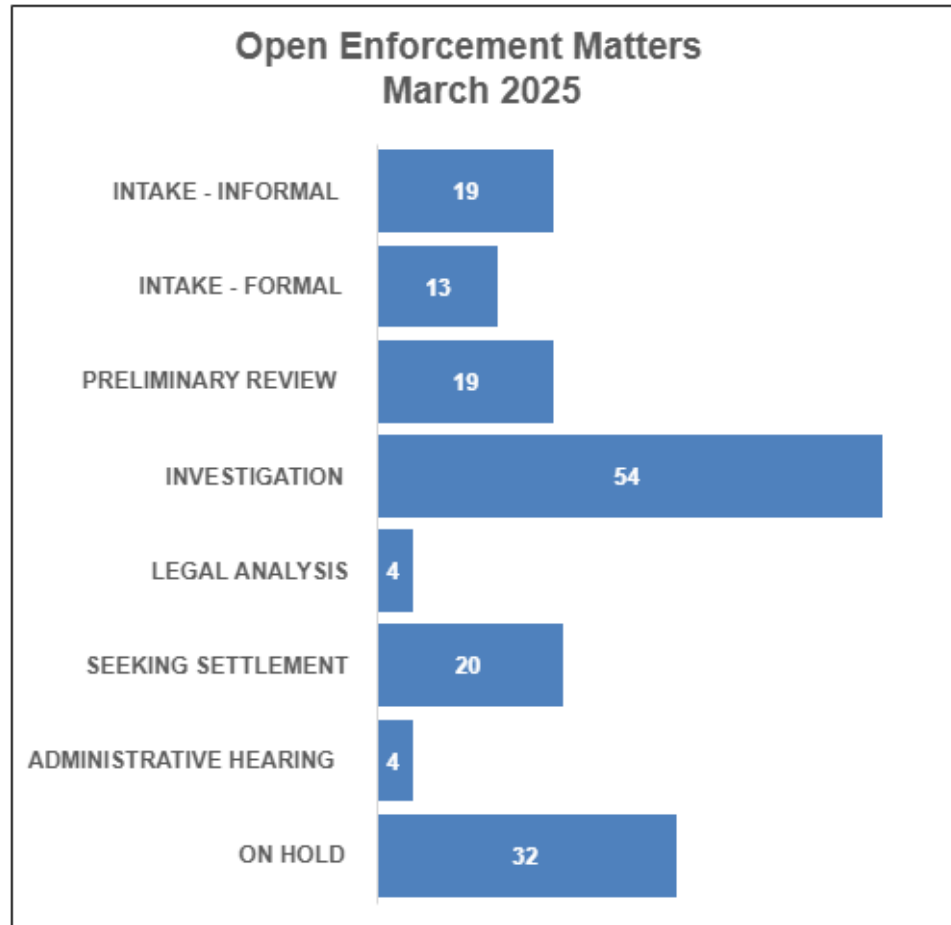
Matters at this stage are classified as “Administrative Hearing” in Enforcement’s internal workflow. The Executive Director and the hearing officer will arrange the logistical and procedural details of the hearing. All administrative hearings are open to the public, and are conducted either by the full 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.

Appendix: Current Caseload by Case Status

The table below breaks down all open enforcement matters by their stage of investigation, including Form 700 non-filer cases.





Item 9 - Executive Director's Report

Ryan Micik, Chair
Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: March 5, 2025
RE: Executive Director's Report for the March 19, 2025, Regular PEC Meeting

This memorandum provides an overview of some of the Public Ethics Commission's (PEC's or Commission's) most significant activities since the last ED report and significant upcoming activities which were not included in other program reports, including a discussion of staffing, budget, and policy initiatives.

Staffing Updates

At the end of January, the PEC was informed that one of its employees would be laid off as a result of budget cuts. Although the PEC did not lose any positions in the December mid-cycle budget, because another department eliminated a position and the employee in that position had more seniority than a PEC employee in the same job classification, the PEC employee would be terminated, and the more senior employee would take their position at the PEC. Thankfully, the cut in the other department was reversed in February, so the layoff did not take place.

Late last year, the job classification for the Program Manager position was approved. Staff is working with Human Resources Management to create a selective certification (i.e., specialized type of Program Manager) so that the qualifications meet the specialized needs of the Democracy Dollars Program. Once the selective certification is complete, likely in the next several months, the PEC will begin a permanent recruitment for this position.

Staff is also exploring creating a new job classification within the PEC of "Senior Ethics Investigator." This change is modelled after the PEC's Ethics Analyst series, which includes Ethics Analyst I, Ethics Analyst II, and Ethics Analyst III. Adding an additional investigator job class creates room for career growth within the PEC and provides additional flexibility for hiring more senior staff. This process is likely to take a year or longer to approve.

FY25-27 Budget Cycle

According to a February 2025 Department of Finance report, the "City is facing a nearly \$140 million ongoing structural deficit in the General Purpose Fund," which will likely necessitate additional budget cuts in the FY25-27 budget. As part of the FY25-27 budget development process, each Department was required to provide a proposal meeting a spending target set by the Budget Office. PEC staff submitted its proposal, consistent with Commission budget priorities discussed

at the January meeting and in consultation with the Chair. Interim Mayor Jenkins is expected to submit his proposed budget to City Council by May 1; Councilmembers' proposed amendments are due by June 12; and the Budget must be adopted prior to July 1.

Measure W Updates

General Outreach and Community Engagement –Staff continued to initiate informal meetings with both internal and external stakeholders to introduce the Democracy Dollars program and identify potential partnerships to provide input into the outreach strategy for launch and increase our reach to residents with historically lower rates of voter and donor participation. In February and March, staff focused on meetings with representatives of youth-centered organizations including the [Oakland Youth Commission](#), Oakland Unified School District, and [Oakland All City Council Student Union](#). Presentations to introduce the Democracy Dollars program and opportunities to raise awareness of the program among Oakland youth are scheduled for the All City Council Student Union on April 18 and Oakland Youth Commission on April 21.

Staff met with external municipal entities including the Seattle Ethics and Elections Commission (SEEC) and the Seattle Department of Neighborhood (DON) to learn about successful community engagement practices, and programs, such as community advisory committees and community liaisons. Staff also met with Raul Macias of the Haas Jr. Fund to report on progress towards grant objectives.

On March 4, 2025 and the newly formed Democracy Dollars Engagement Plan subcommittee met for an initial discussion of subcommittee and staff roles, goals, and potential activities. Commissioners provided input to identify organizations that can assist with building program awareness and prioritizing initiating connections with those organizations that can assist with targeted outreach to residents from communities with greater barriers to participation.

Professional Development – To foster inclusive engagement practices in the Democracy Dollars outreach planning, staff attended the following trainings:

- Digital Services Academy by Granicus Experience Group to discuss best practices for service design and form design.
- Youth Empowerment and a Discussion about Adulthood by Oakland Youth Commission to learn how adults can play a significant and important role as allies to youth.
- Community Engagement 101: Policy and Foundation Training by Office of the City Administrator Communications and Engagement Team, designed to educate staff on best practices for public participation and equitable engagement.

Mediation Program

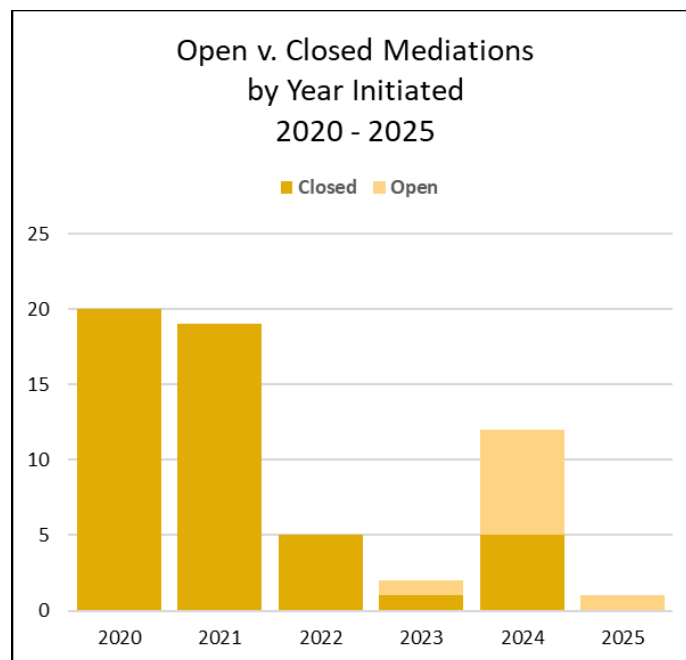
Pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediation of public records requests made by members of the public to City departments for records within the department's control. The PEC currently has 9 open mediations. Since the last ED Report, the

Item 9 - Executive Director's Report

Commission received 1 new request for mediation, and 3 mediations were completed. The closed mediations, attached to this memo, were:

- **M2020-02:** *In the Matter of the Oakland Police Department (Mediation Case No. M2020-02; Mediation Summary)*
- **M2021-17:** *In the Matter of the City Administrator Office (Mediation Case No. M2021-17; Mediation Summary)*
- **M2022-01:** *In the Matter of the Office of the City Council (Mediation Case No. M2022-01; Mediation Summary)*

Staff is happy to report that, because of the work of Ethics Analyst Jelani Killings and Commission Analyst Teddy Teshome, all 2020, 2021, and 2022 mediation requests are now closed.



Additional Attachment: Mediations.

Item 9 - Executive Director's Report



Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Teddy Teshome, Administrative Analyst
Jelani Killings, Ethics Analyst
DATE: February 21, 2025
RE: *In the Matter of the Oakland Police Department (Mediation Case No. M2020-02;
Mediation Summary)*

I. INTRODUCTION

On February 14, 2020, the Commission received a request for mediation alleging that the City failed to respond to public records requests made by the Requestor on November 26, 2019. Staff initiated its mediation program on February 18, 2020, pursuant to the Oakland Sunshine Ordinance.

Because the responsive department provided the Requestor with the responsive records, although a considerable amount of time had lapsed, this mediation was closed with no further action.

II. SUMMARY OF LAW

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

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

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

¹ Oakland Municipal Code § 2.20.010(C); Government Code § 7920.000 et seq.

² Government Code § 7922.530(a).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

Item 9 - Executive Director's Report

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

III. SUMMARY OF FACTS

On November 26, 2019, the City received the following records request via NextRequest (19-5823):

OPD Internal Affairs documents, emails, correspondence, or reports mentioning Oakland Police Commission from dates 11/14 to 11/20

That same day, the City received the following request from the same Requestor via Next Request (19-5824):

OPD Chief Anne Kirkpatrick's emails, documents, recordings, correspondence or reports mentioning Oakland Police Commission and/or Ginale Harris from dates, 11/14 to 11/21

On February 14, 2020, the PEC received a mediation request from the Requestor stating that the department's requests for extensions to produce the requested records were not credible. Subsequently, Staff initiated mediation.

On, August 11, 2020, OPD released several responsive documents to PRR 19-5824. Subsequently, OPD closed PRR 19-5824.

Approximately two years later, after several extension requests and changed due dates as a result of waiting on an EDDR request, OPD shared a Class Action Settlement with the Requestor stating:

Please see the attached notice of a Class Action Settlement that may affect your rights regarding Oakland Police Department records.

On January 9, 2023, OPD asked the Requestor if they still needed the requested information, in which the Requestor replied, yes.

In January and August of 2023, respectively, OPD released a large volume of responsive documents to the request. Subsequently, OPD closed the public records request (19-5823).

On December 19, 2024, Staff reached out to the Requestor to inquire if they were still interested in pursuing the mediation. Staff also informed them that if there was no response, the mediation would be closed. No response was received from the Requestor. A follow-up email was sent on January 27, 2025, but no response was received.

⁵ Complaint Procedures § IV (C)(5).

IV. RECOMMENDATION

Since OPD has provided a large volume of responsive records in response to the public records requests, and the Requestor has not replied to Staff communications regarding whether they are seeking any additional documents, this mediation is closed with no further action.

Item 9 - Executive Director's Report



Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Teddy Teshome, Administrative Analyst
Jelani Killings, Ethics Analyst
DATE: March 4, 2025
RE: *In the Matter of the City Administrator Office (Mediation Case No. M2021-17; Mediation Summary)*

I. INTRODUCTION

On August 3, 2021, the Commission received a request for mediation alleging that the City failed to respond to several public records requests made by the Requestor spanning a period of three years. Staff initiated its mediation program on August 3, 2021, pursuant to the Oakland Sunshine Ordinance.

Because a considerable amount of time has lapsed and the Requestor has not replied to Staff communications regarding whether they are still interested in pursuing the mediation, this mediation was closed with no further action.

II. SUMMARY OF LAW

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

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

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

¹ Oakland Municipal Code § 2.20.010(C); Government Code § 7920.000 et seq.

² Government Code § 7922.530(a).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

Item 9 - Executive Director's Report

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

III. SUMMARY OF FACTS

Between May 13, 2019, and July 21, 2021 the City received a total of 11 records request via NextRequest from the Requestor:

20-4825; 21-5254; 20-1096; 19-2461; 21-2142; 21-6153; 20-4826; 20-1095; 20-4321; 21-5253; 21-6400

All the public records requests (PRR), with the exception of 21-2142, were assigned to the City Administrator. PRR 21-2142 was assigned to the Planning and Building Department.

On August 3, 2021, the PEC received a mediation request from the Requestor stating that the requests have not been responded to and often there has been no response at all from the assigned City staff. Subsequently, Staff initiated mediation.

The table below provides a status summary of the 11 public records requests by the Requestor:

| NextRequest Number | NextRequest Status | Documents added after mediation notification | Additional Notes |
|--------------------|--------------------|--|-------------------------|
| 20-4825 | Closed | Yes | |
| 21-5254 | Closed | Yes | |
| 21-1096 | Overdue | No | No updates |
| 19-2461 | Closed | Yes | |
| 21-2142 | Closed | No | Planning/Bldg. |
| 21-6153 | Closed | Yes | |
| 20-4826 | Closed | No | No responsive documents |
| 20-1095 | Overdue | No | No updates |
| 20-4321 | Overdue | No | No updates |
| 21-5253 | Closed | Yes | |
| 21-6400 | Overdue | No | No updates |

On December 19, 2024, Staff reached out to the Requestor to inquire if they were still interested in pursuing the mediation. Staff also informed them that if there was no response, the mediation would be closed. No response was received from the Requestor. A follow-up email was sent on January 27, 2025, but no response was received.

IV. RECOMMENDATION

⁵ Complaint Procedures § IV (C)(5).

Item 9 - Executive Director's Report

Seven of the 11 public records requests (PRR) have been closed in NextRequest. Since the remaining PRR are over three years old and the Requestor has not replied to Staff communications regarding whether they are still interested in pursuing the mediation, this mediation is closed with no further action.

Item 9 - Executive Director's Report



Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Teddy Teshome, Administrative Analyst
Jelani Killings, Ethics Analyst
DATE: March 4, 2025
RE: *In the Matter of the Office of the City Council (Mediation Case No. M2022-01; Mediation Summary)*

I. INTRODUCTION

On March 25, 2022, the Commission received a request for mediation alleging that four City Council offices failed to respond to individual public records requests made by the Requestor. Staff initiated its mediation program on March 28, 2022, pursuant to the Oakland Sunshine Ordinance.

Because records were released for three of the four requests, and the Requestor has not replied to Staff communications regarding whether they are still interested in pursuing the mediation, this mediation was closed with no further action.

II. SUMMARY OF LAW

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

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

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

¹ Oakland Municipal Code § 2.20.010(C); Government Code § 7920.000 et seq.

² Government Code § 7922.530(a).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

Item 9 - Executive Director's Report

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

III. SUMMARY OF FACTS

On March 2, 2022, the City received a total of four records request via NextRequest from the Requestor to individual City Councilmembers (22-1612, 22-1613, 22-1614, 22-1615):

Please follow all applicable state and local laws and produce the following public records

--all SMS texts sent or received from work or personal phone device of Council Member [Kalb, Taylor, Reid, Thao] during the March 1, 2022 Concurrent Meeting of the Oakland Redevelopment Successor Agency and the City Council, from 1:30 pm to 10pm and/or the end of the meeting.

--all emails sent or received from work or personal email of Council Member [Kalb, Taylor, Reid, Thao] during the March 1, 2022 Concurrent Meeting of the Oakland Redevelopment Successor Agency and the City Council, from 1:30 pm to 10pm and/or the end of the meeting.

-- all direct messages sent or received from Twitter account of Council Member [Kalb, Taylor, Reid, Thao] during the March 1, 2022 Concurrent Meeting of the Oakland Redevelopment Successor Agency and the City Council, from 1:30 pm to 10pm and/or the end of the meeting.

On March 25 ,2022, the PEC received a mediation request from the Requestor stating that the individual council offices failed to respond to the public records requests. Subsequently, Staff initiated mediation.

The table below provides a status summary of the four public records requests by the Requestor:

| NextRequest Number | NextRequest Status | Documents added after mediation notification | Additional Notes |
|--------------------|--------------------|--|------------------|
| 22-1612 | Overdue | Yes | |
| 22-1613 | Overdue | No | No response |
| 22-1614 | Overdue | Yes | |
| 22-1615 | Closed | Yes | |

On December 19, 2024, Staff reached out to the Requestor to inquire if they were still interested in pursuing the mediation. Staff also informed them that if there was no response, the mediation would be closed. No response was received from the Requestor. A follow-up email was sent on January 27, 2025, but no response was received.

⁵ Complaint Procedures § IV (C)(5).

IV. RECOMMENDATION

Responsive documents were provided for three of the four public records requests (PRR). Since the remaining PRR is three years old and the Requestor has not replied to Staff communications regarding whether they are still interested in pursuing the mediation, this mediation is closed with no further action.



Item 10 - PEC Ballot Measure Revenue Options

Francis Otopil, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: March 7, 2025
RE: PEC Revenue-Generating Ballot Measure Update

This memo provides an update on the Revenue Options Ad Hoc Subcommittee's work regarding a potential revenue-generating ballot measure in 2026 to fund the PEC's operations, which may include funding for Measure W, the Enforcement Unit, or the full PEC.

The past several years have demonstrated the PEC's extreme vulnerability in difficult fiscal years by being funded solely out of the General Purpose Fund. Although the City Charter and Municipal Code provide guaranteed funding and staffing for the PEC, the City Council may waive these requirements with the declaration of an extreme fiscal necessity, which was the case for the FY23-25 cycle. The goals of pursuing a revenue-generating ballot measure include:

- Ensuring the PEC has stable and sufficient funding to implement its Charter-mandated core services, including Measure W;
- Providing adequate minimum staffing for the Commission's Enforcement Unit, so that the Commission has the resources to timely investigate and resolve allegations of violations of the City's ethics and campaign finance laws; and
- Strengthening the Commission's independence as a watchdog agency.

Background

Under Measure W, the Democracy Dollars Program was supposed to be implemented for the 2024 election cycle. However, due to the City's fiscal situation, the City Council suspended minimum funding requirements for the Democracy Dollars Program in the FY23-25 Budget, reducing the PEC's budget by more than 50% compared with what was required under Measure W. As a result, the PEC was forced to postpone Program implementation for 2024.

During the FY 24-25 Midcycle budget process, the City Council further reduced the amount of funding available for Democracy Dollars implementation. As part of that midcycle process, the City Council adopted the following directive to the City Administrator:

[D]evelop alternatives for the City Council to achieve full implementation of a fully funded Democracy Dollars program by 2028. The plan should include recommendations for a sustainable funding mechanism to ensure the program's ongoing success. If the analysis fails to identify a suitable funding formula, the City Administrator should present options to either scale back the Democracy Dollars program or propose an alternative program.

In December 2024, the City Administration proposed a revenue-generating parcel tax for the April 2025 special election ballot which would have fully-funded all the City's oversight agencies, including the PEC, City Auditor, and Police Commission. The \$130/parcel tax was expected to generate \$23.2 million per year. Thirty-one percent (or \$7.2 million) was allocated to fully fund the PEC, including the Democracy Dollars Program. The City Council declined to place this proposal on the ballot, however, with then Council President Bas expressing concerns that the proposal might draw votes away from a sales tax measure on the April ballot and that the tax proposal would benefit from more policy development.

At its January 2025 meeting, the PEC established the Revenue Options Ad Hoc Subcommittee (Subcommittee) to review and develop options for a potential revenue-generating ballot measure to fully fund the Democracy Dollars Program, Enforcement Unit, and possibly other PEC services.

Revenue Options

The Subcommittee met and discussed several potential revenue options before settling on a **parcel tax** as the best option for raising funds. The parcel tax (which imposes a flat tax per parcel) is the least volatile tax that the City collects, which would ensure a stable funding source for the PEC. In addition, while a parcel tax is not the most progressive tax option, it is less regressive than other common types of local taxation.

The Subcommittee considered other types of local taxes less desirable, either because they are volatile revenue sources (e.g., the Real Estate Transfer Tax, or RETT), generate too little revenue to be effective (parking tax), or seemed too industry-specific to be a good fit for the program (soda tax, hotel tax). The two most common sources of local government revenue, property taxes and sales taxes, are capped by state law. State law prohibits local governments from increasing property taxes and caps sales taxes at 10.75%, which is the rate being proposed with Measure A (2025).

The Subcommittee also looked at the PEC's fines as a potential revenue source. However, the PEC generates too little in fine revenue (less than \$0.5M) to fund Measure W, and relying on fines as a revenue source for its core programs may create the appearance of a conflict of interest incentivizing the PEC to issue higher fines.¹

Program Costs

With the Subcommittee, Staff reviewed the costs for several potential ballot measure options, including raising taxes to fund just Measure W, funding Measure W and the PEC's Enforcement

¹ Other jurisdictions do have campaign finance fines go into the pool of public financing funds available to disburse to candidates. This creates less of a conflict, as the funds would go directly to candidates and would not be used for the agency's staffing or operations and maintenance costs.

Item 10 - PEC Ballot Measure Revenue Options

Unit, and fully funding the PEC. Staff also estimated the parcel tax rate needed to raise each amount:

| OPTION | ANNUAL COST | EXPECTED PARCEL TAX |
|--|--|-----------------------|
| Option 1. Measure W Only. Fully fund the Democracy Dollars Program. | \$3,825,832 | \$18.10/parcel |
| Option 2. Measure W and Enforcement Only. Fully fund the Democracy Dollars Program and the Enforcement Unit, expanded to include: 1 Enforcement Chief, 1 Staff Attorney, and 3 Investigators. | \$5,325,369 | \$25.30/parcel |
| Option 3. Fully Fund the PEC. Fully fund all PEC operations, including Measure W and an expanded Enforcement Unit, as well as Non-Enforcement Programs. | \$7,200,000 (Budget Office Estimate) | \$34.10/parcel |

For Options 1 and 2, PEC staff modelled the estimated cost of fully funding Measure W and its enforcement unit. These represent general estimates of program costs; however, the actual cost may be somewhat higher, as these estimates do not include the cost of administering the tax or other City overhead costs. Staff will work with the Department of Finance to further refine these estimates. Option 3 is the cost model developed by the Department of Finance for fully funding the PEC, including Measure W, as part of its proposed oversight agencies parcel tax proposal.

The parcel tax rates needed to fund each option (\$18-\$34) are much lower than typical parcel tax rates in Oakland:

| MEASURE (YEAR) | USE OF TAX PROCEEDS | TAX AMOUNT | RESULT (% YES) |
|----------------|---------------------------------|-----------------|----------------|
| Y (2022) | Zoo upkeep | \$68 /parcel | Pass (63.1%) |
| H (2022) | School maintenance | \$120 /parcel | Pass (81.6%) |
| D (2018) | Library services | \$75 /parcel | Pass (76.9%) |
| AA (2018) | Pre-K through college education | \$198 /parcel | Pass (62.5%) |
| G1 (2016) | OUSD funding | \$120 /parcel | Pass (82.2%) |
| Z (2014) | Police funding | \$99.77 /parcel | Pass (77.5%) |

Source: Ballotpedia

At this stage, the Subcommittee does not have a recommendation for a single option, between funding Measure W alone to fully funding the PEC. There is a possibility that the PEC or other groups may be able to poll Oakland voters to help understand Oaklanders' preferences between these options.

The timing of the proposal also affects revenue. According to the Department of Finance, parcel taxes are collected in August of each year. This means to collect the tax in August 2026 (FY26-27), the parcel tax must pass on the June 2026 ballot, whereas a tax that passes on the November 2026 ballot would not be collected until August 2027 (FY27-28). Placing a measure on the 2026 Primary would thus provide an extra year of revenue and staffing to prepare for program roll-out in 2028.

Vote Threshold

Under California law, the vote percentage required to pass a local tax measure can depend on whether the government or voters places the measure on the ballot. When **local governments** place a **general tax** on the ballot (i.e., one to fund the general fund), the vote threshold is generally 50%+1. However, when **local governments** place a **specific tax** on the ballot (i.e., one to fund a specific program or service), then a two-thirds majority (66.7%) is needed. In contrast, when the **voters via initiative** place a measure for either a general or specific tax on the ballot, the vote threshold is 50%+1. In this case, a parcel tax to fund the PEC would be a specific tax, requiring either a two-thirds majority to pass if placed on the ballot by the City Council or a simple majority (of 50%+1 vote) to pass if placed on the ballot by the voters.

Next Steps

The PEC may consider and discuss which of the funding options it should pursue for the ballot measure; this discussion could also catalyze other groups concerned with this issue to gather data about voter preferences which may inform this decision. Working with the Subcommittee, Staff will continue to develop a parcel tax proposal, including potential ballot language, for future consideration by the Commission.



Item 11 - Amendments to the PEC's Operations Policies

Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Francis Upton IV, Chair
Nicolas Heidorn, Executive Director
DATE: March 1, 2025
RE: Commission Selection and Clean-Up Amendments to Operations Policies

Pursuant to the Public Ethics Commission's (Commission's or PEC's) discussion at its January 2025 meeting, Staff and Chair Upton IV are recommending amendments to the Commission's Operations Policies to specify the Commission's process for selecting new commissioners. These amendments include having the Commission use a pre-vetted list to fill Commission vacancies and, when there are more than two applicants for a single appointment, a requirement that the Chair poll commissioners for their ranked preferences between the applicants before taking a vote to appoint any applicant. The proposed amendments also incorporate other clean-up or streamlining changes to the PEC's Operation Policies to better reflect existing law, PEC practice, or PEC-adopted priorities, as described below.

Background

Oakland Municipal Code 2.24.020(A) provides that the "Commission shall adopt policies, procedures, and regulations for the conduct of its business by a majority vote of the members present." The Commission's current Operations Policies were last adopted in 2015, one year after the passage of Measure CC (2014), which created the modern Commission. Currently, the Operations Policies do not address how the Commission shall select new commissioners.

The City Charter specifies that four members of the seven-member Commission are appointed by current commissioners and that, if there is a vacancy in the other three citywide elected-official appointed seats that exceeds 120 days, the Commission may appoint someone to fill that vacancy. Specifically, Charter Section 603(d)(1)(ii), as recently amended by Measure OO (2024), provides that four members of the Commission:

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.

Charter Section 603(d)(5) provides:

Vacancies not filled by the Mayor, City Attorney, or City Auditor within 120 days of the occurrence of such vacancy may be filled by the Commission following a public recruitment

Item 11 - Amendments to the PEC's Operations Policies

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 as set forth in (d)(1)(i).

In the past the Commission has used an Ad Hoc Subcommittee to vet Commission applicants. The Subcommittee has then forwarded the most-qualified applicants to the full Commission for review and appointment of a Commissioner. After the passage of Measure OO (2024), the PEC considered appointing a finalist from its past two Commission selection processes to fill a two-year vacancy in a mayoral appointment; however, one applicant did not meet the qualifications for a mayoral appointment, and the other applicant later withdrew from consideration.

At its January 2025 meeting, Commissioner Upton IV led a discussion about amending the PEC's Operations Policies to formalize the Commission's use of a pre-vetted list of applicants to fill Commission vacancies and to have commissioners provide ranked preferences between applicants to assist with the selection process. This proposal follows from that discussion.

Proposed Commissioner Selection Amendments

The attached proposed amendments to the PEC's Operations Policies provides that:

- (1) The Chair may appoint a subcommittee to review Commission applicants and recommend the most-qualified candidates for appointment;
- (2) The Commission may fill vacancies to the Commission from a pre-vetted list of well-qualified applicants without conducting a new recruitment; and
- (3) When there are more than two applicants for a single appointment, the Chair shall first ask Commissioners to rank the applicants in order of preference prior to entertaining a motion to appoint an applicant.

Proposed amendments (1) and (2) incorporate the PEC's existing practice for filling Commission vacancies. Proposed amendment (3) is intended to facilitate the appointment process by allowing all Commissioners to state their preferences before a vote is taken. Where no candidate has clear majority support, commissioner rankings may help commissioners determine and select the applicant with the greatest overall support. However, an applicant could only be appointed to the Commission with a motion specifically appointing them, a second to the motion, and by a vote of at least four commissioners voting in favor.

The proposed clean-up and streamlining amendments are discussed in the chart on the next page.

Item 11 - Amendments to the PEC's Operations Policies



Francis Opton IV, Chair
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Nicolas Heidorn, Executive Director

Proposed Operations Policies Amendments

| Section | Current Policy | Proposed Policy | Reason |
|------------|--|---|--|
| Art. I | Describes PEC's mission as promoting "fairness, openness, honesty and integrity in City government." | - Adds additional mission (per Measure OO, 2024) of promoting "more inclusive, representative, and accountable democracy in Oakland" - Adds to PEC activities administering public financing | Conforms Operations Policies with the City Charter |
| Art. II | Describes the major laws the PEC enforces or administers | Adds other major Charter and OMC sections that the PEC enforces or administers, e.g., Fair Elections Act (Measure W, 2022), City Attorney/Auditor Salaries (Measure X, 2022) | Conforms Operations Policies with new laws and policies assigned to the PEC since the Policies were enacted |
| Sec. IV(1) | Provides for election of Chair/Vice Chair in January | Specifies the Chair/Vice Chair take office after the meeting at which they are appointed, rather than during the meeting | Clarifies a potential ambiguity that came up at the January 2025 meeting |
| Sec. IV(2) | Provides Chair is an ex officio member of all standing committees | Eliminates this provision | Existing policy could prevent the Commission from having 3-member standing committees as the Chair's presence at the meeting (a 4 th member) risks creating a Brown Act violation |
| Sec. VI(1) | Provides that the PEC generally meets on the first Monday of each month | Provides that the PEC shall publish its annual calendar online | Aligns with current practice and provides greater scheduling flexibility. The PEC has not met on a Monday in years and currently does not meet monthly. |

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| Section | Current Policy | Proposed Policy | Reason |
|--------------|---|--|---|
| Sec. VI(1) | Provides that written notice of regular meetings and special meetings must be 10 days and 72 hours in advance, respectively, and comply with the Sunshine Ordinance | Provides that written notice must comply with the Sunshine Ordinance, which currently provides that the PEC must post its agendas 10 days in advance for regular meetings and 48 hours in advance for special meetings | At its January meeting, the PEC voted to recommend that Council shorten its regular meeting notice period from 10 to 7 days. This change makes it so that, if the Council does make this change, it would be effective immediately, without the PEC having to go back and amend its Operations Policies again. The Proposed Policy would shorten special meeting notice to just the 48 hours provided under the Sunshine Ordinance; however, absent an urgent need to move quickly, such as acting in advance of a Council deadline, the PEC's practice has been to generally provide 7 days notice for its special meetings. |
| Sec. VI(2) | Provides that if quorum is lost during a meeting debate may continue but no vote may be taken | Provides that the Commission may hear and discuss all items on its agenda, but not vote, if quorum is lost | Clarifies a potential ambiguity that, when quorum is lost, the Commission may complete its entire agenda, and not just the item it was on when quorum was lost |
| Sec. VI(6) | <i>Does not address ad hoc committees</i> | Requires that ad hoc committees take meeting minutes, which shall be posted at the next regular meeting | Codifies existing PEC practice |
| Sec. VI(8) | Provides the Commission recesses for one month per year | Eliminates this requirement | Eliminates as unnecessary. The PEC can schedule its recess when it adopts its annual calendar or may cancel a regularly scheduled meeting to provide a recess |
| Sec. VIII(1) | Requires a commissioner receive Commission approval to abstain and requires them to refrain from further discussion of the item being voted on | Requires only that a commissioner explain the reason for their abstention immediately before or after a vote | Current practice of requiring a vote to authorize abstentions is cumbersome. Commissioners may also wish to abstain not because they oppose a proposal but because they believe there is another better proposal, which this would permit |
| Sec. IX(1) | Provides that confidential information generally includes information on complaints under preliminary review | Provides that confidential information generally includes all non-public information on complaints | Aligns with existing practice. Complaint information in the intake and investigation phases are also generally confidential. |

Item 11 - Amendments to the PEC's Operations Policies

| Section | Current Policy | Proposed Policy | Reason |
|--------------|---|---|--|
| Sec. X(1) | Provides the City Attorney is the PEC's parliamentarian | Provides that the City Attorney or their designee is the PEC's parliamentarian | Aligns with existing practice. Due to staffing limitations, the City Attorney presently has assigned outside counsel to the PEC. |
| New Art. XII | [N/A] | Creates a new article describing the PEC's process for selecting commissioners as described above | See above |

Item 11 - Amendments to the PEC's Operations Policies

Vote Threshold

Under OMC 2.24.020, a majority of commissioners present is required to adopt an amendment to the Commission's Operations Policies.

Recommendation

Staff and Chair Upton IV recommend that the Commission **adopt** the proposed amendments to the Operations Policies

Attachments: Redline of Proposed Amendments to the PEC's Operations Policies

Item 11 - Amendments to the PEC’s Operations Policies



CITY OF OAKLAND PUBLIC ETHICS COMMISSION

OPERATIONS POLICIES

Effective January 1, 2016

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ARTICLE I - MISSION STATEMENT

The mission of the Public Ethics Commission (Commission) is to promote more inclusive, representative, and accountable democracy in Oakland and to promote fairness, openness, honesty and integrity in City government. The Public Ethics Commission (Commission) ensures compliance with the City of Oakland's government ethics, campaign finance, transparency, and lobbyist registration laws that aim to promote fairness, openness, honesty, and integrity in city government. To fulfill its mission, the Commission conducts the following activities:

- A. **Lead/Collaborate** – Lead by example, administer and encourage participation in the City's campaign public financing programs, and facilitate city policy, management, and technological changes to further the Commission's mission.
- B. **Educate/Engage** – Provide education, advice, technical assistance, and formal legal opinions to promote awareness and understanding of the city's campaign finance, government ethics, lobbying, and transparency laws.
- C. **Disclose/Illuminate** – Facilitate accurate, effective, and accessible disclosure of government integrity data, such as campaign finance reporting, conflicts of interest/gifts reports, and lobbyist activities, all of which help the public and PEC staff monitor filings, view information, and detect inconsistencies or noncompliance.
- D. **Detect/Deter** – Conduct investigations and audits to monitor compliance with the laws within the Commission's jurisdiction.
- E. **Prosecute** – Enforce violations of the laws within the Commission's jurisdiction through administrative or civil remedies.

ARTICLE II - JURISDICTION, APPLICABLE LAW

The Commission was created by City Charter in 1996 (Section 202), which was amended in November 2014 (Sections 202, 603) and November 2024 (Sections 401, 403, 603) to strengthen the Commission's authority, independence and staffing. The Commission principally administers or oversees compliance with the following laws:

- A. The City of Oakland Government Ethics Act (O.M.C. chapter 2.25);
- B. The City of Oakland Campaign Reform Act (O.M.C. chapter 3.12);
- C. Limited Public Financing Act of the City of Oakland (O.M.C. chapter 3.13);
- D. Oakland Sunshine Ordinance (O.M.C. chapter 2.20);
- E. The City of Oakland Lobbyist Registration Act (O.M.C. chapter 3.20); ~~and~~
- F. Oakland False Endorsement in Campaign Literature act (O.M.C. chapter 3.14);
- G. Oakland Fair Elections Act (O.M.C. chapter 3.15);
- H. Sections of the Oakland Police Commission Ordinance (O.M.C. chapter 2.45);
- I. Sections of the Community Police Review Agency Ordinance (O.M.C. chapter 2.46); and

Item 11 - Amendments to the PEC's Operations Policies

~~F.J.~~ Salary setting for the City Council, City Attorney, and City Auditor (Charter sections 202, 401(1), and 403(3)).

The Commission must comply with all applicable laws, including but not limited to:

- A. Oakland City Charter, including but not limited to Sections 202, 401(1), 403(3), and 603;
- B. Public Ethics Commission Operations Ordinance (O.M.C. chapter 2.24);
- C. Oakland Sunshine Ordinance, the California Ralph M. Brown Act (Gov. Code sections 54950, *et seq.*) and the California Public Records Act (Gov. Code sections 6250, *et seq.*);
- D. The City of Oakland Government Ethics Act (O.M.C. chapter 2.25); and
- ~~E.~~ These Operations Policies and other policies adopted by the Commission.

~~E.~~

ARTICLE III - COMMISSION STRUCTURE AND SUPPORT

Section 1: Commission

The Public Ethics Commission is a seven-member board of Oakland residents responsible for establishing Commission policies and priorities, promoting government transparency, and serving as a quasi-judicial body that adjudicates enforcement matters brought to the Commission by staff.

Acceptance of the Oath of Public Office constitutes a commissioner's sworn responsibility to the public trust. Commissioners must collectively and individually respect and honor their appointed role and strive to maintain public confidence in the Commission's role in the government of the city of Oakland.

Section 2: Executive Director

The Executive Director reports to the Chair and to the Commission and is responsible for establishing staff priorities in consultation with the Chair and consistent with policy direction provided by the Commission.

The Chair or designee must prepare a periodic, written performance review of the Executive Director subject to the review and approval by the Commission in closed session. At any time, at the request of one or more commissioners, the Chair may call and notice a closed session of the Commission to discuss the performance of the Executive Director.

Section 3: Commission Staff

The Executive Director leads and supervises Commission staff and has the authority to hire and remove employees within constraints set by the Civil Service Commission, the Personnel Department, and the Commission's budget.

Section 4: Legal Advisor

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The City Attorney is the Commission's legal advisor. Any commissioner may consult informally with an attorney assigned to the Commission on any matter related to Commission business. However, a request from a commissioner for assistance requiring significant legal research, a substantial amount of time and attention, or a written response must be authorized by the Executive Director, the Chair, or by a majority vote of the Commission or one of its Committees.

Section 5: Commission Spokesperson

The spokesperson for the Commission is the Executive Director or designee, the Chair, or the Vice Chair if the Chair is unavailable.

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ARTICLE IV – OFFICERS

Section 1: Election of Officers

The officers of the Commission are the Chair and Vice Chair. At the first regular meeting of each year, commissioners must elect a Chair and Vice Chair. At the meeting, a commissioner may nominate any commissioner to serve in the office of Chair or Vice Chair. If more than one commissioner is nominated for an office, each nominee may speak regarding their qualifications and willingness to serve and answer questions of commissioners or the public. The Commission may discuss the nominations and, when the vote is called, each commissioner may cast a single vote for each office. The new Chair and new Vice Chair shall take office at the conclusion of the meeting at which they were selected.

Section 2: Chair

The Chair presides at all meetings of the Commission ~~and is an ex-officio member of all standing committees.~~ The Chair is accountable to the Commission as a whole in setting policy.

Section 3: Vice Chair

The Vice Chair performs the duties and responsibilities that may be delegated by the Chair. In the absence or disability of the Chair, the Vice Chair will perform the duties and responsibilities of the Chair.

ARTICLE V - COMMITTEES

Section 1: Standing and Ad Hoc Committees

It is the policy of the Commission to appoint individual commissioners to perform specific tasks or functions by serving on standing or ad hoc committees. Thus, as necessary, the Chair may create a standing or ad hoc committee, identify its purpose, appoint commissioners as members, and designate a Committee Chair.

Terms of ad hoc committees may not exceed one year. Membership on ad hoc committees may not exceed three commissioners.

Commission staff will post a list of the Commission's current committees and committee membership on the Commission's website.

Section 2: Committee Meetings

Committee meetings may be called by the Chair, the committee's chair, or by majority vote of members of the committee.

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Meetings of standing committees follow the same procedures provided under Article VI, sections 3 through 7 of these Operations Policies.

Section 3: Committee Quorum

A majority of the members of a committee constitutes a quorum.

ARTICLE VI - COMMISSION MEETINGS

Section 1: Meetings: Time, Public Location, Notice

The Commission must hold regular meetings at an established time and place suitable for its purposes, and consistent with the requirements of the Brown Act and Sunshine Ordinance. ~~The Commission shall adopt a calendar of regular Commission meetings for the calendar year which shall be posted to the Commission's website. Generally, regular Commission meetings are held on the first Monday of each month at 6:30 p.m., or as otherwise set forth in the published calendar and posted on the Commission's website with the proper notice.~~ Regular meetings shall generally be held on a weekday outside of normal business hours and shall be ~~are~~ held in Oakland City Hall, One Frank Ogawa Plaza in the city of Oakland, California.

Meetings scheduled for a time or place other than for regular meetings are designated as special meetings.

Written notice of regular meetings and special meetings must be provided ~~at least 10 days or 72 hours in advance, respectively,~~ in the manner required by Charter section 1205, the Oakland Sunshine Ordinance, and the Brown Act.

Section 2: Quorum

At all meetings of the full Commission, the presence of four (4) commissioners constitutes a quorum. (Charter section 603(d)(4).) No action can be taken on an agenda item unless at least four (4) commissioners are present. If ever during a meeting there is less than a quorum present, a motion to adjourn is appropriate; absent objection, the Commission may continue to hear and debate ~~can be continued~~ discuss all items on its agenda, but no vote may be taken, except to adjourn. When a quorum exists, official action requires a majority vote of those commissioners present when the vote is called, unless otherwise provided by the Charter (e.g., for certain enforcement matters and for removal of the Executive Director) or the Oakland Municipal Code.

Section 3: Public Engagement

The Commission values and encourages public input and, regarding public participation in Commission proceedings, will liberally construe the public's rights under the Brown Act and Sunshine Ordinance. The Commission proactively develops and promotes new channels for public participation in local government beyond the minimum legal requirements, for example,

Item 11 - Amendments to the PEC's Operations Policies

by utilizing new technology and social media tools to facilitate greater public access to government information and proceedings; conducting special meetings and hearings on relevant issues; collaborating with civic groups on issues and projects within the Commission's jurisdiction; and engaging in affirmative public outreach through non-traditional means.

All interested persons are encouraged to provide input or request information regarding Commission business by contacting Commission staff at (510) 238-3593 or ethicscommission@oaklandca.gov, or view information online at www.oaklandca.gov/pec.

At each regular Commission meeting, all interested persons may express their views regarding a matter within the jurisdiction of the Commission. This opportunity for comment, called "Open Forum," will appear on each agenda. Ordinarily, each speaker may speak for up to three minutes, but the Chair, in his or her discretion, may limit or extend the time, provided such changes are reasonable in nature and uniformly applied. The Commission may also limit the time for public comment under Open Forum to a total of 15 minutes.

At regular and special Commission or Committee meetings, all interested persons must also be allowed to express their views on any agenda item upon the Commission's review of the item. Before ~~taking action~~[acting](#) on any agenda item, the Commission (or Committee) must provide the opportunity for public comment on that item. Each person wishing to speak on an agenda item is permitted to speak once, for a minimum of two minutes; however, the Chair, in his or her discretion, may limit or extend the time, provided such changes are reasonable in nature and uniformly applied.

The Commission urges the public not to make complaints or ask the Commission to investigate alleged legal violations at public meetings since the public disclosure of such complaints or requests may undermine any subsequent investigation undertaken.

Section 4: Public Participation at Meetings

The agenda for each meeting must provide instructions for public participation. To encourage public participation, the Commission will employ the least formal, least restrictive procedures for public comment, so long as order is maintained.

~~In the event that~~[If](#) the complexity of the issues, number of anticipated participants, or other factors suggest that greater formality is required to maintain order or protect the public's right to participate, the Commission may utilize a more formal process (such as the "speaker card" procedure set forth in City Council Procedures Rule 12). In that case, the agenda will describe the process, including any special requirements, for public participation.

~~If during the course of~~[during](#) a meeting it becomes apparent that the existing procedure for public comment is inadequate or inappropriate, the Chair may exercise his or her discretion to modify the procedure during the meeting. In that case, the Chair must state the reasons justifying the change in procedure, clearly explain how members of the public may provide comment as to each agenda ~~item,~~[and](#)[item](#) and apply the modified process uniformly to all speakers.

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Section 5: Chair

The Chair must maintain order in the chamber, has authority to refuse the floor to any person, and may limit or extend the time allocated to any speaker.

The Chair may rule a public speaker out of order if:

- A. the speaker is speaking beyond the allocated time limit;
- B. the speaker's remarks are not relevant to the agenda item or are repetitious; or,
- C. the manner, tone and content of the speaker's remarks are disruptive (disturb the peace and good order of the meeting), attack the character of individuals, or are abusive (vulgar or obscene language).

The public has the right to criticize policies, procedures, programs, or services of the city, the Commission or of any other aspect of the eCity's or Commission's proposals or activities, or the acts or omissions of the Commission or its staff or other public employees. The Commission will not abridge or prohibit public criticism on the basis that the performance of one or more public employees is implicated. Nothing in this section confers any privilege or protection beyond that which is otherwise provided by law.

Section 6: Meeting Minutes

Commission staff will draft minutes after every regular and special Commission meeting, and every standing committee meeting, subject to approval by majority vote of the Commission or respective committee. The minutes must reflect meeting start and end time, commissioner attendance (including the absence of any commissioner for any votes taken), summary of each item, and vote (if applicable) for each item considered.

Ad hoc committees shall take meeting minutes, which shall be posted at the next regular Commission meeting.

Section 7: Closed Sessions

Upon the determination by a legal advisor from the City Attorney's Office that a closed session is both authorized and appropriate under the circumstances, the Commission may call for a closed session. Appropriate notice must be given of all closed sessions.

Section 8: Recess

~~The Commission recesses for a period of one month each year. During this annual recess, the Chair may convene the Commission for special meetings, and the chair of a standing or ad-hoc committee may convene a committee meeting.~~

ARTICLE VII - AGENDA REQUIREMENTS

Item 11 - Amendments to the PEC's Operations Policies

Section 1: Agenda Preparation

Commission staff will work with the Commission Chair or standing Committee chair(s) to develop the agenda for all meetings. The agenda must be approved by the appropriate Chair and must contain a meaningful description of each item to be transacted or discussed at the Commission or committee meeting so that a person can reasonably determine if the item may affect his or her interests. The agenda also will provide instructions for public participation.

Section 2: Consent Calendar

A consent calendar is the portion of the printed agenda that lists routine matters that are expected to be non-controversial and on which there are no scheduled speakers. There will be no separate discussions on a consent calendar item unless, prior to its adoption, a request is made by a commissioner or the public, and accepted by the Commission, to remove the item from consent and consider it as a separate item.

ARTICLE VIII - VOTING

Section 1: Voting, Abstention, and Recusal

Each commissioner present at a Commission or committee meeting must vote on all matters put to a vote, unless the commissioner abstains or recuses him- or herself from a particular matter.

A commissioner wishing to abstain from a vote must state publicly the reason for abstention ~~and move for Commission approval either immediately before or immediately after the vote. If the motion passes, the abstaining commissioner must refrain from further discussion of the item and will not vote on the item.~~

A commissioner who has been advised by the City Attorney to recuse himself or herself from voting on an item due to a conflict of interest must recuse him or herself and leave the dais during discussion and voting on the item. A commissioner who recuses as to a particular item is not present for purposes of determining the existence of a quorum in Article VI, section 2, above.

Section 2: Voting by Proxy

Voting by proxy is prohibited.

ARTICLE IX - TREATMENT OF CONFIDENTIAL INFORMATION

In the course of their duties, commissioners may be exposed to privileged, confidential, or other information protected by law. While commissioners enjoy the full protection of the First Amendment and the public is entitled full access to public information, misuse of confidential information may have significant adverse consequences to the city, the Commission, city employees, or other individuals.

Item 11 - Amendments to the PEC's Operations Policies

Section 1: Confidential Information

Generally, "Confidential Information," includes the following:

- A. Any non-public information concerning a complaint ~~that is still under preliminary review;~~
- B. Any communication or information provided to commissioners in preparation for, or during, a duly authorized closed session;
- C. Any communications by or from the City Attorney or any legal advisor to the Commission that reflect the legal advisor's work on behalf of the Commission, including the advisor's mental impressions, legal strategy, analysis, advice or conclusions;
- D. Non-public materials concerning pending or past litigation to which the Commission is/was a party;
- E. Information concerning Commission personnel matters, including but not limited to those concerning the hiring, performance, counseling, discipline or termination of any member or prospective member of Commission staff; or
- F. Other sensitive personal or financial information of third parties (including respondents to complaints) that would otherwise be protected by law.

Confidential Information does not include information generally available to the public or previously disclosed to members of the public, including at a Commission meeting. Nor does it include information that is required by law to be reported out of closed session.

The fact that Commission staff shares confidential information with another enforcement agency such as a District Attorney's Office, the California Fair Political Practices Commission, or the Federal Bureau of Investigation, does not render the information non-confidential.

Section 2: Prohibitions on Disclosure or Misuse of Confidential Information

Absent express authorization by the Executive Director, Chair, the Commission's legal advisor, or court order, a commissioner is prohibited from disclosing Confidential Information to any person who is not currently serving as a commissioner.

Commissioners are prohibited from using, directly or indirectly, Confidential Information for purposes other than the official business of the Commission.

If a commissioner has any doubt about a person's authorization to access Commission confidential information or is uncertain whether a particular use could constitute "misuse," the commissioner must, before disclosing or using the information, consult the Executive Director.

Section 3: Affirmative Duty to Safeguard Confidential Information

Item 11 - Amendments to the PEC's Operations Policies

Commissioners must actively protect and safeguard Confidential Information ~~through the use of~~ by using physical and technical safeguards (e.g., strong passwords for access to electronically stored information) and secure methods of destruction, once materials are no longer needed.

A commissioner who discovers an unauthorized disclosure or misuse (potential or actual) of Commission confidential information must promptly notify the Executive Director. Similarly, a commissioner who receives a request, subpoena, or court order for disclosure of Commission confidential information must immediately notify the Executive Director.

Section 4: Term of Obligation

A commissioner's obligations pursuant to this Article do not terminate with the end of the commissioner's term of office.

ARTICLE X - PARLIAMENTARY PROCEDURE

Section 1: Robert's Rules of Order (Newly Revised) for Small Boards

The business of the Commission and its standing committees must be conducted, so far as it is practical in accordance with parliamentary rules as contained in Robert's Rules of Order Newly Revised, for Small Boards, except as modified by these rules and in accordance with the Brown Act and the Sunshine Ordinance. The City Attorney or their designee, or other person designated by the Chair and approved by the Commission, shall serve as the official parliamentarian for meetings of the Commission.

ARTICLE XI - STANDARDS OF CONDUCT

In addition to complying with the foregoing policies, each commissioner should aspire to:

A. **Actively and diligently support the mission, goals and objectives of the Commission**, for example, by thoroughly preparing for and attending Commission meetings; serving on committees; working cooperatively with Commission staff on ~~officially-sanctioned~~ officially sanctioned projects; and attending civic events relevant to the Commission's purpose and jurisdiction.

B. **Preserve public confidence in commissioners' conduct, intentions, and impartiality**, for example, by fairly and objectively enforcing laws and regulations within the Commission's jurisdiction; refraining from conduct or statements that suggest personal bias; avoiding personal involvement in the investigation and prosecution of complaints (absent a recusal); and avoiding inappropriate political activity (endorsing, supporting, opposing, or working on behalf of a candidate or measure in an Oakland election).

Item 11 - Amendments to the PEC's Operations Policies

C. **Protect the independence and integrity of the Commission**, for example, by working for the public good and not private interest in all matters related to city government; refraining from using their official positions to secure special advantages or benefits for self or others; declining to accept benefits or to participate in activities that might influence or undermine their ability to fairly and objectively discharge their Commission duties; and, if speaking to the press or public about a Commission matter, clearly explaining that the commissioner's statements reflect the personal view of the commissioner and not the view of the Commission.

D. **Set the highest example of civil and efficient conduct of city government**, for example, by recommending and adopting rules and procedures that promote transparency and fair process in city government; treating the public, Commission staff, Commission legal advisors, and fellow commissioners with dignity and fairness; and conducting the Commission's business in an efficient and timely manner.

ARTICLE XII – COMMISSIONER RECRUITMENT AND APPOINTMENT

A. As provided by City Charter Section 603, the full Commission appoints four of its commissioners and, under certain circumstances, may appoint additional commissioners to fill mid-term vacancies on the Commission. The appointment or re-appointment of a commissioner by the Commission shall occur at a public meeting by a vote of four (4) commissioners.

B. Prior to appointing a person to serve a full term on the Commission, Commission staff shall establish a public application process and conduct a public recruitment. After the application process has concluded, the Commission may appoint an applicant to serve as a commissioner or, if the Commission does not appoint an applicant, the application process shall be re-opened.

C. After any public recruitment, the Commission may create a list of applicants who were not appointed to the Commission but that the Commission considers to be well-qualified for appointment. An applicant may only be placed on this list by a vote of at least four (4) members of the Commission. This list shall expire one year after its establishment.

D. If there is a mid-term vacancy on the Commission which the Commission is eligible to fill, the Commission may either:

1. Appoint an applicant from an unexpired list of well-qualified applicants without conducting a new public recruitment, provided that the applicant meets the minimum eligibility criteria for appointment to that vacancy.

2. Appoint an applicant after staff has conducted a new public recruitment.

E. The Chair may establish a standing or ad hoc subcommittee to review applications and to advance to the full Commission for potential appointment the most qualified applicant or applicants in the subcommittee's determination.

F. Whenever the Commission is considering more than two applicants for a single appointment to the Commission, prior to entertaining a motion to appoint an applicant, the Chair shall ask

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Item 11 - Amendments to the PEC's Operations Policies

each commissioner to rank the applicants in order of preference. If an applicant is the first choice of four (4) or more commissioners, the Chair shall entertain a motion to appoint that applicant to the Commission. If not, the Chair may continue deliberation, entertain a motion to appoint any applicant, or continue to poll commissioners on their preferences.

ARTICLE XIII - OPERATIONS POLICIES AMENDMENTS

As necessary, the Commission will review and amend these Operations Policies as provided by the Operations Ordinance. (O.M.C. section 2.24.070.) In so doing, the Commission must provide notice of any amendments to the City Council as required by the Public Ethics Commission Operations Ordinance.

Item 13 - Executive Director Compensation and Management Leave



Francis Upton IV, Chair
Tanya Bayeva, Vice-Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: March 1, 2025
RE: Process for Adjusting Executive Director Salary

Overview

Every year, coinciding with its evaluation of the performance of the Executive Director, the Commission must decide whether to authorize a performance-based salary increase and/or management leave for the Executive Director. This memorandum provides background information on this process.

Background

On November 4, 2014, Oakland voters approved ballot Measure CC, which strengthened the Public Ethics Commission (PEC or Commission) by creating a new City Charter Section 603 to expand the Commission's authority, structure, staffing, and independence. With the passage of Measure CC, the Commission acquired the autonomous authority to evaluate the Executive Director's performance, establish salary within an existing range, and choose to terminate the Executive Director, who serves solely at the pleasure of the Commission rather than the City Administrator, as was previously the case.

The new City Charter Section 603 was drafted with the intent to provide the Public Ethics Commission with more independence from City officials by granting the Commission with the sole authority over the Executive Director's performance and employment. The purpose of this change was to ensure that the Commission's operations are separate and distinct from City officials so that the Commission and its staff can independently oversee compliance by City officials with campaign finance, ethics and transparency laws.

City Charter Section 603(g)(4), which became effective on January 1, 2015, reads as follows:

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.

Article III, Section 2 of the Commission's [Operations Policies](#) provides as follows:

The Chair or designee must prepare a periodic, written performance review of the Executive Director subject to the review and approval by the Commission in closed session. At any time, at the request of one or more commissioners, the Chair may call and notice a closed session of the Commission to discuss the performance of the Executive Director.

In conducting the performance review of the incumbent Executive Director, Commissioners meet in a publicly noticed, closed session along with the Commission's attorney and any other invited attendee, such as the Director of the Department of Human Resources Management (HRM) or a Deputy City Attorney with labor law experience. In past years, the Chair would typically consolidate Commissioner remarks at that meeting and present a written review to the Executive Director following the closed session discussion.

In addition to the performance review, the Commission has the responsibility to annually consider merit salary increases and whether to authorize additional management leave, which is available to all department heads and management-level staff. While likely informed by the closed session performance review, any decision to increase the Executive Director's salary or to award them management leave must be discussed and voted on in open session.

Annual Salary Adjustment

To provide context and background on the process and criteria for approving salary increases and management leave, the Department of Human Resources Management (DHRM) has previously provided the following information to Commissioners:

"City department heads, including the PEC Executive Director, are considered unrepresented, at-will employees who are exempt from Civil Service rules. However, for rules and procedures, the terms and conditions of the union agreement with the Confidential Management Employees Association (CMEA), are applicable to the City's unrepresented classifications. This means that, where the CMEA agreement provides rights or a description of protocol or policy, those provisions would apply to employment decisions related to the Executive Director position."

Once a 2% COLA goes into effect in March of 2025 pursuant to existing labor agreements, Director Heidorn's salary is estimated by the Department of Finance to be **\$218,832**, which is **above** the salary mid-point¹ for this position. The current [CMEA](https://www.oaklandca.gov/documents/confidential-management-employees-association-cmea) agreement² provides for salary increases for employees above the salary mid-point as follows:

"5.4.5 Salary Range Advancement Above The Mid-Point

Represented employees may progress above the mid-point of the salary range at the rate of two and one-half percent (2.5%) to five percent (5.0%) per year, based on performance as demonstrated by the represented employee's Performance Appraisal, if recommended by the Department Head and approved by the City Administrator. Represented employees may

¹ The mid-point is set by a specific calculation defined in the CMEA contract and is not the actual middle value within the salary range. See CMEA Contract Section 5.4.8.

² CMEA Agreement effective July 1, 2022 to June 30, 2025. The full CMEA Agreement can be accessed at <https://www.oaklandca.gov/documents/confidential-management-employees-association-cmea>.

receive no more than one (1) salary adjustment during any twelve (12) month period. However, the appointing authority may approve an advancement at a greater percentage at a time increment of less than one year if there has been unusual difficulty in retaining competent employees. Subsequent increases shall resume on the incumbent's anniversary date.

"5.4.6 Definitions

For purposes of the salary advancement provisions of Section 5.4, a represented employee shall be deemed to have performed satisfactory service if the Performance Appraisal for the period includes an overall rating of "fully effective" or "exceeds expectations."

Because Director Heidorn's salary is **above** the mid-point, under Section 5.4.5, the Commission has the authority to increase the Executive Director's salary by generally 2.5% to 5% for satisfactory performance, but staying within the Council-approved salary range for the position. As provided in Section 5.4.5, adjustments above 5% are only permitted "if there has been unusual difficulty in retaining competent employees." Salary adjustments go into effect in the pay period beginning with the Executive Director's work anniversary (May 13).

Attached is the job description for the Executive Director position, which includes the position's salary range. The annual salary range for this position is \$159,339 to \$239,008. Director Heidorn's current annual salary, after the March 2025 COLA, is estimated at \$218,832.72.

Authorization of Management Leave

Management leave for the Executive Director is governed by Administrative Instruction 516, which is excerpted below:

"III.A. Management or Special Leave

- Management or Special Leave Eligibility Period
The eligibility period for Management or Special Leave is July 1st through June 30th. An employee's award is based on overtime worked and superior performance during the eligibility period and is awarded every first pay period of the following fiscal year.
- Management or Special Leave in Lieu of Overtime
May be granted based on the respective MOU or this section as follows: on the first pay period of the fiscal year from zero (0) to five (5) days based upon the prior year's work schedule, and upon the recommendation of the Department/Agency Head, with the final approval from the City Administrator.
- Management or Special Leave for Superior Performance
May be granted based upon the respective MOU or this section as follows: If the employee has sustained performance at a superior level the prior fiscal year and the employee's performance appraisal of April 30th of that year supports it, an additional zero (0) to five (5) days of Management or Special Leave may be granted on the first pay period of the fiscal year at the discretion of the Department/Agency Head and the approval of the City Administrator."³

³ Ibid.

ED Salary Setting Process

Item 13 - Executive Director Compensation and Management Leave

Under this policy, the Commission *may* award the Executive Director up to 5 days of management leave in lieu of overtime effective July 1, 2025, and *may* award up to an additional 5 days of Management Leave based on the Executive Director's performance for a maximum possible award of 10 days.

Salary and Management Leave Questions

Commissioners should feel free to reach out **directly** to the Human Resources Management's Director Mary Hao (MHao@oaklandca.gov) or Deputy City Attorney Selia Warren (SWarren@oaklandcityattorney.org) with any questions regarding the salary-setting or management leave award process, or to verify the information in this memo.

Possible Actions

The Commission should pass two motions to (1) retain or adjust the Executive Director's salary to take effect in the first pay period after Director Heidorn's work anniversary (May 13, 2025) and (2) to award 0-10 days of management leave to take effect on July 1, 2025. The motions may be structured as follows:

Based on the Commission's performance evaluation of the Executive Director, the Commission authorizes _____ days of management leave for the Executive Director, effective July 1, 2025.

- *Range: 0-10 days*

In addition, the Commission authorizes an annual salary increase of _____ percent for the Executive Director, effective in the first pay period after the Executive Director's work anniversary (May 13, 2025).

- *Minimum for unsatisfactory performance: 0%*
- *Range for satisfactory performance: 2.5% - 5%*
- *Maximum: 5%, unless there has been "unusual difficulty in retaining competent employees," and no more than the maximum salary range for the position*

Memo Reviewed By:

Selia Warren
Selia Warren (Mar 5, 2025 4:00 PM)

Selia Warren, Deputy City Attorney, March 5, 2025

Mary Hao
Mary Hao (Mar 5, 2025 3:02 PM)

Mary Hao, Director, Human Resources Management, March 5, 2025

Attachment: ED Job Description

Item 13 - Executive Director Compensation and Management Leave



City of Oakland

Executive Director, Public Ethics Comm

| | | | |
|------------------------|--|-------------------------|--|
| CLASS CODE | EM261 | SALARY | \$81.71 - \$122.57 Hourly \$13,278.27 - \$19,917.34 Monthly \$159,339.24 - \$239,008.08 Annually |
| BARGAINING UNIT | UK1 - Executive Management Employees, Unrepresented | ESTABLISHED DATE | July 21, 2015 |
| REVISION DATE | August 04, 2015 | | |

Definition

Under general direction of the Public Ethics Commission (PEC), plans, organizes, and directs the activities of the PEC staff; implements PEC directives and manages the daily operations of the PEC; develops policies and procedures; supervises, trains, and evaluates staff; represents the PEC in meetings before elected officials, City staff, the public and other city and state bodies; and performs other duties as assigned.

Distinguishing Characteristics

This executive management level position is responsible for overseeing the entire operations of the PEC. Pursuant to the Oakland Charter 902(b) and Oakland Municipal Code, this position is exempt from the regulations of the Civil Service Board. This classification is distinguished from the Enforcement Chief, Public Ethics Commission, which is responsible for overseeing major functions of the PEC's enforcement program including audits and investigations.

The incumbent receives general direction from the Public Ethics Commission, and exercises supervision over the Enforcement Chief, Public Ethics Commission, and all other subordinate staff including Ethics Investigators and Ethics Analysts and other professional, technical and clerical staff.

Examples of Duties

Duties may include, but are not limited to, the following:

- Provide highly responsible and complex executive level direction to the execution of the mission of the Public Ethics Commission.
- Develop and implement policies, programs, and activities related to the administration and enforcement of the laws within the PEC's jurisdiction, including the following: Oakland Campaign Finance Reform Act, Limited Public Financing Act, Government Ethics Act, Sunshine Ordinance, and Lobbyist Registration Act.
- Oversee all PEC operations, including the filing of disclosure statements required by state and local laws, the preparation of advice and opinions regarding laws within the PEC's jurisdiction, investigations, audits and enforcement of those laws, and the development of educational programs and materials.

Item 13 - Executive Director Compensation and Management Leave

- Advise Commission members regarding laws, policies, and procedures, and review and recommend legislative changes to the laws under the PEC's jurisdiction.
- Prepare budget reports and requests, maintain fiscal controls, manage the PEC's budget and advocate for budget needs.
- Prepare or review reports to the City Administrator, City Council or other departments or commissions; work closely with Council and other public and private groups to coordinate plans or communicate about proposed projects.
- Supervise, train, develop and evaluate subordinate staff; inspire and lead staff to achieve the PEC's objectives.
- Plan and manage public hearings and represent the PEC before other local, state, and community organizations.
- Establish and maintain collaborative relationships with Commissioners, public officials, City staff, other departments and organizations, media, and the general public in the performance of assigned duties.
- Receive and direct all external communications on behalf of the PEC, including communications with the media, public officials, other government agencies, and the public.

Minimum Qualifications

The following qualifications are guidelines, as the appointing authority has broad discretion in filling positions in this classification.

Education:

A Bachelor's Degree from an accredited college or university in public or business administration, public policy, political science, law or a related field. Possession of a Juris Doctor or Master's degree is highly desirable.

Experience:

Five years (5) of progressively responsible professional experience in public administration, public policy, complaint investigation, litigation, legal advisory support or related area including two years in a supervisory or management capacity. Experience with campaign finance, lobbyist, transparency or ethics laws and regulations is highly desirable.

Knowledge and Abilities

Knowledge of:

- Laws, ordinances, and acts pertaining to the conduct of public servants, candidates, lobbyists, and other PEC clients; California Political Reform Act; Oakland Campaign Reform Act; Oakland Sunshine Ordinance; Oakland Government Ethics Act; related federal, state, and local codes; and the City Charter.
- Principles, practices and techniques of conducting an investigation, including performing interviews, research and data analysis, report writing, and developing objective recommendations.
- Public and community relations and the development and implementation of education, outreach, and engagement programs.
- Strategic planning to achieve organizational goals and objectives.
- Budget development and administration.
- Administrative principles and methods including program and policy development and implementation and employee supervision.

Item 13 - Executive Director Compensation and Management Leave

- Best practices, policies, legislation, and innovations in campaign finance, government ethics or transparency laws and systems.
- Computer systems and applications.

Ability to:

- Conduct strategic planning and goal setting, prioritize activities, innovate systems, manage change and measure results of an organization.
- Interpret rules, laws and regulations and terminology pertaining to campaign finance, transparency, and ethics laws.
- Communicate effectively orally and in writing; make presentations to both large and small groups; prepare thorough written documents.
- Exercise judgment, initiative, thoroughness, tact, courtesy and discretion in dealing with other departments, City officials, outside agencies and the public.
- Serve with integrity, avoiding the appearance of bias or favoritism toward any party; clearly identify actual or potential conflicts of interest that might affect the fair performance of one's duties.
- Inspire, supervise, train, develop and evaluate assigned professional, technical and clerical staff.
- Administer the budget.
- Use a personal computer and software applications.
- Establish and maintain effective work relationships with those contacted in the performance of required duties.

License or Certificate / Other Requirements

Individuals who are appointed to this position will be required to maintain a valid California Driver's License throughout the tenure of employment OR demonstrate the ability to travel to various locations in a timely manner as required in the performance of duties.

OTHER REQUIREMENTS

None required.

Class History

Revised: 06/16/2022; CSB Reso#: 45135

Established: 07/16/2015; CSB Reso#: 44772

Exemption: 902(b); Reso#: 13321

Item 13 - Executive Director Compensation and Management Leave



Public Ethics Commission | CITY OF
OAKLAND

Francis Upton IV, Chair
Tanya Bayeva, Vice Chair
Alea Gage
Ryan Micik
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Francis Upton IV, Chair
DATE: 6 March 2024
RE: PEC Executive Director Salary Comparisons

We must determine a possible salary adjustment for the PEC ED at the March meeting. Here is some information that might be helpful:

Comparable Salaries in Other Jurisdictions

-
1. San Francisco – 209,300
 2. Los Angeles – 284,949
 3. San Diego – 241,530
-

Salary Position Relative to other Oakland Department Heads

The PEC Director salary (with the 2% COLA soon to be in effect) is 218,833. This is the lowest salary of all City department heads, with the next highest salary being 228,077, that of the Executive Director of the Community Police Review Agency.

Item 14a - Revenue Options Ad Hoc Subcommittee

Purpose Statement:

Revenue Options Ad Hoc Subcommittee

(ad hoc, created January 29, 2025)

Members: Francis Upton IV (Chair), Ryan Micik, Alea Gage

A) What is the specific goal of the committee?

The subcommittee will review and develop options for a potential revenue-generating ballot measure to fully fund the Democracy Dollars Program and potentially other PEC services.

B) What is the expected deliverable and in what time period?

The final deliverable is policy and legal language for a revenue-generating ballot measure by the May or July meeting of the PEC.

C) What level of staff vs Commissioner work is expected?

Commissioners will provide input to staff as to the content of a potential ballot measure, including what PEC services should be funded and the method. Staff shall provide cost estimates for different services; estimated tax rates to raise sufficient funds to cover those services; and draft ballot measure language that the City Council could place on the June 2026 ballot.

Item 14a - Revenue Options Ad Hoc Subcommittee

Minutes

Revenue Options Ad Hoc Subcommittee

(ad hoc, created January 29, 2025)

Members: Francis Upton IV (Chair), Ryan Micik, Alea Gage

February 18, 2025 Minutes

Attendees – Members: Commissioners Upton IV, Micik, Gage

Attendees – Staff: Director Nicolas Heidorn

Discussion

The Subcommittee discussed the following questions:

1. **What services should the ballot measure fund?**
 - a. The Subcommittee favored getting the Commission's input on 3 options:
 - i. Fully fund Measure W only
 - ii. Fund Measure W and the PEC's full (and strengthened) Enforcement Unit
 - iii. Fully fund the whole PEC, including Measure W and a strengthened Enforcement Unit
2. **What revenue sources should we consider?**
 - a. The subcommittee favored looking at a parcel tax, which provides a stable funding source and would likely be relatively low to fully fund the PEC.
 - i. The subcommittee favored either a parcel tax that is equal across all parcel unit types (single family, multi-family, and non-residential) or that imposes a higher rate on non-residential units
 - b. Real estate transfer tax, business tax, and hotel tax are volatile, which could lead to program funding issues and also makes estimating the proper tax rate difficult
 - c. Sales tax is already occurring on this April 2025 special election
 - d. PEC fines would be insufficient to fund Measure W or PEC as a whole, and may also create the appearance of a conflict (however, some jurisdictions have fines go towards the public financing funds available to candidates)
3. **What other anti-corruption policies should be considered to go with the measure?**
 - a. Commissioners considered a prohibition on lobbyist gifts and campaign contributions.
 - b. Subcommittee members wanted to consider this and other items further.
4. **Is polling available?**
 - a. Staff indicated the PEC may be able to do its own non-professional polling using the voter file.
 - b. When the Administration proposed a ballot measure to fully fund the City's Oversight Agencies (including PEC), groups like BayPEC said at Council that they would do polling on a potential parcel tax, and may be interested in polling for a narrower proposal

Item 14b - Democracy Dollars Engagement Ad Hoc Subcommittee

Democracy Dollars Engagement Plan Subcommittee

(ad hoc, created January 29, 2025)

Members: Commissioners Karun Tilak (Chair), Alea Gage, Tanya Bayeva

March 4, 2025, Minutes

Attendees:

Commissioners present: Alea Gage, Tanya Bayeva

Commissioners absent: Karun Tilak

Staff: Suzanne Doran, Rabab Bobby Zaidi

Discussion

1. **Goals and Updates** – The subcommittee discussed the subcommittee member and staff roles, goals, and potential activities. Staff is currently prioritizing identifying organizations that can assist with building program awareness and relationship-building.
2. **Stakeholder List** – The subcommittee reviewed the stakeholder contact list developed by staff, discussed existing connections with various organizations, and organizations to prioritize for relationship-building because of their connection to key stakeholder groups or reach to priority target audiences. Staff identified youth as high priority for targeted outreach and initiated introductory meetings with individuals and organizations including the [Oakland Youth Commission](#), OUSD [All City Council Student Union](#), and advocates for the youth voting initiative. Subcommittee members are encouraged to forward their suggestions for organizations and contacts to staff.
3. **Upcoming Events** – Staff will keep the subcommittee informed by email of upcoming events where staff are presenting so subcommittee members can attend. Commissioners agreed that attending one outreach event per quarter is feasible for their schedules. Staff will be making an introductory presentation to Oakland Unified School District [All City Council Student Union](#) on April 18th and to Oakland Youth Commission on April 21st. In addition, there will be a general presentation about the role of the PEC at a ‘Meet your Accountability Officers’ panel on March 20th with neighborhood group West Oakland Neighbors (WON).

It was noted that if more than three commissioners plan to attend an event or gathering that staff may need to notice the meeting in advance per the Brown Act and Sunshine Ordinance, and therefore commissioners should make sure to coordinate their attendance with staff.

4. **Future Meeting Schedule** – Future meetings will be scheduled as needed and staff will also share materials with the subcommittee by email for input. It was agreed the subcommittee should meet after the staff presentations in April to discuss how they went, what is working, what to improve on, and solicit feedback for future presentations.