



## 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

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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

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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

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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.

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## 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 <sup>th</sup> 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.

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<b>Section</b>	<b>Current Policy</b>	<b>Proposed Policy</b>	<b>Reason</b>
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

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### **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

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## 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

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~~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,

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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](mailto:ethicscommission@oaklandca.gov), or view information online at [www.oaklandca.gov/pec](http://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**

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## **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.



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## **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**

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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).

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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 XII - 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.