

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:

ED Salary Setting Process

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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](#) 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>.

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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.

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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) (1:50 PM)

Selia Warren, Deputy City Attorney, March 5, 2025

Mary Hao
Mary Hao (Mar. 5, 2025) (1:52 PM)

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

Attachment: ED Job Description

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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.

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- 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.

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- 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

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Public Ethics Commission | CITY OF OAKLAND

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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

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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.