

THE OAKLAND PUBLIC ETHICS COMMISSION 2010 ANNUAL REPORT

Composition

In November, 1996, the citizens of Oakland added Section 202 to the City Charter to establish the Oakland Public Ethics Commission. The Commission was created with the goal of ensuring "fairness, openness, honesty and integrity" in city government.

Membership on the Commission consists of seven Oakland residents. Three members are appointed by the Mayor and confirmed by the City Council. Four members are recruited and selected by the Commission itself. Each Commissioner may serve no more than one consecutive three-year term.

Jurisdiction And Duties

Oakland law requires the Commission to oversee compliance with Oakland's Campaign Reform Act (OCRA), conflict of interest code, code of ethics, Sunshine Ordinance, the Limited Public Financing Act, the Lobbyist Registration Act and Oakland's False Endorsement In Campaign Literature Act. Some of these ordinances grant the Commission specific powers of administration and enforcement. The citizens of Oakland have also entrusted the Commission with the authority to set the salaries for the Oakland City Council and to adjust those salaries up to five percent annually.

The Commission is authorized to conduct investigations, audits and public hearings, issue subpoenas, and impose fines and penalties to assist with its compliance responsibilities.

Organization, Staffing And Budget

The Commission currently maintains two standing committees: The Sunshine Committee, which deals with policy issues arising from the Oakland Sunshine Ordinance; and the Lobbyist Registration and Campaign Finance Committee, which devotes its time to matters involving Oakland's Lobbyist Registration Act and the Oakland Campaign Reform Act (OCRA). Both of these committees meet on an "as needed" basis.

The Commission is staffed by an Executive Director and Executive Assistant. Commission offices are located on the Fourth Floor of City Hall, One Frank Ogawa Plaza, Oakland, CA, 94612. A website for the Commission can be accessed from www.oaklandnet.com. The Commission meets on the first Monday of every month at 6:30 p.m. in City Hall. Its meetings are broadcast locally by KTOP, Oakland's cable television station.

In June, 2009, the Oakland City Council authorized a total budget of \$265,750 for FY 2010-2011 for the Commission. The Office of the City Attorney continues to provide part-time legal support for Commission matters.

COMMISSION MEMBERS AND STAFF

The following persons served as Commissioners during 2010:

BARBARA GREEN-AJUFO

(Commission appointee)

Term: 1/22/08 - 1/21/11

Barbara Green-Ajufo has been a resident of Oakland since 1964. She is an epidemiologist who has worked in public health for more than 20 years at the local and federal levels. Ms. Green-Ajufo currently works for the Alameda County Public Health Department managing the HIV/AIDS Epi Surveillance Unit, Alcohol and Drug Program and HIV/AIDS-related special epidemiologic projects. In these roles, she ensures accurate, timely reporting of HIV and AIDS cases to the State Office of AIDS, ensures HIV and HCV testing, counsels and refers individuals to alcohol and drug treatment facilities, and conducts community-based research to improve HIV and sexually transmitted disease rates. Ms. Green-Ajufo has a long-standing commitment to improving the health of women and infants. In 1995, she served as an Epidemic Intelligence Service (EIS) Officer at the Centers for Disease Control and Prevention (CDC), Atlanta, GA. Her research there focused on the roles of race, racial-esteem and racism on reproductive health outcomes and the role of race/ethnic-specific research in explaining the gap in disease disparity. She has worked as an adjunct professor, published a number of articles and presented at a number of national and international conferences on a range of topics. Ms. Green-Ajufo previously served on Berkeley Women's Health Collective Board and is a current board member of Youth Cultural Learning Center. She received a B.S. in Biological Sciences from the University of California, Irvine and has two public health degrees from the University of California, Berkeley: a Masters of Public Health (MPH) in Health Planning, Policy, and Administration and a Doctorate of Public Health (DrPH) in Epidemiology. Outside of the office, she enjoys traveling and experiencing the cultures of the world with her son and friends.

JONATHAN STANLEY

(Commission appointee)

Term: 1/22/08 - 1/21/11

Jon Stanley formerly served as the Executive Director of the San Francisco Bay Area Water Emergency Transportation Authority (WETA). He is the former CEO of the Aircraft Carrier Hornet Foundation which operates the USS Hornet Museum in Alameda. He is a registered professional engineer and has worked for several Bay Area engineering and software firms over the past 25 years prior to joining the Museum. His past project assignments were located all across the United States and Canada. He also spent three years as a staff member of the Lawrence Berkeley Laboratory. Mr. Stanley earned his undergraduate degree at the U.S. Naval Academy followed by service as an officer in the nuclear submarine force. He also obtained a graduate degree in Nuclear Engineering from UC Berkeley. He is currently a "Blue and Gold Officer" for the Naval Academy, providing admissions

counseling for potential applicants. Mr. Stanley has lived in Oakland for 28 years. He is a Commission appointee.

ALARIC DEGRAFINRIED

(Mayoral appointee)

Term: 1/22/08 - 1/21/11

Alaric Degrafinried is a Contract Compliance Officer for the City & County of San Francisco's Human Rights Commission (HRC). In this role, Mr. Degrafinried is responsible for implementing, monitoring, and enforcing San Francisco's Small, Local Business Enterprise (LBE) program which forbids discrimination in contracting and mandates that economically disadvantaged businesses located within San Francisco are eligible for certification, bid/rating discounts and subcontracting opportunities when bidding on City contracts. Prior to joining HRC, Mr. Degrafinried worked as a Finance Manager for General Electric (GE), followed by two-year assignment in Haiti as a Peace Corps Volunteer. He later served a two-year Equal Justice Works Fellowship with the National Housing Law Project (NHLP) in Oakland. Mr. Degrafinried earned his undergraduate degree at the University of Colorado and his law degree from the Santa Clara University School of Law.

ALEX PAUL

(Commission Appointee)

Term: 1/22/09 - 1/21/12

Alex Paul is an attorney and has worked for several Bay Area companies over the past 10 years. Mr. Paul earned his law degree at the University of Notre Dame. He also obtained a graduate degree in business administration from the University of Illinois at Springfield. Mr. Paul has created Ethics courses that have been utilized by thousands of workers nationwide. At law school, Mr. Paul was awarded by the Dean of the law school for the highest grade given in an Ethics class. As an attorney and one that works for a public company, he is also involved in investigating Code of Conduct violations and understands the importance of compliance training and education. Mr. Paul has lived in Oakland for 7 years. He is a Commission appointee.

AI MORI

(Mayoral appointee)

Term: 1/22/09 - 1/21/12

Ai Mori is a staff attorney at the Court of Appeal in San Francisco. She earned her undergraduate degree from UC Berkeley and her law degree from UC Hastings College of the Law. Prior to joining the Court of Appeal, she practiced employment litigation and family law and was certified by the State Bar of California as a specialist in family law. She serves on the Board of Directors of Asian Women's Shelter, a domestic violence shelter in San Francisco, and is a member of the Civil Rights Committee of the Asian American Bar Association of the Greater Bay Area. She has also volunteered as a judge at the McCullum Youth Court in Oakland. Ms. Mori is a Mayoral appointee.

RICHARD UNGER
Term: 1/22/10 - 1/21/13

(Commission Appointee)

Richard Unger has lived in the Bay Area since 1966. He has been a home owner and with his wife has raised a family in Oakland since 1978. Currently his three grandchildren attend Oakland schools. Dr. Unger practices psychiatry with an emphasis on psychotherapy and consultation to non-medical practitioners and their patients about psychopharmacological treatment. He has worked in both public and private sectors and is a founding member of Bay Psychiatric Associates, a group practice in the East Bay providing inpatient psychiatric care. He is a member of the Board of Directors and has been the CFO of that organization for 14 years. He has been a consultant for psychiatric patient advocacy organizations. Dr. Unger earned his undergraduate degree at the University of Pennsylvania, a Master's degree in Bacteriology at the University of Wisconsin and then moved to the University of California at Berkeley where he completed a Ph.D. in Molecular Biology. After directing a research laboratory group in private industry in San Jose he earned his MD degree at the University of California, San Francisco where he then took a psychiatric residency. Additional interests include medical and professional ethics as well as travel, fishing, river and fishery conservation and a wide range of outdoor activities. Mr. Unger is a Commission appointee.

AMY DUNNING
Term: 1/22/10 - 1/21/13

(Mayoral Appointee)

Amy Dunning serves as the Regional Director/Chief Administrative Judge of the Western Regional Office of the U.S. Merit Systems Protection Board. The Board adjudicates employment cases involving Federal employees and conducts studies of Federal employment. From 1998-2001 Ms. Dunning served as Counsel to the Commander, U.S. Naval Forces Europe, in London, United Kingdom. As the senior Navy Office of the General Counsel attorney in Europe, she provided legal services throughout Europe as well as in Bahrain. Prior to working in London, Ms. Dunning served on the legal staff of the Deputy Assistant Secretary of the Navy (Civilian Personnel/Equal Employment Opportunity), as Counsel to the Director, Human Resources Operations Center. From 1993-1994, Ms. Dunning worked in the Justice Management Division of the Department of Justice representing management in cases brought by Department of Justice employees and their unions.

Ms. Dunning served 8 years on active duty as a Judge Advocate with the U.S. Marine Corps, including time spent mobilized for Operation Enduring Freedom. She retired as a Colonel from the U.S. Marine Corps Reserve in January 2009. Ms. Dunning is a native of Milwaukee, Wisconsin. She received her undergraduate degree in Political Science from the University of Missouri and her law degree from Southern Illinois University. She earned an LL.M in Labor Law from Georgetown University. Ms. Dunning is admitted to practice law in California, Illinois, and the District of Columbia. She resides in Oakland, California, where she tutors public

high school students in writing and enjoys running the trails of the East Bay Regional Park District. Ms. Dunning is a Mayoral appointee.

Commission Staff

DANIEL D. PURNELL EXECUTIVE DIRECTOR

Daniel Purnell was hired as the Executive Director to the Oakland Public Ethics Commission in April, 2000. He is a former civil litigation attorney with a background in employment, contract, land use and environmental law. Prior to joining the California Bar, Mr. Purnell served as manager of media relations for Pacific Telesis Group and Bechtel Group, Inc. Mr. Purnell is a former Mayor and Councilmember from the City of Pinole, California.

TAMIKA THOMAS EXECUTIVE ASSISTANT

Tamika Thomas was hired in January, 2007, as Executive Assistant to the Public Ethics Commission. She comes to the Commission with a background as a paralegal assistant for large litigation firms. Ms. Thomas completed her law degree at John F. Kennedy University School of Law's night program.

SIGNIFICANT ACTIVITIES DURING 2010

Lobbyist Registration

In June, 2002, the City Council adopted the "Oakland Lobbyist Registration Act." This Act requires all professional lobbyists to register with the City before attempting to influence a local governmental action on behalf of another person. It requires paid, professional lobbyists to file initial and quarterly reports with the City Clerk. The reports require disclosure of a lobbyist's clients or employer, as well as the subject of any lobbying. The Commission is responsible for administering and enforcing the Act.

As of December 31, 2010, 45 lobbyists had registered with the City representing a total of 41 registered clients. Commission staff maintains on the Commission's website a list of registered lobbyists and their clients. Quarterly reports are also posted on-line to disclose: a) the lobbyists' clients; b) the subject of governmental action lobbied upon; c) who was lobbied; 4) the client's position on the item being lobbied; 5) campaign contributions solicited by a lobbyist; and 6) employment opportunities arranged by a lobbyist.

In conjunction with its duties under the Act, the Commission publishes and widely distributes "A Guide To Lobbyist Registration" to inform the regulated community about its duties under the Act.

During 2010, the Commission expended a significant amount of Commission and staff time to develop proposed amendments to the Act. The proposed amendments include changes to the definition of "lobbyist", additional exceptions from the definition of "lobbyist", and proposals to authorize the imposition of registration fees and late penalties, as appropriate. The Commission took action in late 2010 to forward a series of proposed amendments to the City Council for consideration during 2011.

Oakland Campaign Reform Act (OCRA)

The Oakland Campaign Reform Act (OCRA) regulates campaign contributions and expenditures in connection with local elections. It establishes voluntary expenditure ceilings for campaigns for local office and regulates the amount persons may contribute to a local candidate. Contribution amounts depend on whether the candidate has accepted the voluntary expenditure ceilings. OCRA also regulates campaign contributions by contractors who are in the process of negotiating certain contracts with the City.

The Commission continues to publish and distribute its "Guide To The Oakland Campaign Reform Act," a section-by-section analysis for political candidates, treasurers and other interested parties. This Guide is now part of the package of

materials that candidates receive when they take out nomination papers to run for Oakland office. Commission staff devotes considerable time to responding to inquiries from candidates, contributors and the public regarding the ordinance.

In March 2010, the Commission held a special hearing to review several proposals to double OCRA's limit on direct contributions to candidates as well as the voluntary expenditure ceilings in local campaigns. As part of the hearing, the Commission directed staff to review the pattern of campaign contributions and spending during recent election cycles. The staff report demonstrated that from a total of 37 candidates surveyed during the 2006 and 2008 election cycles:

- There were five campaigns in which a candidate reported "payments made" totaling at least 90 percent of the voluntary expenditure ceiling applicable to the election. For all candidates reporting payments made in excess of \$10,000, "payments made" comprised approximately 42 percent of the voluntary expenditure ceiling, on average.
- Six candidates reported total contributions from which at least 50 percent of the total amount was derived from contributions made at the maximum \$600 level. For all candidates reporting total contributions of more than \$5,000, approximately 36 percent of the reported total contributions was derived from contributions at the maximum \$600 level, on average.

The campaign data suggest that on average OCRA's current limits do not significantly inhibit candidates from raising or spending the money they need to run a single campaign for office. Based on these findings and extensive public testimony, the Commission voted not to support the proposal to double OCRA's contribution and voluntary expenditure ceilings. The City Council subsequently chose not to proceed with the proposals to amend OCRA's contribution and expenditure limits for the November 2010 election.

During 2008 and 2009, the Commission's Lobbyist Registration and Campaign Finance Committee held a series of special meetings to review a section-by-section analysis of OCRA and to develop a package of specific proposed amendments based on that analysis. The Commission is expected to review these specific amendments during 2011.

Oakland Sunshine Ordinance

The Oakland Sunshine Ordinance is a local ordinance that was enacted in 1997 to supplement the California Brown Act and Public Records Act. The goal of the Sunshine Ordinance is to provide greater access to Oakland meetings and records.

During 2010, the Commission approved the distribution of a desktop brochure entitled "Handling Public Record Requests -- A Guide For City Employees." The Commission also directed staff to convene a series of public hearing on the subject

of improving public access to City records. The meetings will focus on such areas as public difficulties in obtaining prompt access to records, City challenges and opportunities dealing with public record requests, best practices from other jurisdictions, and review of a City-wide records retention proposal from the Office of the City Clerk. The Commission is expected to use the findings from these meetings to develop specific recommendations for amending the Sunshine Ordinance and to assist administrative compliance with the Public Records Act.

Limited Public Financing Act

The Oakland City Council adopted the Limited Public Financing Act (LPFA) in December, 1999. As originally established, the LPFA existed as a "matching funds" program whereby the City matched for district City Council candidates the first \$100 of every qualified campaign contribution received and deposited within 180 days before the election.

In July 2010, the Commission proposed a substantial revision of the public financing program. As ultimately adopted by the City Council:

- The City no longer matches campaign contributions but instead reimburses District City Council candidates for certain campaign expenditures they have incurred and paid. The maximum amount a candidate can receive is 30 percent of Oakland's voluntary expenditure ceiling for the office being sought.
- Candidates must make an irrevocable decision whether to participate in the public financing program within fourteen days of their names being certified to appear on the ballot. Candidates must raise in Oakland campaign contributions, and incur in campaign expenditures, an amount equal to at least 5 percent of the voluntary expenditure ceiling for the office being sought. Eligible candidates must also agree to abide by OCRA's voluntary expenditure ceilings and not lend or contribute personal funds to their respective campaigns more than ten (10) percent of the voluntary expenditure ceiling.
- The expenditures for which candidates may seek reimbursement are limited to: 1) candidate filing and ballot fees, 2) printed campaign literature and production costs, 3) postage, 4) print advertisements, 5) radio and cable television airtime and production costs, and 6) website design and production costs.
- Candidates must return to the Election Campaign Fund a portion of any surplus funds remaining after the election.

The Commission entered FY 2009-2010 with a balance of \$225,000 in the Election Campaign Fund available for public financing in the November 2010 election. In

February 2010, the City Council considered a proposal to suspend the public financing program during the 2010 election and transfer the \$225,000 to a project intended to increase voter awareness of the Ranked Choice Voting process. After several meetings, the City Council approved an appropriation of more than \$100,000 from the Election Campaign Fund, leaving approximately \$116,000 available for public financing in the November 2010 election.

A total of five candidates qualified to receive public financing under the new program during the November 2010 election. Commission staff processed and distributed approximately \$76,110 in public financing claims.

Due to substantial budget shortfalls projected for FY 2011-12 and FY 2012-13, it is uncertain whether the public financing program will be funded sufficiently for use in the November 2012 election.

Complaint Administration

Complaints are administered pursuant to the Commission's General Complaint Procedures. Each formal complaint is reviewed by the Executive Director who conducts a preliminary investigation and produces a staff report. Each report is considered during an open public meeting at which time the Commission decides whether to dismiss the complaint, direct further investigation, explore settlement with the respondent, or proceed to a formal administrative hearing on the merits of the complaint.

During 2010, the Commission received a total of 30 formal complaints. This compares to 16 complaints filed in 2009, 20 complaints filed in 2008, nine complaints filed in 2007, and 23 complaints filed in 2006. Of the 30 formal complaints filed with the Commission in 2010, there were 15 alleged violations of the Sunshine Ordinance, one alleged violation of the Lobbyist Registration Act, four alleged violation of the City's conflict of interest code, one alleged violation of the City Council's Code of Ethics, and nine violations of Oakland's Campaign Reform Act. Of the 30 complaints filed in 2010, 13 have been settled or dismissed and three in which staff has been directed to explore settlement in lieu of hearing. The Commission has reserved jurisdiction over six complaints that were filed between 2003 and 2008; all involve issues pertaining to open meetings and public records.

Compensation For City Council Members

In March, 2004, Oakland voters adopted Measure P by a vote margin of 70 to 30 percent. Oakland City Charter Section 202(c) now authorizes the Public Ethics Commission to annually adjust City Council salaries "by the increase in the consumer price index over the preceding year." The Commission may also adjust salaries beyond the increase in the consumer price index up to a total of five percent. Any annual increase beyond five percent must be approved by the voters.

At its regular meeting of June 7, 2010, the Commission adopted a resolution which approved an 1.7 percent salary increase for the Office of City Councilmember effective as of the first pay period of FY 2010-2011. The increase was based on the change in the consumer price index over the preceding year.

Pursuant to Measure P, the Commission will undertake its required review of City Council salaries again in 2011.

Education, Public Outreach And Affiliations

In 2010, Commission staff developed a training course and resource guide to implement a program of City-wide ethics training for more than 750 Oakland employees who are required to file FPPC Form 700s (Statements Of Economic Interests). The training, conducted by Commission staff and representatives from the Office of the City Attorney and City Auditor, reviews state and local laws in the areas of:

- Personal Gain (bribery, theft, conflicts of interest, self-dealing in contracts);
- Perks Of Office (use of public resources, loans, gifts, honoraria);
- Transparency (open meetings, public records, whistleblower protections, the City Auditor's "Fraud, Waste and Abuse" program); and
- Fair Process (bias, incompatible offices and employment, nepotism).

In addition, the training includes a segment on "ethical decision-making" for public employees.

Approximately 300 City employees attended eight "live" training sessions during 2010. Commission staff will continue to conduct training throughout 2011.

The Commission's webpage, accessed through "oaklandnet.com", offers links to all legislation in the Commission's jurisdiction, past and current agendas with related materials, Commission publications, public matching funds forms, lobbyist registration forms, information on the Commissioners, and notification of recruitment for vacancies when they occur.

The Commission maintains and regularly distributes its publications of:

- How To Notice A Public Meeting And Respond To Requests For Public Information
- Handling Public Records Requests
- A Guide To Lobbyist Registration
- How To Apply For Public Financing
- A Guide To Oakland's Campaign Reform Act
- A Handbook For Members Of Oakland Boards And Commissions