



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

Public Comment: A member of the public may speak on any item appearing on the agenda. 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: 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; 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](#))



INFORMATION/DISCUSSION ITEMS

5. **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, as well as a review of significant Commission activities in 2024. ([Disclosure Report](#))
6. **Enforcement Program.** Commission staff provides a summary of the Commission's enforcement process, caseload, enforcement-related litigation, and case closures or dismissals, as well as a review of significant Commission activities in 2024. ([Enforcement Report](#))
7. **Executive Director's Report.** Executive Director Nicolas Heidorn reports on overall priorities and PEC activities, such as budget, staffing, Measure W, and PEC legislative and policy initiatives not covered in other staff reports, as well as a review of significant Commission activities in 2024. ([Executive Director's Report](#); [Matrix](#))

ACTION ITEMS

8. **Election of Officers (Chair and Vice-Chair) of the Commission.** Commissioners will have an opportunity to nominate any Commissioner to serve as Chair and Vice Chair for 2024. If more than one Commissioner is nominated for an office, each nominee may speak regarding their qualifications and interest in serving and may answer questions of Commissioners or the public (Public Ethics Commission Operations Policies, Article IV). The Commission may discuss the nominations and, when the vote is called, each Commissioner may cast a single vote for each office.
9. **Appointment to PEC Vacancy.** The Mayor-appointed seat to the PEC has been vacant for two years. Under City Charter Section 603(d)(5), the PEC may fill a vacancy in any PEC seat appointed by a citywide elected official that has been vacant for more than 120 days. The Commission shall consider the application of a recent finalist for appointment to a Commission-appointed seat, Daniel Adler, and may select him to fill this vacancy. The applicant will have four minutes to introduce himself and answer the following questions:
 1. Why do you want to serve on the Public Ethics Commission?
 2. What skills and experience do you bring?
 3. What issues, projects, or goals would you like to pursue as a Commissioner?
 4. What else would you like the Commission to know?



Following this introduction, Commissioners may ask additional questions of the applicant, deliberate, and either decide to appoint Mr. Adler to the partial term ending on January 21, 2026, hold a recruitment to fill the vacancy instead, or take some other action.

- Daniel Adler: [Application and CV](#)

- 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. The Commission will review and consider Staff's recommendation to approve the adjusted contribution limits, spending limits, and DD proceeds for the 2025-2026 election cycle. ([Staff Memorandum](#))
- 11. Adjustment of the PEC's Regular Meeting Notice Period.** The Commission shall consider, and may recommend to the City Council, a proposal to reduce or change the 10-day notice period for the posting of the PEC's regular meeting agendas. ([Staff Memorandum](#))
- 12. Amendment to the PEC's Penalty Guidelines.** The Commission shall consider and may amend the streamline penalty amounts for Form 700 late- and non-filers, and how these streamline penalty amounts are determined, in its Penalty Guidelines. ([Staff Memorandum](#); [Penalty Guidelines Redline](#))

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 2024 meeting, Commissioner Upton IV will present, and Commissioners will discuss, the process for appointing commissioners to the PEC, including a proposal to use ranked choice voting (RCV) to assist in selecting applicants for appointment to the PEC, and a proposal for how the Commission could fill mid-term vacancies to the PEC by having a list of pre-vetted applicants for consideration. ([Commissioner Upton IV Memo](#))
- 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. **Charter Review Subcommittee** (ad hoc, created December 13, 2023) - Ryan Micik (Chair) and Karun Tilak ([Closure Memo, 12-6-2024 Minutes](#))

INFORMATION ITEM

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

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

The following options for public viewing are available:

- **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://us02web.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://us02web.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

01/17/25

Approved for Distribution

Date

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Hearing Room 2
Wednesday, January 29, 2025
6:30 p.m.



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

¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico a ethicscommission@oaklandca.gov o llame al (510) 238-3593 al 711 para servicio de retransmisión (Relay service) por lo menos cinco días antes de la reunión. Gracias.

你需要手語, 西班牙語, 粵語或國語翻譯服務嗎? 請在會議五天前電

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

Quý vị cần một thông dịch viên Ngôn ngữ Ký hiệu Mỹ (American Sign Language, ASL), tiếng Quảng Đông, tiếng Quan Thoại hay tiếng Tây Ban Nha hoặc bất kỳ sự hỗ trợ nào khác để tham gia hay không? Xin vui lòng gửi email đến địa chỉ ethicscommission@oaklandca.gov or hoặc gọi đến số (510) 238-3593 hoặc 711 (với Dịch vụ Tiếp âm) trước đó năm ngày.



DRAFT

Commissioners: Ryan Micik (Chair), Francis Upton IV (Vice-Chair), 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



DRAFT

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



DRAFT

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: Steele; Bayeva.

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.



DRAFT

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



DRAFT

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.



DRAFT

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.

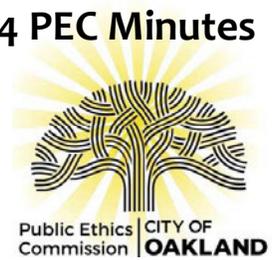
Executive Director Heidorn is gathering documents and putting together summaries of the proposals the Commission recommended but didn't make it into Measure OO. Chair Micik is working on a memo that will summarize those results to be available for presentation at the January meeting.

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.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Hearing Room 1
Wednesday, December 11, 2024
6:30 p.m.

Item 04 - Draft December 11, 2024 PEC Minutes



DRAFT

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.

Item 05 - Disclosure and Engagement Report



Public Ethics Commission | CITY OF
OAKLAND

Ryan Micik, Chair
Francis Upton IV, Vice Chair
Tanya Bayeva
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: January 14, 2025
RE: Disclosure and Engagement Monthly Report for the January 29, 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 Program Milestones in 2024)

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

Campaign Finance Disclosure – 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 January 14, 2025, there are 13 candidates for Mayor and five candidates for City Council District 2 who have filed with the PEC.

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

Commission staff is in the process of coordinating with the California Fair Political Practices Commission (FPPC) on finalizing a special filing schedule, which will include pre-election statements, for the April 15, 2025, Special Election. Commission staff anticipates this filing schedule will be finished before the January 29, 2025, PEC meeting, though after the writing of this report, so the exact date cannot be provided here. Commission staff will provide details of the Special Election filing schedule to relevant Oakland committees and include a copy of the schedule on the PEC website for education and information purposes.

The next campaign finance filing deadline is the semi-annual statement due January 31, 2025, covering activity from the most recent report in 2024 through December 31, 2024. All candidate-controlled committees raising or spending \$2,000 or more must file semi-annual statements for their committees as well as any other committees that they control. These filings are made on the Form 460.

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.

Campaign Finance Compliance Program Milestones in 2024 – In 2024, the City of Oakland had 64 registered filers with the PEC, including more than 50 committees. Two Oakland elections were conducted in 2024: a Special Election on March 5, 2024, and the General Election on November 5, 2024.

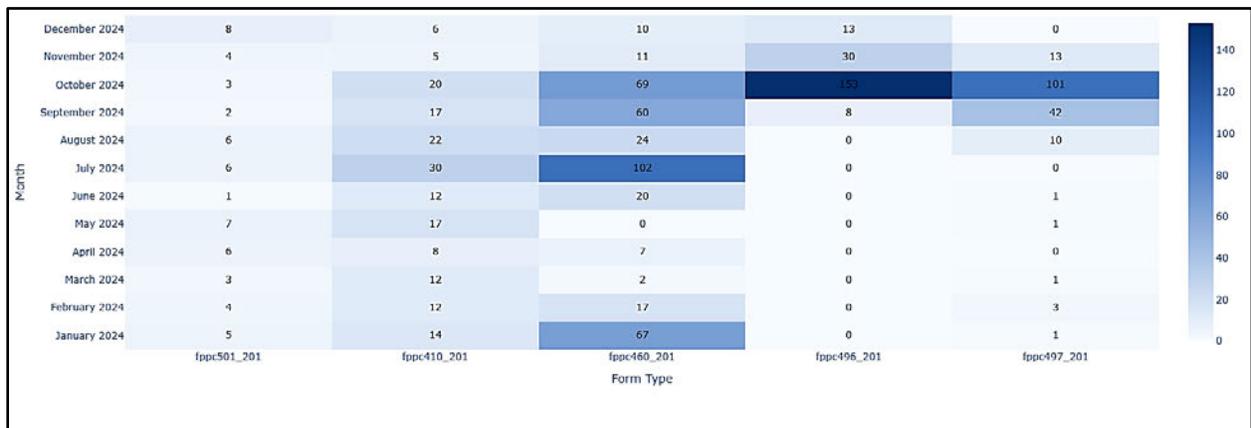
There were six campaign statement deadlines in 2024, and PEC staff processed and reviewed (through a combination of manual and programmatic processes) over 1,000 campaign-related filings – this includes Form 410, Form 501, Form 460, Form 470, Form 496, and Form 497, etc. – which covered nearly \$5.2 million[*] in Schedule A reported campaign contributions ([*]this data is through mid-October 2024 for most committees, as contribution reports through the end of calendar year 2024 are due January 31, 2025, and thus have not been factored in with this total).

The *Calendar View of Filing Activity* visualization below highlights daily filing activity with the PEC in calendar year 2024, represented by bubble size and color intensity. The day of the month is plotted along the Y-axis, while the X-axis spans the months of the year. Larger, brighter bubbles indicate days in a given month with higher filing counts. Key activity spikes are evident at the end of months like September 2024 and October 2024, coinciding with filing deadlines and pre-election reporting requirements.

Item 05 - Disclosure and Engagement Report



The *Filing Patterns Heatmap* visualization below shows filing intensity by form type and month from January 2024 through December 2024. The months of September 2024 and October 2024 stand out, with high filing activity concentrated in forms such as the Form 460 (Recipient Committee Campaign Statement), the Form 496 (24-hour/10-day Independent Expenditure Report), and the Form 497 (24-hour/10-day Independent Expenditure Report).



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 are due January 31, 2025.

To date, as of January 14, 2025, three lobbyists are currently registered with the City of Oakland for 2025. (In 2024, 15 lobbyists registered as Oakland lobbyists within the first two weeks of the calendar year. The sharp drop in registrations in 2025 in the first two weeks of 2025 is not entirely clear at this time.) Commission staff is in the process of working with these 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.

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 will allow 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.)

January 31, 2025, is the deadline for lobbyists to file their Quarterly Activity Report for Quarter 4 2024. Commission staff will monitor filing statuses once the deadline passes and will impose the required \$10/day late fee related to late filers, where applicable.

Note that in November 2023, the Oakland City Council adopted amendments to the Lobbyist Registration Act including a new annual lobbyist registration fee as well as a requirement that lobbyists take an online training provided by the Commission. Registered lobbyists have 60 days from their date of registration to complete the online training provided by the Commission. Commission staff is working with newly registered lobbyists to ensure full compliance with this training requirement.

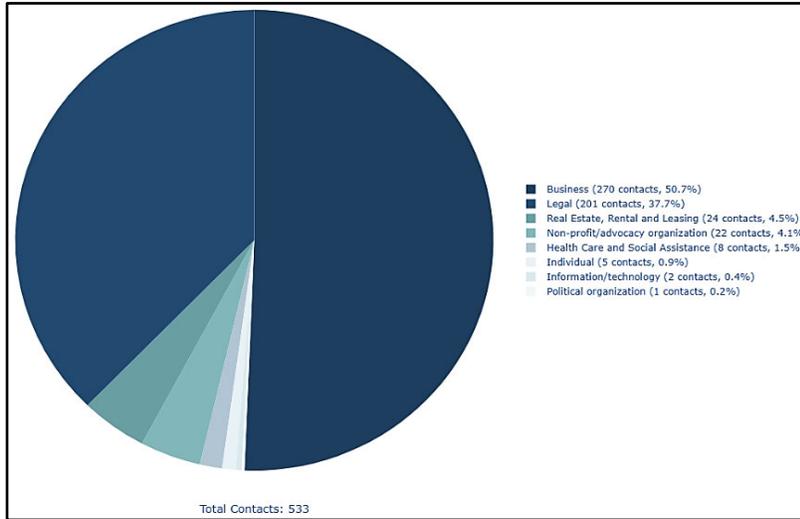
An up-to-date list of registered lobbyists and lobbyist activity reports with links to view and download individual reports is available at the Public Ethics Commission's [Lobbyist Dashboard and Data](#) webpage.

Lobbyist Compliance Program Milestones in 2024 – In 2024, 64 lobbyists registered with the City of Oakland representing over 100 clients.

Oakland lobbyists reported a total of 533[*] contacts with City officials. Commission staff processed and reviewed 171[*] quarterly lobbyist activity reports in 2024 ([*]this data is through Quarter 3 2024 for lobbyists, as Quarter 4 2024 reports, through the end of the calendar year, are due January 31, 2025, and thus have not been factored in with these totals).

The *Distribution of Lobbying Contacts by Client Type* located below on the left reveals that: Self-reported Business and Legal interests dominate the lobbying activity, with Business making up 50.7% and Legal making up 37.7% of all contacts – together accounting for nearly 90% of all

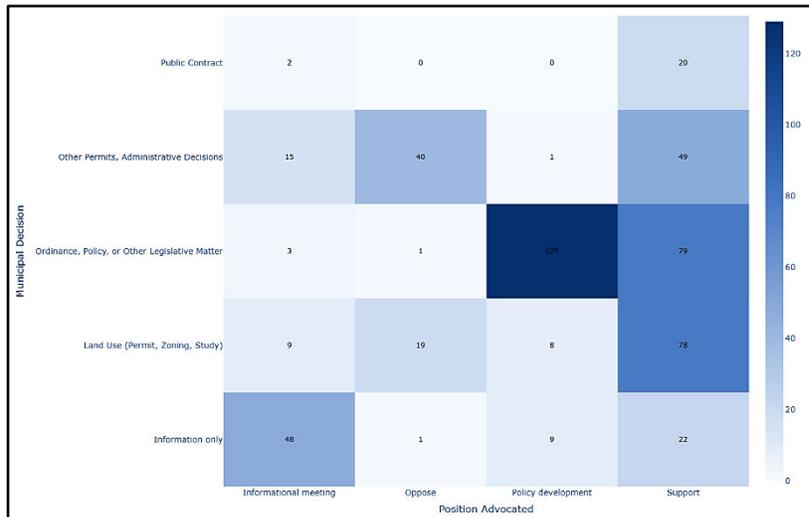
Item 05 - Disclosure and Engagement Report



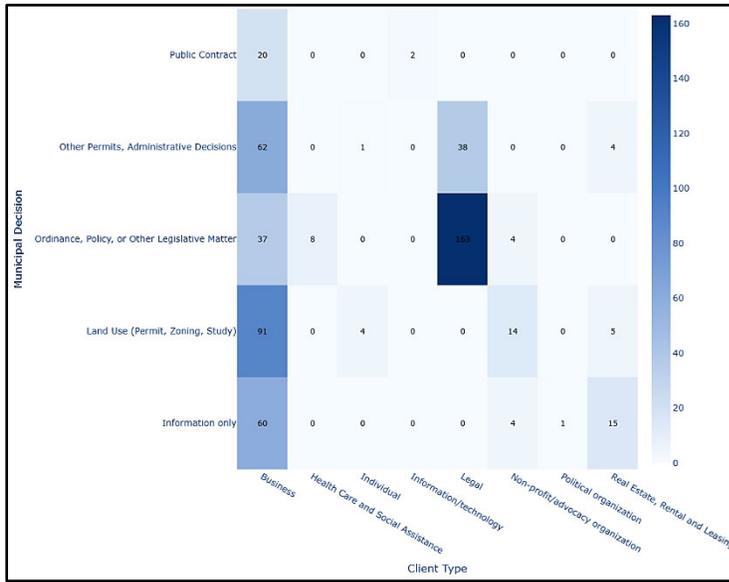
lobbying contacts. Real Estate / Rental / Leasing and Non-profit / Advocacy Organizations make up the next tier, but with much smaller shares at 4.5% and 4.13% respectively. The remaining client types (Health Care, Individual, Information/technology, and other organizations) each represent less than 2% of total

lobbying contacts, showing minimal direct lobbying activity from these sectors.

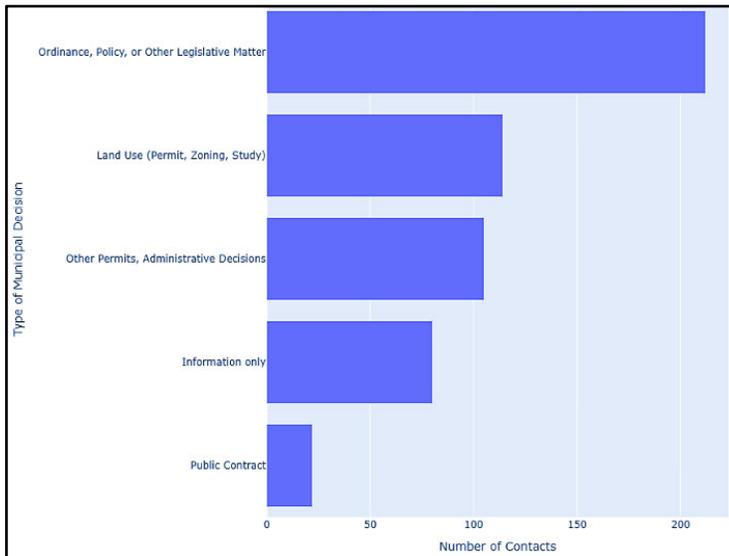
The *Heatmap of Positions Advocated by Municipal Decision* located on the right reveals several key patterns in lobbying positions across different municipal decisions in 2024: There is a high concentration of “Policy Development” activity for “Ordinance, Policy, or Other Legislative Matter” (shown by the dark blue square).



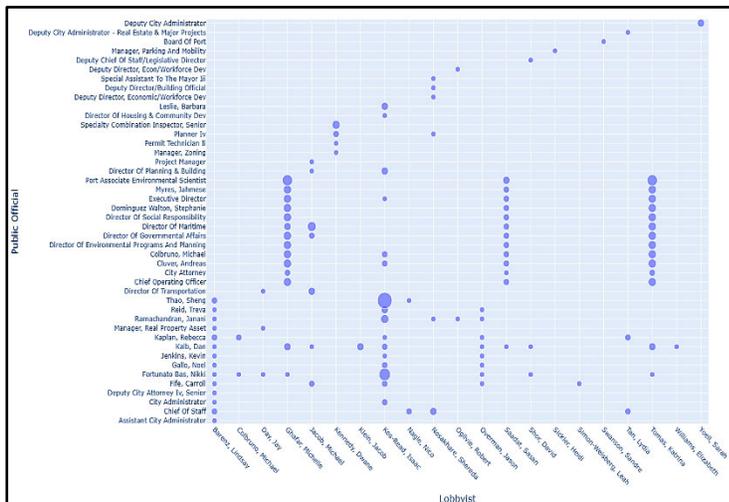
“Support” positions (rightmost column) are more common across multiple decision types, particularly for “Land Use” and “Other Permits, Administrative Decisions” (shown by the blue coloring). “Informational meeting” activity is relatively consistent across different municipal decisions (shown by the similar coloring in the leftmost column), suggesting that informational meetings are a common preliminary step regardless of the decision type.



The Heatmap of Municipal Decisions by Client Type visualization located on the left shows the distribution of lobbying activities across different types of municipal decisions and client categories in 2024. The brightest spot indicates that “Other Organizations” such as Business and Legal are most active in “Ordinance, Policy, or Legislative Matter” decisions. The “Business” client type shows moderate to high activity across all decision types, while Individual clients show minimal activity overall.



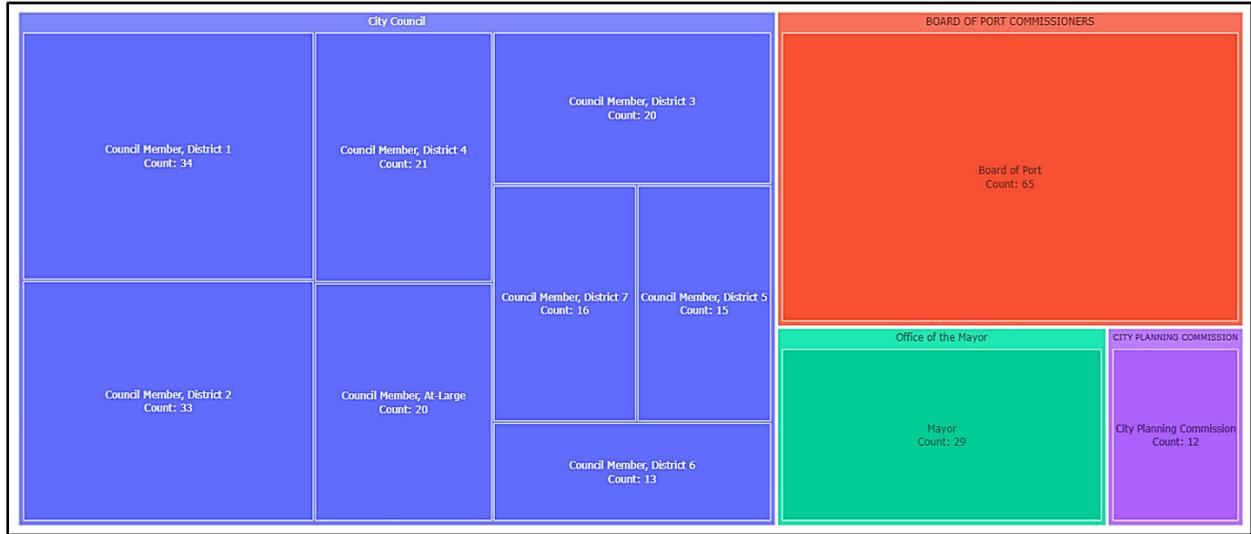
The Distribution of Lobbying Contacts by Municipal Decision visualization located on the left shows the volume of lobbying contacts by decision type in 2024. “Ordinance, Policy, or Legislative Matter” dominates with over 200 contacts, followed by “Land Use” and “Other Permits, Administrative Decisions” with approximately 100 contacts each. Public Contract-related lobbying shows the lowest activity.



The Network of Lobbyist-Official Interactions visualization located on the left displays the network of interactions between lobbyists and public officials in 2024. Bubble sizes indicate the frequency of contacts. Several concentrated clusters of activity are visible, particularly around certain key officials.

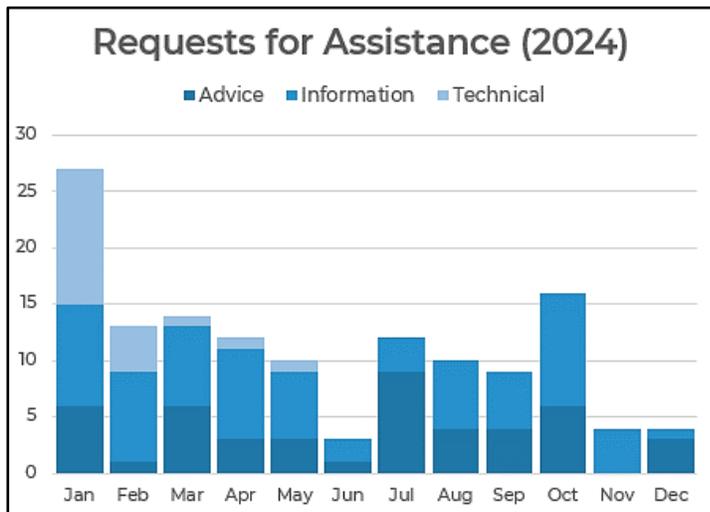
Item 05 - Disclosure and Engagement Report

The *Hierarchy of Lobbying Contacts by Department and Position* visualization below reveals the distribution of lobbying contacts across City departments and positions in 2024. The City Council received the most lobbying contacts (152 total across all districts) – District 1 had the highest number (34 contacts) among Council Districts. The Board of Port Commissioners also shows significant activity (65 contacts), followed by the Mayor's Office (29 contacts).



Advice and Engagement (Includes Program Milestones in 2024)

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.

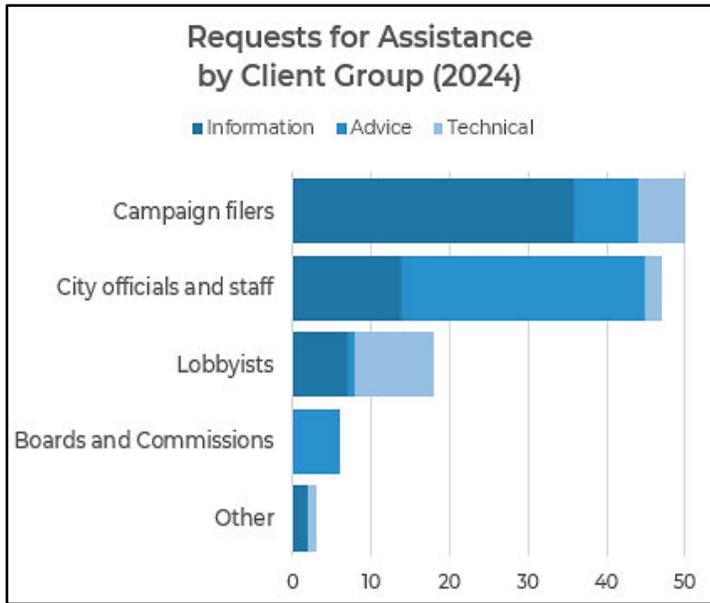
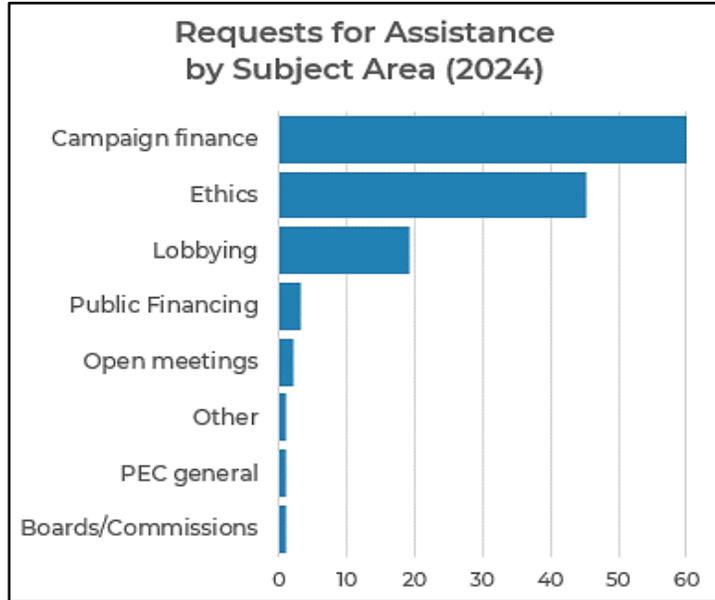


Advice and Technical Assistance – In 2024, Commission staff responded to 134 requests for information, advice or assistance regarding campaign finance, ethics, Sunshine law, or lobbyist issues, fielding an average of approximately 11 requests per month.

Inquiries from campaign filers (40%) and City officials and staff (38%) made up the majority of requests for advice and assistance followed by lobbyists (15%).

New Employee Orientation –

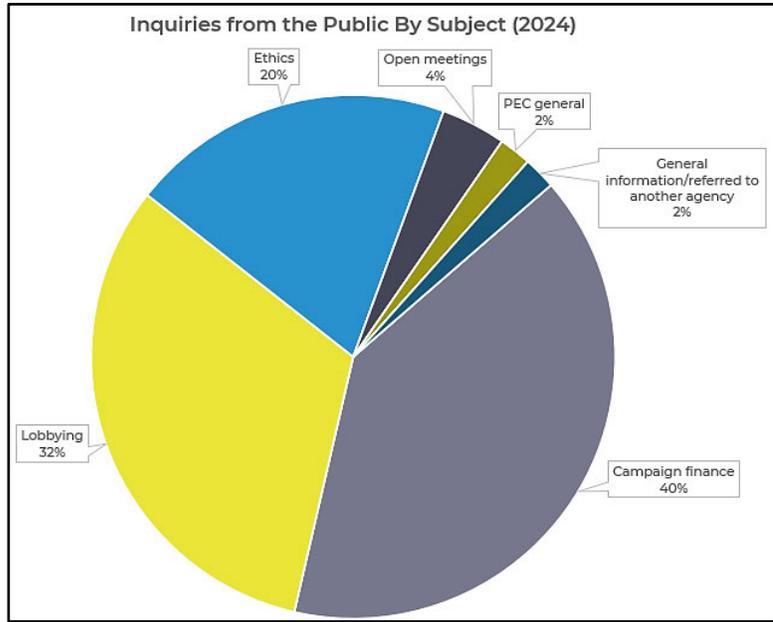
Commission staff continued to collaborate with the Department of Human Resources Management (DHRM) to ensure that every new City employee received introductory Government Ethics training. This year, Commission staff made 11 live presentations and one video presentation reaching over 400 new employees. In addition, staff presented a live ethics training at the Oakland Parks, Recreation, and Youth Development Department’s Summer Orientation reaching 100 new employees.



Ethics Training for Form 700 Filers – In 2024, 224 employees completed the PEC’s online Government Ethics Training for Form 700 Filers via NeoGov LEARN, the City’s online learning management system. In addition, Commission staff, in collaboration with DHRM, held two live Zoom trainings that covered all the content in the PEC’s online ethics training for Form 700 filers to provide additional opportunities to complete the mandatory training requirement. Approximately 30 employees attended the live Zoom trainings.

Supervisor Academy – The City’s Supervisor Academy provides training for supervisors and management-level employees on City policies and procedures, internal systems, and leadership skills relating to day-to-day supervision. In 2024, Commission staff provided ethics presentations at three Supervisor Academies, reaching nearly 90 supervisor-level City employees with an overview of the Government Ethics Act and PEC services, as well as the

opportunity to dive into discussions of ethical issues and scenarios and skills-based training to deal with ethical dilemmas such as gift restrictions, lobbying activity, misuse of City resources, and public records requests.



Boards and Commissions – Commission staff participated in a joint effort with the Mayor’s Office, City Clerk, and City Attorney to provide a comprehensive training for City Board and Commission staff liaisons.

The training covered all relevant laws and responsibilities, including Sunshine and Government Ethics Act requirements, pertaining to boards and commissions to ensure their understanding of and compliance with these laws.

Candidates and Campaigns – In 2024, Commission staff conducted a joint candidate and treasurer training with representatives from the California Fair Political Practices Commission (FPPC). The attendees received a two-hour training on the California Political Reform Act and the Oakland Campaign Reform Act. Topics covered included campaign forms, committee IDs, campaign bank accounts, recordkeeping, contribution rules, and advertising disclosures.

Additionally, Commission staff issued multiple targeted communications to campaign filers to ensure awareness of local campaign finance rules.

Limited Public Financing (LPF) Program – In 2024, Commission staff administered the Limited Public Financing (LPF) program providing reimbursements to participating candidates for qualified campaign expenditures. Commission staff dispersed a total of \$154,999.95 in processed reimbursements to participating candidates out of the \$155,000 available through the election fund.

Name	District	Total Funds Dispersed
Zac Unger	1	\$22,142.85
Carroll Fife	3	\$22,142.85
Warren Logan	3	\$22,142.85
Noel Gallo	5	\$22,142.85
Erin Armstrong	5	\$22,142.85
Ken Houston	7	\$22,142.85
Iris Merriouns	7	\$22,142.85

Item 05 - Disclosure and Engagement Report

Name	District	Total Funds Dispersed
	TOTAL	\$154,999.95

Publications – In 2024, Commission staff updated three comprehensive guides intended to assist the regulated community in complying with local laws:

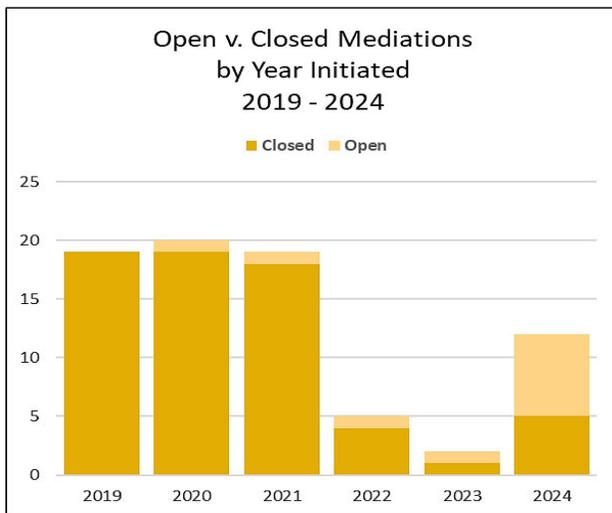
- **Guide to the Lobbyist Registration Act** – Commission staff made substantial revisions to the PEC’s comprehensive guide to the Lobbyist Registration Act, designed to assist the regulated community in complying with local law.

The guide provides a summary of the Oakland Lobbyist Registration Act provisions and was updated to incorporate newly adopted amendments including registration fees and training requirements.

- **Oakland Campaign Reform Act Guide** – Commission staff updated the PEC’s comprehensive guide to the Oakland Campaign Reform Act, designed to assist the regulated community in complying with local campaign finance laws.

The guide provides a summary of the Oakland Campaign Reform Act provisions and was updated to reflect the recent changes from Measure W including new contribution limits and independent expenditure disclosure requirements.

- **Limited Public Financing (LPF) Guide** – Commission staff updated the guide for the 2024 election, updated LPF program forms along with additional edits to ensure that language is consistent with the revised Oakland Campaign Reform Act (OCRA) Guide.



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 Commission received 12 new requests for mediation in 2024 – 14 mediations were completed in 2024.

Online Engagement

Social Media – In 2024, Commission staff continued producing monthly social media content highlighting PEC policy areas, activities, and topics of interest to specific client-groups.

Website Migration – The City of Oakland is in the process of transitioning its website to a new content management system (CMS), OpenCities. The new website is scheduled to launch in 2025. In the initial phase of the migration process, Staff worked with the City of Oakland’s website project team to review the Public Ethics Commission’s current webpages and determine which ones will migrate to the new website.

Targeted Advertising – Leading up to the election, the PEC purchased digital advertisements in *The Oaklandside*, which ran from October 14, 2024, through election day, November 5, 2024, and also posted to social media to promote public awareness of the Open Disclosure Oakland platform. Outcomes of the targeted advertising effort were included in the December 2024 Disclosure and Engagement Report provided to the Commission.

General Outreach

The Commission conducts outreach activities to ensure Oakland residents and the regulated community know about the Commission and that the Commission is responsive to their complaints and questions about government ethics, campaign finance, or transparency concerns.

Commissioner Recruitment – In 2024, Commission staff implemented a robust recruitment strategy to fill its Commission-appointed vacancy that included email blasts to PEC agenda subscribers and community organizations, paid online advertisements, social media posts, and tabling at community events. A Total of 10 applications were received.

Item 06 - Enforcement Report



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

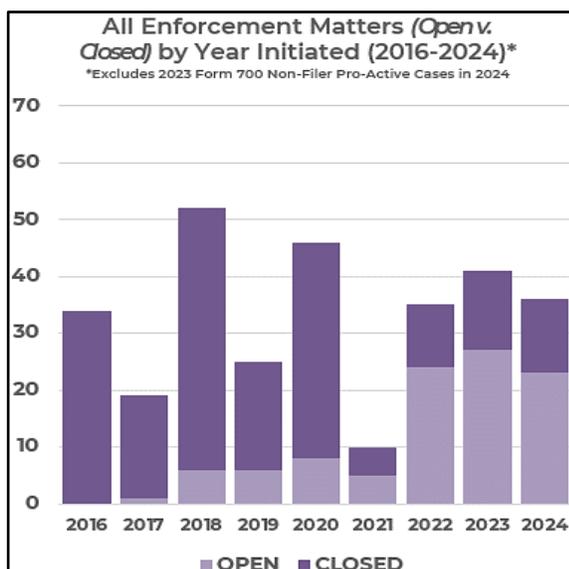
Nicolas Heidorn, Executive Director

TO: City of Oakland, Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
Alex Van Buskirk, Lead Analyst, Compliance and Disclosure
DATE: January 14, 2025
RE: Enforcement Program Monthly and 2024 Year-End Report for the January 29, 2025, Public Ethics Commission Meeting

End of the Year Summary for Enforcement Matters

2024 was a year of successes and challenges for the Enforcement Unit. The Commission issued the largest fines in the Commission’s history last year, reflecting the Enforcement Unit’s prioritization of its most serious complaints. However, at the same time, the Commission’s complaint backlog has continued to grow, which is a direct result of the Enforcement Unit’s extreme understaffing. With Chief of Enforcement Simon Russell’s departure from the Commission in October of 2024, 2025 is set to be a rebuilding year for the Commission as a new Enforcement Chief is onboarded and the Commission continues to have to prioritize its limited enforcement resources.

Caseload Trends in 2024



To begin, a priority for the Enforcement Unit has been to resolve outstanding cases or complaints. As shown in the visualization presented on the left – “All Enforcement Matters by Year initiated (2016-2024)” – the Enforcement Unit has maintained a steady resolution rate on cases since prioritizing this effort in 2022.

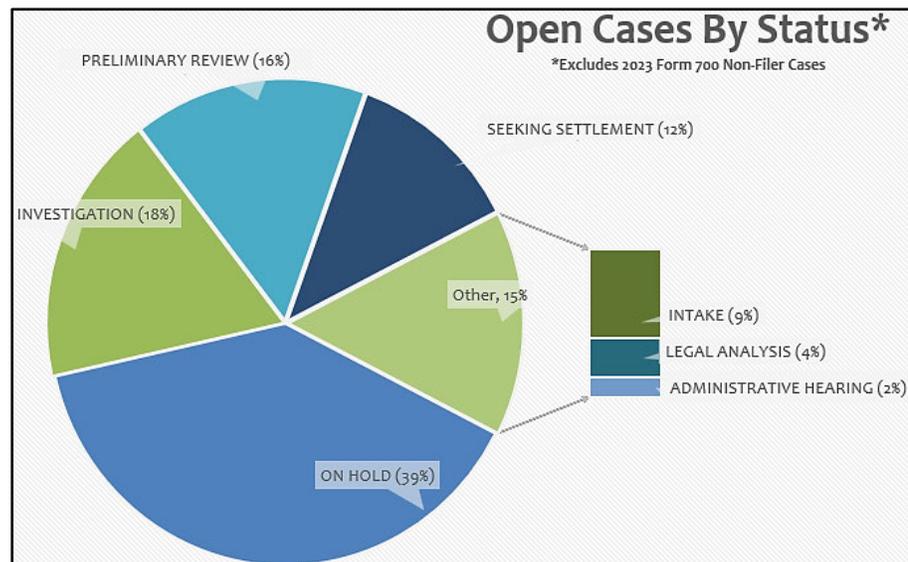
For 2024, Enforcement Unit staff received twenty-four (24) formal complaints. Of these, twelve (12) were reviewed and dismissed without proceeding to a full investigation; nine (9) are in the Intake Phase; one (1) is in the Legal

Analysis Phase; one (1) is in the Preliminary Review Phase; and one (1) has been placed On Hold.

Enforcement staff also received sixty-two (62) informal complaints in 2024. Of these, forty-seven (47) were rejected; six (6) were assigned a complaint number and escalated to our regular intake process; and nine (9) are awaiting a decision as to whether to accept or reject them.

Finally, Enforcement staff initiated seventy (70) proactive complaints in 2024. The majority – sixty (60) – were matters regarding Form 700 non-filers for the 2023 Form 700 filing due in April 2024. Of the remaining ten (10) non-Form 700-related proactive complaints, one (1) is Closed; two (2) are under Preliminary Review; five (5) are in the Investigation phase; and two (2) are in the Seeking Settlement phase.

The Enforcement Unit's processing rate for incoming, formal complaints in 2024 (meaning preliminary review was completed, resulting either in a dismissal or the opening of an investigation) stands at 50%. This is up from last year's processing rate of 43%; neither,



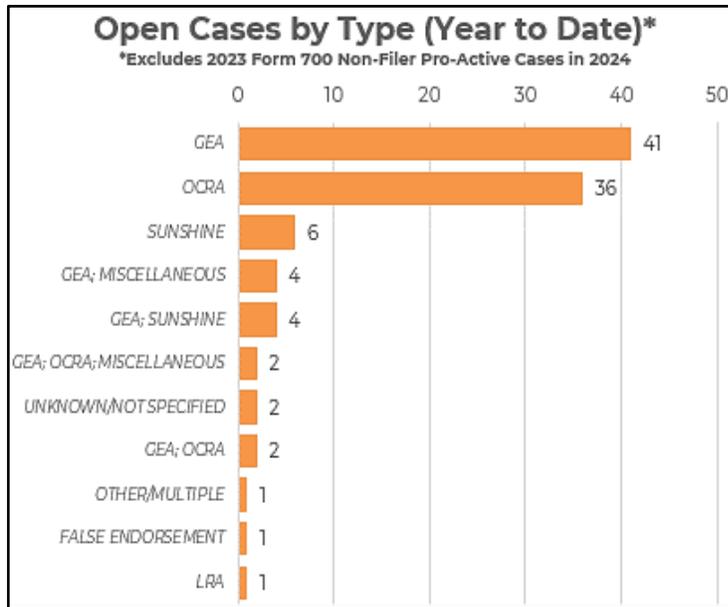
however, are ideal numbers. This is attributable to our short-staffing and resulting policy of putting most non-urgent complaints on hold. It should also be kept in mind that the length of a preliminary review does not depend solely upon Enforcement Unit staff's efforts; delays in obtaining documents or interviews from third parties are a common reason for preliminary reviews to take an extended amount of time.

By contrast, the Enforcement Unit's processing rate for informal complaints in 2024 (meaning we reviewed the complaint and determined whether or not to assign it a complaint number and proceed to our regular intake process) was 90%. This process is almost entirely within the Enforcement Unit's control. This is a further improvement from last year's processing rate of 78%. Because the Enforcement Unit did not begin tracking incoming informal complaints until late in 2022, comparisons for additional years are not available.

Over the course of 2024, the Enforcement Unit led by then-Enforcement Chief Simon Russell presented seven (7) cases to the Commission for a monetary penalty. This was despite short-staffing and largely due to the Enforcement Unit's decision to focus its limited resources on what we believe to be the most impactful cases (which also tend to be the most complex, and therefore take longer to bring to the Commission). In total, the Commission approved \$441,658 in monetary penalties across these seven cases (*PEC Case Nos. 19-01.01, 19-01.02, 19-18, 20-41.01, 20-41.02, 20-41.03, and 22-09.01*), the most in Commission history. The Enforcement Unit also has two (2) case for which probable cause has been found and administrative hearings are pending.

In sum, the numbers above provide a mixed picture. The Commission issued significant fines in several complex areas, demonstrating that the Commission is committed to its role as a vigorous enforcer of Oakland's ethics laws. However, short-staffing has clearly had a dramatic impact on Enforcement's ability to resolve most cases in a timely manner.

In light of the City's budget situation, it is unlikely that the Commission will be able to hire additional enforcement staff soon. In light of Chief Russell's departure late in 2024 and the need, at the start of the 2025, to onboard a new Enforcement Chief and bring them up to speed on the Commission's caseload, there is a strong possibility that the Commission's ability to resolve complaints may decrease in 2025. On the positive side, to supplement its enforcement program, the Commission has successfully moved some staff resources from other program areas to support the Enforcement Unit and used salary savings to bring on some additional consulting help, which has prevented the Commission's case backlog from growing even more dramatically. The voters also overwhelmingly passed Measure OO this past November, which will add an additional investigator to the PEC, beginning in July of 2026.



However, we must once again underscore the urgency of increasing Enforcement’s staff capacity if we are ever going to be able to fulfill the duties that the voters of Oakland gave us when they passed Measure CC in 2014. At minimum, the Commission estimates it will need two additional investigators (for a total of three) and one staff attorney to be able to resolve new complaints in a timely manner and begin to address its substantial complaint backlog.

Increased Form 700 Enforcement Efforts

As noted by the Alameda County Grand Jury in its 2021-2022 Civil Grand Jury Final Report, the City of Oakland has a longstanding problem with public officials failing to file their Form 700s. These are forms that City staff and officials must file every year, listing all of their financial interests that could potentially form the basis of a conflict of interest in the execution of their City duties. In 2023, the Commission initiated a pilot program to enforce the annual Form 700 filing requirement as to high-level City officials. In 2024, the Enforcement Unit expanded this initiative to cover all Form 700 filers in the City.

The PEC has always had the authority to investigate and prosecute the non-filing of these forms. The challenge has always been twofold: (1) identifying all of the non-filers in the City, particularly in light of the fact that the PEC is not the filing officer for Form 700s (and therefore does not have direct access to the relevant data); and (2) handling a caseload of non-filer matters that potentially numbers in the hundreds.

At the end of 2022, the PEC directed the Enforcement Unit and the City Clerk’s office (the filing officer for Form 700s) to collaborate more consistently in monitoring and enforcing Form 700 compliance. This resulted in the PEC getting select access to data on non-filers that it did not previously possess. In addition, the PEC had already developed a “streamline” program for handling low-level violations such as the non-filing of a Form 700. Prior to 2023, this program had never been used on a wide scale; but with greater access to non-filer data, the Enforcement Unit felt it was in a better position to make use of this tool for purposes of fostering a Citywide culture of compliance with the Form 700 laws. Some challenges remain.

The Enforcement Unit was not sure how reliable the City's data regarding Form 700 non-filers was, due, in part, to the City not having an automated Information Technology process for updating records of who is required to file these forms. In addition, we lacked the staff capacity to process a large number of these cases, even at the streamline level. But with an eye toward continued collaboration with the City Clerk, the PEC Enforcement Unit ran a "pilot" program of Form 700 enforcement in 2023 (focused on senior-level City officials). Our goal was two-fold: to enlist the help of other City departments in verifying the integrity of the City's non-filer data, and to work out streamlined enforcement procedures in the Form 700 context that could be easily replicated on a larger scale in 2024 (assuming we would have more staff to implement them).

After the 2023 "pilot" program, the Enforcement Unit launched a large-scale approach to the enforcement of Form 700 filings in April 2024 for 2023 Form 700 non-filers. In April 2024, the Enforcement Unit received records from the City Clerk indicating that 512 City officials (staff and Board Members/Commissioners) had failed to file their Form 700. Enforcement verified the accuracy of the City's non-filer data by contacting every City department and relevant Board/Commission with the non-filer information, which narrowed the list of potential Form 700 non-filers down by approximately over 450 (i.e., approximately 450 were removed from the list) because, for example, the PEC determined and received confirmation the staff or Board/Commission Member in question was no longer with the City and thus not required to file. Through individual contacts with non-filers or their Departments, the PEC was able to further narrow the list by roughly another a dozen, removing, for example, people who failed to file because they were out on extended medical leave. From the initial pool of 512, the PEC opened 60 proactive complaints against City officials for failing to file their 2023 Annual Form 700. Of these, 45 have since either filed a Form 700 or it was subsequently determined that they did not have to file, two are in the process of filing, and eight have not filed their 2023 Form 700 and may be subject to fines.

The 2024 enforcement effort has been successful in verifying the Form 700 status of City officials, providing a list to assist in cleaning up the City's rolls of required filers, and bringing more City officials into compliance. However, the process has proven labor intensive – which was further hampered by unexpected Enforcement Unit staff transitions and leave of absences – and illustrates shortcomings in the City's processes for ensuring that required filers are properly identified. The Enforcement Unit continues its work through the 2023 Form 700 non-filer case log and, due to lessons learned this cycle, is in a better position than previous years (expected to begin after the April 2025 Form 700 filing deadline) for providing compliance of new non-filers.

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, the Enforcement Unit 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 “proactive” complaints.

Complaints do not automatically trigger an investigation. Instead, they enter what is called “Preliminary Review,” in which the Enforcement Unit 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. The Enforcement Unit 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 the Enforcement Unit 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 the Enforcement Unit is unable to settle a case within a reasonable time 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 the Enforcement Unit 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 the Enforcement Unit’s internal workflow. The Executive Director and the hearing officer will arrange the logistical and procedural details of the hearing. All administrative hearings are open to the public, and are conducted either by the full Commission, a panel of Commissioners, a single Commissioner, a single hearing officer not from the Commission, or an administrative law judge.

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

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

Current Enforcement Unit Caseload

Since the last Enforcement Unit Program Update submitted to the Commission on November 26, 2024, Commission staff received one (1) formal (sworn) complaint and dismissed one (1) formal complaint. In the same time period, we also received two (2) informal complaints, both of which were rejected.

This brings the total Enforcement Unit caseload to one-hundred and forty-one (141) open complaints or cases (this total includes forty-one (41)¹ 2023 Form 700 non-filer proactive cases opened in 2024). Of the remaining one hundred (100) non-Form 700-related open complaints or cases, twenty-five (25) are in the intake or preliminary review stage; eighteen (18) are under active investigation; four (4) are under post-investigation legal analysis; twelve (12) are in the seeking settlement phase; and two (2) are awaiting an administrative hearing. An additional thirty-nine (39) are On Hold.

The Enforcement Unit's current budgeted staffing is: one (1) Enforcement Chief and one (1) Investigator. As of October 9, 2024, the Enforcement Chief position is vacant; however, the Commission expects to have a new Enforcement Chief hired by the end of January. Whitney Barazoto, the PEC's former Executive Director, was brought on as a consultant to assist the PEC in the interim on enforcement matters, with additional support from Ethics Analyst Alex Van Buskirk, who is also managing the PEC's Compliance and Disclosure Program responsibilities. The PEC is receiving additional support from the City Attorney's Office with the PEC's pending administrative hearing and assisting with the preliminary review of some complaints.

Case Resolutions or Submissions

Since the last Enforcement Unit Program report on November 26, 2024, the following complaints or cases have been resolved or submitted to the Commission:

1. ***In the Matter of Sasha Ritzie Hernandez; Sasha Ritzie-Hernandez for District 5 School Board (PEC No. 24-31)***. On October 22, 2024, the PEC received a formal complaint alleging that Sasha Ritzie-Hernandez, Oakland School Board candidate, violated one or more laws under the PEC's jurisdiction when Ritzie-Hernandez allegedly improperly used school resources to campaign. The Enforcement Unit, with the assistance of the City Attorney's Office, conducted a preliminary review and determined that there was insufficient evidence of any violation of a law within the PEC's jurisdiction. The Government Ethics Act (GEA) prohibits the misuse of City resources for political purposes; however, GEA does not include the misuse of School District resources. As such, the complaint was dismissed with no further action; however, the complainant was directed to other officials to whom she could make her complaint and the Superintendent of OUSD was made aware of the complaint.

¹ The PEC opened 60 Form 700 cases, but 19 have been closed, with 41 remaining as of this report.



Item 07 - Executive Director's Report

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

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: January 17, 2025
RE: Executive Director's Report for the January 29, 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 in 2024 and significant upcoming activities which were not included in other program reports, including a discussion of Commission transitions, staffing and budget, and policy initiatives.

2024 in Review

2024 was a busy year for the Commission, with significant accomplishments but also challenges relating to resource constraints.

As detailed further below or in other memos, some highlights include:

- successfully handling its campaign finance filing officer duties and candidate training and advice for the 2024 election;
- reinstating and successfully administering the Limited Public Financing Program;
- bringing forward several significant enforcement cases to the Commission for resolution;
- proposing a charter amendment to strengthen the PEC's independence and staffing, which the voters approved;
- making significant progress on the logistics of Measure W implementation, including negotiating a contract for building the software needed for implementation;
- adopting new policies relating to the debate requirement for participating in public financing and lobbyist training requirements; and
- successfully adopting new salaries for the City Attorney, City Auditor, and City Council.

Also as further detailed below, the Commission faced numerous challenges, including staffing challenges in its Enforcement program and staffing and funding for the Democracy Dollars Program, both of which have impacted the Commission's ability to fulfill its mission with regards to those core services, and will remain critical challenges for the Commission to overcome or manage in 2025.

A more detailed review follows.

Commissioner Transitions

The PEC saw several Commissioners transition from and on to the Commission in 2024. Commissioner **Arvon Perteet**, a Commission-appointee, concluded his term with PEC on January 21, 2024. Commissioner **Charlotte Hill**, also a Commission-appointee, stepped down from the Commission in June of 2024. We're deeply appreciative of Arvon and Charlotte for their commitment and years of public service to the Commission and the people of Oakland!

The PEC also welcomed two new Commission-appointed Commissioners in 2024. Commissioner **Karun Tilak** was selected for a full term beginning on January 22, 2024, and running through January 21, 2027. Commissioner **Tanya Bayeva** was selected to fill the partial term vacated by Commissioner Hill, and the following full-term, which goes until January 21, 2028. Chair **Ryan Micik** was also re-appointed to the Commission by City Attorney Barbara Parker, for a new term that runs from January 22, 2024, through January 21, 2027.

The PEC has one vacancy presently, which is for the Mayor-appointed seat, which has been vacant for two years. Vacancies proved a challenge for the Commission in 2024, requiring the cancellation of two meetings, and leading to some deadlocked votes. With the passage of Measure OO (2024), the Commission now has the concurrent authority to fill vacancies to seats appointed by elected officials that remain vacant for over 120 days.

Staffing Updates

The Commission saw several staff transitions last year as well. In October 2024, Enforcement Chief **Simon Russell** resigned from the Commission. Russell had nearly a decade of service with the Commission, first as an investigator and then, in his last two years, as Chief leading the Commission's Enforcement Unit. Russell's accomplishments include professionalizing the processes of the Commission, launching the PEC's Form 700 enforcement initiative, and investigating or prosecuting the Commission's most important cases during his tenure. Commission Assistant **Chris Gonzales**, whose duties included providing important assistance with the processing of PEC complaints and noticing Commission meetings, also left the PEC last year to join another City department. We're grateful to Simon and Chris for their service to the Commission.

The PEC was also excited to welcome several new staff last year, who have had a significant and positive impact on the Commission's work. **Alex Van Buskirk** was hired first to a temporary Investigator position, and subsequently hired to a permanent Ethics Analyst III position to lead the Commission's regulatory program, including serving as filing officer for lobbying and campaign finance disclosures. Through a generous grant from the Haas Jr. Foundation, the Commission was able to hire **Bobby Zaidi** to develop a broad and equitable outreach plan for the launch of the Democracy Dollars Program. The Commission hired a new Commission Assistant, **Melanie Newcomb**, to assist with processing complaints and organizing the Commission's processes and work. The Commission also hired Consultant and former PEC Executive Director **Whitney Barazoto** to provide part-time help with the Commission's enforcement work during this transition period. **Jelani Killings** was promoted from Ethics Analyst I to Ethics Analyst II, in

recognition of his superior work in leading the Commission's education, advice, and outreach programs.

After Simon Russell's resignation, the Commission immediately began a recruitment process to hire a new Enforcement Chief. The PEC is pleased to announce the hire of **Tovah Ackerman** as the Commission's new Chief. Ackerman has extensive investigative experience, most recently serving as an Investigator with the Prison Law Office, where she led investigations into conditions at California prisons. She received her J.D. from New York University School of Law and has a Master's of Philosophy in Criminology from Cambridge University. She will begin with the PEC in late January. Welcome, Tovah!

Fortunately, considering the City's general hiring freeze, the PEC expects to have no staff vacancies at the start of 2025. However, the PEC remains critically understaffed to perform its core functions. As the Commission has noted for several years, the Commission has only one Investigator for over 140 complaints, which is an unsustainable caseload that has forced the Commission to place a substantial proportion of its complaints on hold. With the passage of Measure OO (2024), the PEC's minimum enforcement staffing will increase to two Investigators in July of 2026, which will be a significant improvement. However, Commission staff estimates it will require a minimum of three Investigators and one Staff Attorney to manage its ongoing caseload and make significant progress in addressing its complaint backlog.

In addition, although Measure W provides that the Commission shall have a minimum of four Democracy Dollars (DD) staff positions, with the City's declaration of an extreme fiscal necessity, the City Council has frozen all but one of these positions. Commission staff estimates the immediate hire of at least two additional staff positions would be required for a 2026 limited pilot to be remotely feasible. Moreover, even if the DD Program is again postponed, if at least one additional staff position to assist with Program planning and logistics is not included at the end of FY 26-27, this may jeopardize the Commission's ability to implement even a limited pilot of DD in time for the 2028 election.

Recent Budget Amendments and the FY25-27 Cycle

While the PEC avoided significant additional budget cuts in 2024, the PEC's budget remains significantly below its operational needs or what the City Charter requires. The City's challenging fiscal situation will likely make it difficult for the PEC to secure the resources needed to fully fund its programs, and in 2025 the Commission should explore and potentially propose revenue options for partially or fully funding its Enforcement Program and the Democracy Dollars Program.

Under the City Charter, the City is required to provide the PEC with a minimum number of staff positions and, pursuant to Measure W (2022), to further appropriate funding and four positions to the PEC to implement the Democracy Dollars Program, which was set to launch in 2024. However, in 2023, facing a significant budget deficit, the Council voted to declare an "extreme fiscal necessity" and reduced the majority of the PEC's Democracy Dollars mandatory funding and staffing, effectively postponing the Program to 2026. The Council, however, appropriated

\$525,000 for the PEC to develop the software platform necessary for implementing the Program and funded the Charter-mandated Program Manager position to lead this work.

Because of the significant fiscal challenges that the City was facing, and because the anticipated sale of the Oakland Coliseum was not realized on schedule, the City's budget was amended twice in 2024. In June 2024, the City adopted a mid-cycle budget, which reduced funding available for the Democracy Dollars (DD) software contract by almost \$100,000. The PEC was successful in advocating that the Council restore funding for the Limited Public Financing Program (LPF), ensuring 2024 would not be the first election in over 20 years without public financing in Oakland, but the Council rejected the PEC's other requests to add a second Investigator to the Commission's Enforcement Unit and unfreeze an Ethics Analyst in the second half of FY 24-25 to prepare for DD implementation. In late December of last year, the City conducted another mid-cycle budget adjustment to further reduce City spending because expected revenues from the sale of the Oakland Coliseum had not been realized on schedule; in this case, no further reductions were made to the PEC's budget.

As of October 2024, City fiscal staff estimate that the City needs to close an annual structural deficit of around \$120 million over the next two years. Although the last mid-cycle budgeting process just concluded, the budget process for the FY25-27 biennial budget has already begun, which will likely result in further reduction targets for departments to meet.

Consistent with its prior budget positions, in the current cycle PEC staff will prioritize:

1. **Maintaining existing PEC staffing**, including the Haas Jr.-funded Outreach Specialist position, and minimizing any cuts to staff or core programs. The PEC is critically understaffed with no staff redundancies; any reductions in PEC staffing will result in a severe reduction or elimination of a PEC core service.
2. **Adding 1 FTE Investigator** to better address the Commission's ongoing and backlogged complaint caseload.
3. **Restoring DD startup funding and adding 1 FTE Ethics Analyst at the end of FY26-27** to ensure the Democracy Dollars Program can be implemented in 2028. Even if, as seems increasingly likely, Democracy Dollars is postponed for the 2026 election cycle, funding and completing the software platform and other technical requirements in FY25-27 is a necessary precondition for successful Program launch in 2028.
4. **Reinstating and funding the LPF Program for 2026**, if a 2026 Democracy Dollars pilot is not funded/feasible, as was done in 2024.

Parallel to the budget process, Commission staff will also examine potential revenue sources to fund the Commission's enforcement program and Measure W, for consideration by the Commission.

Measure W Program Milestones

Despite reduced resources, 2024 was a productive year for preparing for Democracy Dollars implementation in a number of areas.

Administrative Processes and Technology – The development of the Democracy Dollars Program requires the design and implementation of a secure software platform with strong accountability controls to administer the program, and a user-centered design that makes participation simple for both candidates and residents with easy access to program and campaign data. In 2024, Commission and IT staff gained City Council approval to contract with the vendor MapLight to design, build and implement the Democracy Dollars software platform. PEC staff concluded its negotiations with MapLight over the scope of work and moved the contract to final review by the City Attorney and IT Department prior to submission for City Administrator approval. Although contingency provisions in the FY 2024-25 Midcycle Budget Amendments require unfinalized contracts be evaluated by the City Administrator on a case-by-case basis, PEC budget allocations for this project were not reduced and staff continues advancing the contract so this major Program milestone can be concluded in time for future program launch.

Commission Staff and volunteers from civic technology group [Open Oakland](#) concluded a successful exploratory project during 2024 to conduct user testing with mock-ups of potential Democracy Dollars designs and mobile-first webpages simulating the resident experience registering and then assigning their Democracy Dollars. The project provides a model for continued iteration and user testing of core program materials with stakeholders in the coming year focused on accessibility, youth, and community members with limited-English proficiency.

Staffing – In 2024, the PEC utilized grant funds from the Haas Jr. Foundation to support an inclusive outreach strategy for the Program's roll-out to hire a part-time graduate student intern and a full-time Community Engagement Specialist. In July, UC Berkeley Goldman School of Public Policy graduate **Trishia Claudine Lim** presented a summary of her capstone policy report, **(Small) Money Talks: Strategies to Implement the Democracy Dollars Program in the City of Oakland**, to the Commission with recommendations for conducting Democracy Dollars program outreach and education to reach communities with historically low rates of political giving. In March, Commission staff began recruitment for the grant-funded Democracy Dollars Community Engagement Specialist position and received 54 applicants. On August 3, the PEC welcomed **Rabab "Bobby" Zaidi** to our team as our Democracy Dollars Community Engagement Specialist. Bobby brings a wealth of experience to the PEC as a former community engagement planner with the City of Austin Watershed Protection Department.

Debate Policy – In May, the Commission adopted a policy describing what events qualify as a "public debate or forum" for the purposes of candidate eligibility to participate in the Limited Public Financing Program of 2024 (LPF) or the Democracy Dollars Program and how the Commission will implement this requirement. The new policy and verification process was successfully implemented for the 2024 City Council District candidates participating in the LPF program.

Pilot Options – In recognition of Oakland's on-going fiscal crisis, the Commission discussed options for a scaled back Democracy Dollars pilot for the 2026 election, if a full program is not feasible, that would significantly reduce program costs and offer a responsible balance between the City's present fiscal situation and its obligation to implement Measure W. The discussion concluded with

a general consensus for staff to continue to evaluate paths to a scaled-down Council District-only pilot and report back on feasibility as more information becomes available.

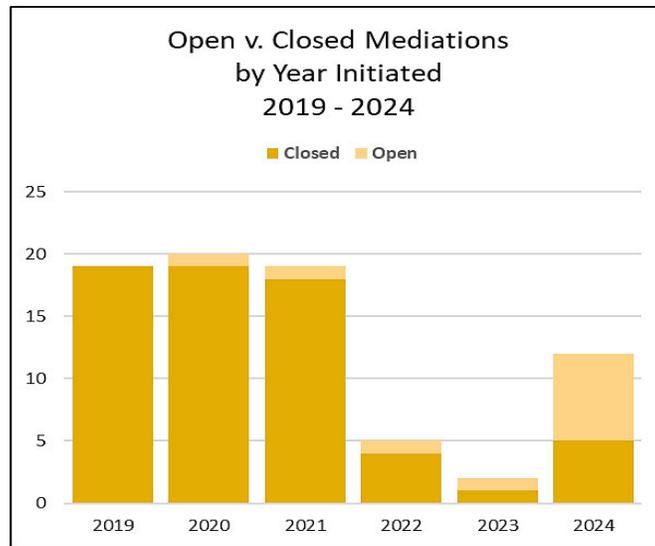
Given the City's fiscal situation, the reduction targets the Commission has been provided, and recent Council actions and directives, it seems very unlikely that sufficient funding will be provided to launch a Democracy Dollars pilot in 2026, although staff will continue to explore this possibility. Because of budgetary reductions last cycle and limited staffing resources for the current budget year, logistical challenges to implementing a pilot in 2026 are already mounting even if funding can eventually be secured.

Community Engagement – Throughout 2024, staff initiated informal meetings with internal and external stakeholders to introduce the program, gauge support, and identify potential partnerships. Staff reviewed the PEC community contact list and the citywide community engagement contact list, to build out a centralized list of priority contacts for Democracy Dollars outreach. Staff created a log for stakeholder contacts as well as a standardized form to gather input and track follow-up. Staff created materials with basic information about the Democracy Dollars program to introduce and raise awareness of the Program prior to launch including a slide presentation and one-page flyer to use at community events. Staff also registered dedicated Facebook, Instagram, X, and YouTube accounts for Democracy Dollars branding and content for the future online and social media launch campaigns.

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 Commission received 12 requests for mediation in 2024. 14 mediations were completed in 2024.

The PEC currently has 11 open mediations. No new mediations have been opened since the PEC's last meeting.



Major Executive Policy and Program Initiatives

The PEC was successful in advancing or implementing a number of policy and program initiatives in 2024, including passing a charter reform proposal, reinstating the Limited Public Financing (LPF) Program, and exercising its new Charter responsibility to provide formal “review and comment” on Council proposals affecting the PEC.

Major executive policy and program initiatives last year included:

- **Charter Amendment Reform.** Through the work of the PEC’s Charter Ad Hoc Subcommittee, the PEC proposed a package of reforms to strengthen the PEC’s independence and staffing. A modified version of this proposal was placed on the ballot as Measure OO, which was approved by 73% of voters.
- **Mayoral Salary Setting Reform.** In response to a Council directive to amend the City Charter to transfer responsibility for setting the salary of the Mayor to the PEC, the Commission studied and provided a detailed proposal for how this should be done. A modified version of the PEC’s recommendation was proposed for the ballot by Councilmember Kalb to the full Council, although not adopted.
- **Lobbyist Training Policy.** The Commission adopted a policy requiring lobbyists to attend a training on the LRA at least once every two years, which was successfully implemented in 2024.
- **Reinstating the LPF:** In 2023, with the postponement of the Democracy Dollars Program for 2024, the Council enacted a PEC-proposed ordinance reinstating the LPF for the 2024 election cycle, which was funded in the FY23-25 budget. In the proposed midcycle FY24-25 budget, funding for this program was cut. The PEC then successfully advocated for reinstatement of funding and successfully implemented the Program with some program revisions to incorporate new policies mandated under Measure W.

- **Debate Policy.** Consistent with Measure W, in 2024 the PEC adopted, and successfully implemented, a requirement that LPF participants certify their attendance of at least one campaign debate or forum.
- **Formal Review and Comment.** Under Section 603(h), the Commission provided review and comment on two proposals affecting the PEC: one relating to the Commission's investigation of alleged Police Commissioner misconduct and another proposing to increase Oakland's campaign contribution limits.
- **Elected Official Salary Adjustments.** The PEC adjusted the City Council, City Attorney, and City Auditor's salaries, as required by the City Charter. This was only the second time that the PEC set the City Attorney and City Auditor's salaries.
- **Transparency and Records Presentations:** Led by its Transparency Subcommittee, the Commission hosted presentations on its public records practices by the Oakland Police Department, Oakland Fire Department, and Planning and Building Departments. The PEC also had a team of UC Berkeley Goldman School master's degree students provide a presentation recommending potential best practices reforms for government transparency.

The PEC also advocated, in the FY24-25 midcycle budget process, for sufficient resources to conduct a limited Democracy Dollars pilot in 2026, and provided technical support to the Administration, which then proposed placing a parcel tax on the April 2025 special election ballot to fully fund the City's oversight agencies, including the PEC. However, the City Council did not move forward with either proposal.

Preview of Major 2025 Projects or Initiatives

Looking at the first six months of this year, there are a number of PEC projects or initiatives that are either extensions of the Commission's work in 2024 or obligatory core services that require substantial staff time that staff wishes to flag for the Commission. These include:

- **Policy/Executive**
 - *FY27-27 Budget Process.* Staff responds to Department of Finance information requests and advocates for PEC priorities in the budget process. The Interim Mayor Kevin Jenkins's budget proposals are expected in April, with Council adoption in June.
 - *PEC Staff Performance Evaluations.* Management staff conducts performance evaluation of all employees according to City policy and develops work plans for the coming year, which must be submitted to Human Resources May - June.
 - *In Re Dabney Administrative Hearing.* With staff and City Attorney's Office support, Commissioner Tilak conducts an administrative hearing in January for PEC 23-28, *In Re Dabney*. Presentation of Commissioner Tilak's Findings of Fact and Conclusions to the Commission is expected at the Commission's March meeting. This will be the Commission's first administrative hearing in 5 years.
 - *Measure W Revenue Proposal.* Last budget cycle, the Council passed a directive for the City Administrator to identify revenue options to fund the Democracy Dollars Program. As discussed at the last PEC meeting, Commission staff, potentially in partnership with

an ad hoc subcommittee, will return with a proposal for Commission consideration in the first half of the year.

- *OMC Cleanup and LPF Reinstatement.* After the 2024 election and lobbying cycle, staff has identified a number of areas where the Oakland Municipal Code could be improved to address ambiguities, inconsistencies, or administrability issues in the laws the Commission enforces or administers. These changes require Council approval and should be adopted in a non-election year. Staff therefore hopes to bring a cleanup bill, along with a potential additional extension of the LPF if Democracy Dollars implementation is postponed, for Commission consideration in the first half of this year.
- **Regulatory/Education & Outreach**
 - *2024 Election Aftermath.* Staff assists committees and candidates in filing their semi-annual campaign disclosures, which discloses final 2024 campaign activity, and conducts compliance reviews. Council District candidates that participated in the LPF must return a proportion of surplus funds.
 - *April 2025 Special Election.* Staff assists committees and candidates with registering and filing two pre-election statements and 24-hour reports, provides technical support and compliance advice, and conducts compliance reviews.
 - *Online Lobbyist Registration Fee Payment System.* PEC launches an online system for collecting lobbyist registration fees and provides technical support to Lobbyists.
 - *Citywide Website Migration.* As part of a citywide effort, the PEC will migrate its website content to the new Open Cities platform with improvements to content organization and useability.
 - *Fall Commissioner Recruitment.* Two PEC-appointed Commission seats will be up for appointment January 2026. PEC staff will prepare its fall outreach plan if a recruitment is needed.
 - *Review PEC Guides and Publish Updates as needed,* including OCRA Guide and Boards and Commission Guide Updates.
- **Enforcement**
 - *Enforcement Chief Onboarding.* New Enforcement Chief Tovah Ackerman will engage in a months-long onboarding process, including training with respect to general City procedures, PEC procedures, the laws the PEC enforces, and complaint reviews.
 - *April 2025 Special Election-Related Enforcement.* See above.
 - *In Re Dabney Administrative Hearing.* See above.
 - *Major Cases.*
- **Democracy Dollars**
 - *Measure W Revenue Proposal.* See above.
 - *Democracy Dollars Software Program Contract.* Staff finalizes the software contract and begins the development planning process.
 - *Community Engagement Plan.* Consistent with its Haas grant, staff presents a draft community engagement plan for Program launch to the Commission.
 - *Identity and Signature Verification Logistics.* Staff identifies options for identity and signature verification for voucher redemption, including coordination with the County registrar and/or vendors, and integration into the DD software platform as required.

After the conclusion of the April Special Election and City budget process, which will increase staff capacity and provide greater clarity as to PEC resources over the next two years, staff recommends that the Commission hold its board planning retreat to discuss Commission priorities over the next 1-2 years.

2025 Regular Meeting Schedule

At its December 2024 meeting the PEC adopted a 2025 regular meeting schedule of six meetings, one every other month, on Wednesdays at 6:30pm, with a preference for the third Wednesday of the month. Working with Facilities, the PEC was able to secure the following meeting rooms:

- January 29, 6:30pm, in Hearing Room 2
- March 19, 6:30pm, in Hearing Room 2
- May 21, 6:30pm, in Hearing Room 2
- July 16, 6:30pm, in Hearing Room 2
- September 17, 6:30pm, in Hearing Room 2
- **November 26, 6:30pm, in Hearing Room 1**

Please note that the **November 26 meeting** is the only upcoming meeting date that is being held on the *fourth* instead of *third* Wednesday of the month and is being held in *Hearing Room 1* instead of *Hearing Room 2*.

Additional Attachment: Commission Programs and Priorities.

PUBLIC ETHICS COMMISSION

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

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

Item 07 - Executive Director's Report

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

PEC Commissioner Application

Submitted on 9 September 2024, 8:56PM
Receipt number 40
Related form version 2

Contact Information

First Name Daniel
Last Name Adler
Street Address [REDACTED]
Street Address Line 2
City OAKLAND
State California
Zip Code 94610
Phone [REDACTED]
Evening Phone [REDACTED]
Email [REDACTED]

Vacancy Term

Which vacancy are you applying for (check all that apply)?
Partial Term (ends January 21, 2025)
Full Term (begins January 22, 2025 and ends on January 21, 2028)

Please answer the following questions

Are you an Oakland resident Yes
Years of residency in Oakland 11-20 years
Your City Council District District 2
List any City of Oakland Boards or Commissions (including this Commission) on which you currently or have previously served: None

Item 09 - Appointment to PEC Vacancy - Adler Materials

Do you attest that you already have or will attend a PEC meeting before your final interview with the Commission?	Yes
If you said yes to the previous question, please let us know what date you attended or will attend.	9/16/2024
Are you currently employed by the City of Oakland or do you have any direct and substantial financial interest in any work, business, or official action by the City?	No
Are you currently or are you planning to run for elective office in Oakland?	No
Are you currently or are you planning to endorse, support or oppose an Oakland candidate or ballot measure?	No
Are you currently or are you planning to work on behalf of an Oakland candidate or ballot measure?	No
Are you a registered Oakland lobbyist?	No
Are you required to register as a lobbyist?	No
Do you receive compensation from an Oakland lobbyist?	No
Do you receive gifts from an Oakland lobbyist?	No
How did you hear about this vacancy?	Other

Supplemental questions

1. Why do you want to serve on the Public Ethics Commission?	1. I am a committed public servant and a trained public policy professional, and in the course of my career in and out of public service I have developed an abiding belief in one central tenet of good government: citizens must have trust in public institutions, or our ability to work through challenges will continuously diminish. To nurture and sustain that trust requires an absolute commitment to public ethics, both the reality of how public officials behave, but equally importantly - ever moreso now in our fractured media landscape - we must attend to the public perception of ethics, with a commitment to transparency, collaboration and accountability that meets and exceeds what citizens can rightfully expect of their leaders.
2. What skills and experience will you bring to the Commission? (Include any governmental experience, activities with civic and business organizations, neighborhood groups, or any other experience that would contribute to your effectiveness as a Commissioner.)	2. I am presently employed as Deputy Director for Climate Finance at the state Infrastructure and Economic Development Bank, where I am leading the state's efforts to build a "Green Bank" to provide capital for community-scale climate solutions. In this and previous roles elsewhere in state government, in senior leadership of a philanthropic organization, and as the Executive Director of a Bay Area nonprofit organization, I have emphasized – for myself and my team members – the importance of combining technical skills, subject matter expertise, and a commitment to robust and authentic engagement practices, which are the foundation of sound deliberation and public-minded decision making. I hope to contribute this combination of experiences and perspectives to the tasks before this Commission, rooted in my deep love for home city.
3. What issues, projects, or goals would you like to pursue while serving on the Commission?	From my perspective, Oakland residents experience a significant lack in information regarding the activities of city government. This lack of

Item 09 - Appointment to PEC Vacancy - Adler Materials

information feed distrust, which amplifies perceptions of unethical, or at least nontransparent, behavior. My first priority would be to listen and learn regarding the matters presently before the Commission, as well as the priorities of my potential colleagues and the Oakland residents bringing issues before the body. Following that, I would, at the proper time, look to support initiatives that 1) create a public poll that establishes top priorities for ethics-related issues; 2) support creation of an information clearinghouse responsive to those articulated public priorities; 3) facilitate access to deeper information for community-based organizations, working with the city offices identified as community priorities of interest, again stressing that transparency builds trust in public institutions; and 4) where feasible, working with elected leadership and senior agency officials to carry messages on ethics matters out to Oakland citizens, hopefully supporting the Commission's role as a trusted intermediary on these pivotal matters.

4. What do you think are the City's most pressing ethics, campaign finance, or transparency challenges?

4. The issues list is obviously lengthy, including the perception and reality surrounding "bundled" campaign contributions; the role of non-Oakland influences in shaping perceptions around proposed recalls; the pervasive sense that safety issues are not being managed or even necessarily prioritized. I have no illusions that the Commission alone can resolve these issues, which require both deeper resources and skilled leadership at every level of government. But in short form, my belief is that Oakland citizens feel that the city is broken, corrupt, and unaccountable to its residents. There is no trust in our institutions to turn the tide – despite what I know, from my current experience working in government, to be the tireless labor of many throughout the city family to improve matters. Transparency, communication and accountability should be part of a new foundation upon which Oakland's public ethics can be reestablished.

5. What else would you like the subcommittee to know as your application is considered?

I truly value public service as the field in which participants can be unabashedly idealistic, while holding ourselves and our peers to lofty expectations of competence, professionalism and rigor. I've reached a stage in my life, professionally but also as a father of two active, curious teenagers, where I can contribute my modest skills and boundless optimism to helping my community in what seems to be a fraught moment. In every role or project I've taken on, my first priority has been to learn from and promote the experience and goals of my colleagues aligned in a common mission. That's the spirit I would bring to this Commission; what we might pursue together would be real privilege to support.

Please provide two references

Reference 1 Name

Justin Homer

Reference 1 Address

[REDACTED]

Reference 1 Phone

[REDACTED]

Reference 1 Email

[REDACTED]

Reference 2 Name

Tal Klement

Reference 2 Address

[REDACTED]

Reference 2 Phone

[REDACTED]

Reference 2 Email

[REDACTED]

Item 09 - Appointment to PEC Vacancy - Adler Materials

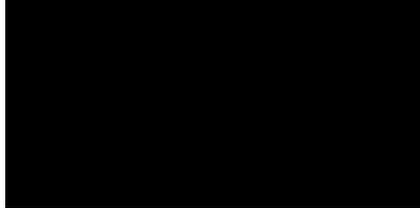
Submit your resume

Upload your resume

[Daniel Adler Resume \(2024\).pdf](#)

Sign and submit application

Signature



SUPPLEMENTAL PEC APPLICANT QUESTIONNAIRE

Submitted on 17 September 2024, 11:38am
Receipt number 6
Related form version 3

SUPPLEMENTAL PEC APPLICANT QUESTIONNAIRE

Name Dan Adler

Email

NO, none of these categories applied to me in the prior 2 years.

If you answered YES, please explain:

Signature

[Link to signature](#)

Item 09 - Appointment to PEC Vacancy - Adler Materials

Daniel M. Adler



Senior executive and established industry leader at the intersections of clean energy technology, policy and finance.

Deputy Director for Climate Finance

California Infrastructure and Economic Development Bank (IBank)

April 2022 - Present

Senior Advisor for Climate Finance

California Governor Gavin Newsom
Office of Business and Economic Development (GO-Biz)

July 2020-March 2022

Senior Fellow

Coalition for Green Capital

2020-2021

Vice President for Policy

Energy Foundation
San Francisco, California

2015 - 2020

- Responsible for strategic direction of policy design and advocacy, as part of a national philanthropic partnership investing \$100 million annually in clean energy solutions. Leadership of a team of senior professionals managing philanthropic portfolios that support innovations in clean electricity, energy efficiency, transportation, finance, and market design and regulation. Extensive management, stakeholder engagement and thought leadership responsibilities.

Managing Director

California Clean Energy Fund (CalCEF)
San Francisco, California

2008 - 2015

- Responsible for full range of strategic initiatives affecting the organization's core mission as senior executive, including market and policy engagement, stakeholder relations, and thought leadership around sustainable energy finance, policy and market development.

Item 09 - Appointment to PEC Vacancy - Adler Materials

President, CalCEF Ventures

2008 - 2015

- Responsible for CalCEF's investments across six funds in clean energy venture capital and project finance, leading the firm's efforts to identify catalytic new investment theses.

Managing Director, Clean Energy Advantage Partners

2010 - 2015

- Strategic engagement with the formation and development of a new multi-investor tax equity fund, increasing the pool of capital for renewable energy project development.

Vice President

2005-2008

California Clean Energy Fund (CalCEF)

Senior Analyst, Division of Strategic Planning

2001 - 2005

California Public Utilities Commission

San Francisco, California

- Responsible for the design and implementation of California's Renewable Portfolio Standard and senior staff for statewide climate change policy. Initiated and led intergovernmental collaboration for policy implementation, creating a model structure across energy agencies that enabled timely and effective execution while minimizing bureaucratic delays.

Boards and Committees (emeritus)

- Board of Advisors, American Green Bank Consortium
- Steering Committee, Energy Efficiency for All
- Co-Chairman of the Board, American Council on Renewable Energy (ACORE)
- Board of Directors, Coalition for Green Capital
- Board of Directors, Vote Solar Initiative
- Board of Advisors, Clean Tech Open
- Advisory Committee Member, Low-Carbon Fuel Standard Advisory Committee, California Air Resources Board
- Advisory Committee Member, Economic and Technology Advancement Advisory Committee, California Air Resources Board
- Advisory Committee Member, San Francisco Mayor Newsom's Clean Technology Advisory Council

Education

- Harvard University, John F. Kennedy School of Government
Master of Arts in Public Policy
- University of California at Berkeley
Bachelor of Arts in Political Science

Item 09 - Appointment to PEC Vacancy - Adler Materials

SUPPLEMENTAL APPLICATION QUESTION – DAN ADLER

Under the City Charter, the Public Ethics Commission (PEC) may appoint someone to fill a vacancy in a Commission board seat appointed by a citywide elected official if that seat has been vacant for more than 120 days. The appointee shall have the same background qualifications as would be required of a member appointed by the Citywide official, which for a Mayor vacancy, requires that the appointee be a “member who has represented a local civic organization with a demonstrated history of involvement in local governance issues.” Please describe your relevant experience meeting this qualification.

I can offer these relevant examples responsive to prompt, the first being most salient:

- I served on the Board of the nonprofit Vote Solar Initiative, which engaged local governments to empower citizens in deploying solar energy.
- As a member of the founding Board, I helped shape the strategy for engaging local governments to advance the organization’s agenda for solar justice, including specifically engaging staff of the SF Public Utilities Commission and Board of Supervisors regarding policy design for the organization.
- Vote Solar also became a prominent proponent of Community Choice Aggregation, a citizens-oriented movement to give communities greater influence over energy planning and procurement, and an ongoing role in decisions affecting energy justice which had typically been reserved for utility leadership. CCAs are typically governed by local officials or boards composed of community representatives, which ensures decisions about energy procurement, pricing, and programs align with local priorities and values.

Additionally:

- I served on the steering committee for the Energy Efficiency for All initiative, which engaged local housing agencies to promote lower energy costs and improved indoor air quality for low-income residents;
- During my tenure at the nonprofit Energy Foundation, we launched a Cities program to advocate for a range of local climate solutions, including low-carbon transit, local pollution reduction and citizen engagement with energy planning;
- In my role with the California Infrastructure Bank, in the course of developing an investment strategy to fund sustainable energy in affordable multi-family housing, I engaged deeply with the Los Angeles Mayor’s Office of Sustainability;
- Lastly, recognizing that the direction of representation is not identical, I served on SF Mayor Newsom’s Clean Technology Advisory Council, and from that position I engaged multiple city agencies about their organizational structures, processes and policies regarding sustainability.

Item 10 - Staff Memorandum - 2025-2026 Campaign Finance Limits Adjustment



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

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Suzanne Doran, Program Manager
DATE: January 17, 2025
RE: Biennial Adjustment to Campaign Contribution Limits, Voluntary Spending Limits, and Maximum Democracy Dollars Public Financing Proceeds

The Public Ethics Commission (PEC or Commission) is responsible for adjusting Oakland's Campaign Contribution and Spending Limits as well as the maximum Democracy Dollars public financing per candidate for covered offices biennially according to the increase in the Consumer Price Index (CPI) for the preceding two years, pursuant to the Oakland Campaign Reform Act and Fair Elections Act.

This memorandum provides background information about the biennial adjustment and a staff recommendation that the Commission approve the attached list of contribution limits, voluntary spending limits, and Democracy Dollars maximum proceeds for the 2025-2026 election cycle.

Background

The Oakland Campaign Reform Act (OCRA) imposes limits on campaign spending and seeks to reduce the influence of large contributions on election outcomes. OCRA tasks the Commission with biennially adjusting the contribution limits for campaigns and campaign-related actions in Oakland and the Oakland Fair Elections Act (OFEA) tasks the Commission with biennially adjusting the designated voluntary spending limits and maximum Democracy Dollars proceeds for elected offices. Below are the applicable sections of the Oakland Campaign Reform Act and Oakland Fair Elections Act:

- Limitations on Contributions from Persons ([O.M.C. Sec. 3.12.050](#))
- Limitations on Contributions from Broad-Based Political Committees ([O.M.C. Sec. 3.12.060](#))
- Spending Limits for applicants and certified candidates for Democracy Dollars ([O.M.C. Sec. 3.15.200](#))
- Maximum amount of Democracy Dollar proceeds for covered offices ([O.M.C. Sec. 3.15.130](#))

The above sections establish a framework that limits contributions to candidates to \$600 per individual and \$1,200 per broad-based political committee. Contribution limits, voluntary spending limits, and the maximum Democracy Dollars amounts for covered offices are each adjusted biennially according to the increase in the Consumer Price Index (CPI), as provided in the above sections.

Biennial Adjustment

OCRA and OFEA specify the timing and nature of increases, providing that the amounts listed in each of the above sections must be increased biennially according to the CPI for all Urban Consumers in the

Item 10 - Staff Memorandum, 2025-2026 Campaign Finance Limits Adjustment

Biennial Adjustment to Campaign Contribution Limits, Voluntary Spending Limits, and Maximum Democracy Dollars Public Financing Proceeds
January 17, 2025

San Francisco-Oakland-San Jose, CA metropolitan statistical area, as published by the United States Department of Labor, Bureau of Statistics. The increase in the contribution limit amount is “by the [CPI] percent increase, if any,” and the adjustment “shall be rounded to the nearest fifty (\$50).” The increase in the spending limitation amount is “by the [CPI] percent increase, if any,” and the adjustment is rounded to the nearest five hundred (\$500) value. The increase in the maximum amount of Democracy Dollar proceeds is the percent increase in the CPI, “rounding to the nearest five hundred dollar (\$500) value.” For adjustments to spending limits and Democracy Dollar proceeds, if the Commission makes a finding that the increase in the Consumer Price Index is very high, the Commission may limit the increase to three percent ([OMC 3.15.200\(D\)](#)).

Per Staff’s calculation, the increase over the prior two years was 6.5 percent, averaging about 3 percent per year. After rounding the dollar amount per OCRA and OFEA, the adjusted limits are as follows:

Contribution Limit	2023-2024	2025-2026
Individual	\$600	\$650
Broad-Based Committee	\$1,200	\$1,300
Voluntary Spending Limit		
Mayor	\$500,000	\$532,500
City Attorney, City Auditor, City Councilmember At-Large	\$250,000	\$266,500
District City Council	\$150,000	\$160,000
School Board	\$100,000	\$106,500
Maximum Democracy Dollars Proceeds		
Mayor	\$333,333	\$355,000
City Attorney, City Auditor, City Councilmember At-Large	\$166,667	\$177,500
District City Council	\$100,000	\$106,500
School Board	\$66,667	\$71,000

OCRA and OFEA also require that the contribution and spending limit amounts and maximum Democracy Dollars proceeds be published no later than February 1st of the adjustment year.

Conclusion & Staff Recommendation

The CPI data¹ for 2024 was released by the U.S. Department of Labor, Bureau of Labor Statistics, on January 15, 2025. Commission staff used this data to calculate the increase for the 2025-2026 contribution and voluntary spending limits and maximum Democracy Dollars proceeds as required by the Oakland Campaign Reform Act and Oakland Fair Elections Act. **Staff recommends the Commission approve revised contribution limits, voluntary spending limits, and Democracy Dollars maximum proceeds for 2025-2026 as listed above, which will go into effect upon Commission approval (January 29, 2025).** Once approved, Commission staff will distribute the new information widely through its email distribution lists and communication channels.

Attachment: Campaign Contribution Limits, Voluntary Spending Limits, and Maximum Democracy Dollars Proceeds for 2025 - 2026

¹ https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS49BSA0,CUUSS49BSA0

Item 10 - Staff Memorandum - 2025-2026 Campaign Finance Limits Adjustment

CITY OF OAKLAND 2025-2026 CAMPAIGN FINANCE LIMITS

LIMIT ON CONTRIBUTIONS FROM PERSONS (§3.12.050) \$650

LIMIT ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060) \$1,300

VOLUNTARY SPENDING LIMITS FOR MAYOR AND OTHER CITYWIDE OFFICES (§3.15.140)

Mayor	\$532,500
City Auditor	\$266,500
City Attorney	\$266,500
City Council Member At-Large	\$266,500
District City Council Member	\$160,000
School Board Director	\$106,500

MAXIMUM AMOUNT OF DEMOCRACY DOLLAR PROCEEDS (§3.15.130)

The limit for uncontested elections is \$10,000.

	Contested Election
Mayor	\$355,000
City Auditor	\$177,500
City Attorney	\$177,500
City Council Member At-Large	\$177,500
District City Council Member	\$106,500
School Board Director	\$71,000

LIMIT ON PERSONAL SPENDING FOR DEMOCRACY DOLLARS PARTICIPANTS (§3.15.150(C))

Mayor	\$20,000
City Auditor	\$20,000
City Attorney	\$20,000
City Council Member At-Large	\$20,000
District City Council Member	\$13,000
School Board Director	\$8,500

Item 11 - Staff Memorandum - Adjustment of the PEC's Regular Meeting Notice Period



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

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: January 5, 2025
RE: Amending the PEC's Meeting Notice Period

Under the state Ralph M. Brown Act, local government bodies are generally required to post their meeting agendas at least 72 hours in advance of a meeting. However, under Oakland's Sunshine Ordinance, the Public Ethics Commission (PEC or Commission) is required to post its regular meeting agendas ten days in advance (OMC 2.20.080.), which has presented administrative challenges for staff, especially whenever the Commission meets in two consecutive months. At its December 2024 meeting, Commissioner Upton IV asked Commission staff to return with an analysis of this 10-day regular meeting notice requirement and provide recommendations for changes to this provision, which would require City Council approval. **Staff recommends that the Commission propose to the City Council that the Commission's regular meeting notice period be shortened from 10 days to 7 days, which would be more administratively manageable for staff while still providing significant advance notice to the public of Commission activities.**

Background to Oakland's Sunshine Ordinance

Under the state Ralph M. Brown Act, local governments must post their regular meeting agendas at least 72 hours in advance. In 1997, the City Council adopted Oakland's Sunshine Ordinance, which the PEC enforces, to "supplement the Ralph M. Brown Act and the California Public Records Act to assure that the people of the City of Oakland can be fully informed and thereby retain control over the instruments of local government in their city." (OMC 2.20.010(C).) The Sunshine Act requires the City Council, Port, and PEC – but not other local City bodies – post agendas ten days in advance. Advance notice is important for transparency and helps to ensure commissioners, affected parties, and the public have the time to review agenda information and that parties and the public can prepare to provide comment before government action is taken.

The duration of Oakland's 10-day notice requirement likely took into account the fact that in the 1990s agendas were still being physically mailed to agenda subscribers and could take several days to be delivered. When the Sunshine Ordinance was adopted, home internet usage was not yet the norm. Only [18.6% of U.S. households](#) had internet access in 1997, compared with over [90%](#) by 2021. The PEC has no mail agenda subscribers today, and instead emails its agenda out to all subscribers the same day its agenda is posted online and in physical form at City Hall.

PEC Agenda Posting Turnaround Time

Currently, the PEC generally holds its regular meetings on the third Wednesday of every other month. This is the first year that the Commission has adopted a bi-monthly (every two month) meeting calendar, in recognition of the fact that the Commission is entering a rebuilding period with respect to

Item 11 - Staff Memorandum - Adjustment of the PEC's Regular Meeting Notice Period

January 5, 2025

its enforcement program and is likely to have less enforcement activity. In prior years, the Commission met twice per quarter in 2024 and monthly in 2023.

When the Commission meets in two consecutive months, the turnaround between one meeting concluding and preparing materials for the next meeting can be extremely tight. Because the Commission meets on a Wednesday, and 10-day notice for a Wednesday meeting falls on a Sunday, the Commission is required to post on the preceding Friday, resulting in a 12-day notice period in practice. Moreover, to accommodate a Friday posting, draft reports are due to the Executive Director on the preceding Wednesday, to allow one day for review and revisions. As a result, in some months staff had only 10 working days – i.e. two weeks – to finish agenda materials after one meeting concluded.

Sample Posting Schedule for the PEC's October 2024 Meeting

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
Sept. 8	9	10	11 Meeting #1	12 Agenda Drafting	13	14
15	16	17	18	19	20	21
22	23	24	25 Draft Due	26 Review	27 Posting	28
29	30	Oct. 1	2	3	4	5
6	7	8	9 Meeting #2	10	11	12

The City Council and Port of Oakland are also required to meet this advance notice requirement, but have significantly more staff resources for doing so than the Commission. For the Council, reports are being produced by all ~25 of the City's departments and generally come to the Council on a staggered basis. Meanwhile, [as of 2023](#), the Port reported having over 470 employees and annual revenues exceeding \$400 million, far exceeding the Commission's resources.

Other Ethics Commissions

Amongst peer California ethics commissions (Los Angeles, San Francisco, and San Diego), Oakland is the only Ethics Commission that is legally required to provide notice earlier than the 72 hours required under the Brown Act. As a matter of practice, most of those other commissions generally post their agendas 4-7 days in advance of their regular meetings, which is significantly shorter than the 12 days that the PEC follows.

Ethics Commission Meeting Notice Requirements & Practices

City	Legal Requirement	Practice
Oakland	10 days	12 days
Los Angeles	3 days	5 days
San Diego	3 days	7 days
San Francisco	3 days	4 days

Item 11 - Staff Memorandum - Adjustment of the PEC's Regular Meeting Notice Period

January 5, 2025

Recommendation

Staff recommends that the Commission recommend to the City Council that the PEC's regular meeting notice be shortened from 10 days to 7 days. Since the Sunshine Ordinance was first adopted in 1997, the accessibility of PEC agendas has increased significantly, as the public can now look up these agendas on the PEC's website the day they are posted, or receive them that same day by subscribing to the PEC's email listserv, rather than having to wait several days for the agenda to arrive by mail. A 7-day notice period would:

- provide the public and regulated parties with significant advance notice of potential PEC actions, including a full weekend to study the proposal;
- reduce the administrative burden on staff of meeting a 12-day actual posting deadline, particularly in consecutive months with regular meetings; and
- be equal to or greater than the notice provided by peer ethics commissions.

A similar type of notice requirement modernization was also recently undertaken with the state Political Reform Act, which is the body of ethics and campaign finance laws the state Fair Political Practices Commission (FPPC) enforces. Until 2024, any amendments to the state PRA – originally adopted in the 1970s -- had to be in print for 12 days before they could be adopted, to ensure the public had sufficient notice of the proposed action. While well-intentioned, in practice this requirement made it difficult to pass PRA bills because compromise amendments became impossible at the end of the legislative session. So, in 2023, with the support of the FPPC and good government organizations, the Legislature passed SB 681 (Allen, Chap. 499, Statutes of 2023), reducing the number of days that a bill had to be posted in its final form prior to adoption from 12 days down to 8 days. The author of the bill explained that “extended periods for public review of [PRA] bills is vital to ensuring government accountability and transparency, however, the current timeline dates back to 1985 before the advent of the modern internet when physical copies of bills were distributed by mail.”

Next steps: Any amendment to the Sunshine Ordinance must be approved by the City Council. If the Commission wishes to move forward with this proposal, staff will draft potential amendment language to the Sunshine Ordinance for the Commission to vote to propose to the City Council. This proposed amendment would likely be grouped in a larger PEC Omnibus Cleanup Proposal that staff intends to prepare. *Alternatively*, the Commission may decide that this item is not worth acting on at present, since the Commission is meeting on a bi-monthly basis this year and is under less posting turnaround pressure than in prior years.



Item 12 - Amendment to the PEC's Penalty Guidelines

Nyan Mlek, Chair
Francis Upton IV, Vice Chair
Tanya Bayeva
Alea Gage
Vincent Steele
Karun Tilak

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
Alex Van Buskirk, Lead Analyst, Compliance and Disclosure
DATE: January 17, 2025
RE: Amending the PEC's Form 700 Streamline Penalty Procedures

The Public Ethics Commission's (PEC or Commission) Penalty Guidelines provide a guide for what level of penalty the Commission should impose for violations of the laws that the Commission enforces. To economize Commission resources, the Penalty Guidelines include a "streamline" penalty program, which provides for a lower fine for less serious violations, as specified, when the respondent comes into compliance quickly after contact with the PEC's Enforcement Unit. The level of streamline penalty, which can go from "diversion" education to increasing fines, varies based on the number of Enforcement contacts. Under the PEC's Complaint Procedures, under certain conditions the Executive Director can enter into streamline penalty settlements with most City staff (excluding elected officials, their chiefs of staff, and Department heads) on his or her own authority.

For Form 700 non-filers and late-filers, the streamline penalty varies from diversion to an \$800 fine, depending on the number of Enforcement contacts. While the contact-based approach to streamline penalties works well for most violations, which involve a single person or small number of persons to bring into compliance, it is administratively difficult in Form 700 cases, which involve hundreds of alleged non-filers and where it can be difficult to verify the reliability of non-filer contact information. ***To simplify administration of Form 700 non-filer enforcement, staff recommends that the streamline penalty instead be based on how late a filing is and that the maximum streamline penalty be reduced to \$400.***

Current PEC Enforcement History

In response to a grand jury report finding significant Form 700 non-filing in the City of Oakland, the PEC launched a compliance campaign beginning with senior level City officials in 2023 (for late 2022 annual reports), and then as to all Form 700 non-filers in 2024 (for late 2023 annual reports). These efforts have been relatively successful, but staff intensive. For 2023 non-filers, the PEC received a list of about 500 potential non-filers, which it was able to narrow down to 60 likely actual non-filers, for which cases were opened. Of these, 20 cases were closed after a finding of no violation, 19 cases were resolved by streamline settlement with the non-filer filing and taking a diversion education course, and the remaining cases are still pending.

Current Law

Under current state law, any person who files a late Form 700 is subject to a \$10/day late fee, up to \$100. This fee is collected by the City Clerk.

The PEC also has the ability to bring an enforcement action against late filers. Under the PEC's Penalty Guidelines, a Form 700 non-filer who agrees to the streamline settlement may complete an education diversion program if they file the Form 700 prior to or in response to the PEC's first enforcement contact. If the filer responds after the second contact, the fine increases to \$400, and if the filer complies prior to the publication of an investigation report, the streamline penalty is \$800. The streamline program is only available to non-filers who are less than 6 months late in filing their Form 700. After that, for a mainline penalty, non-filers are subject to a "base-level" penalty of \$1,000 and then the penalty may be adjusted from that amount based on mitigating and aggravating factors

Current PEC Penalty Guidelines for Streamline Penalties

Violation	Compliance prior to or in response to first PEC enforcement contact	Compliance in response to second PEC enforcement contact	Compliance prior to publication of PEC investigation report
Form 700 Non-Filer and Non-Reporter (GEA § 2.25.040)	Diversion	\$400	\$800

Proposed Streamline Program Changes

The current streamline penalty amount for Form 700 non-filing is based on the number of PEC staff contacts. However, in the PEC's experience enforcing this provision, in many cases non-filers do not respond to Enforcement contacts, either because they are ignoring Enforcement, or because the City does not have correct contact information for the non-filer, or some other reason. If the PEC subsequently makes contact with the non-filer after multiple attempts, the fine amount can be quite high, which may cause disputes as to whether the PEC's prior contacts were successful. This back-and-forth, as well as staff's efforts to verify that contact has been successful, makes non-filing enforcement more administratively difficult and time-intensive, as opposed to a penalty that is based on how late the filing is, which places the onus on the filer to file on-time.

Staff proposes to reduce the maximum proposed streamline penalty for Form 700 non-filing, from \$800 to \$400, and make the penalty increase based on how late a filing is made, as follows:

Proposed PEC Penalty Guidelines

Violation	Form Filed 1-60 Days Late	Form Filed 61-120 Days Late	Form Filed 121-180 Days Late

Form 700 Non-Filer and Non-Reporter (GEA § 2.25.040)	Diversion	\$200	\$400
--	-----------	-------	-------

These proposed amendments differ from the current streamline program in two significant ways:

First, staff's proposal would lower the maximum streamline penalty before a mainline penalty is proposed from \$800 to \$400. This would make the maximum streamline penalty for a Form 700 non-filer lower than the maximum for lobbyist non-filers (\$800) and campaign finance non-filers (\$800), although the mainline penalty for all three late filings would remain the same (\$1,000). Staff's reason for proposing that Form 700 non-filers be treated differently from lobbyist and campaign non-filers is due to (a) the relatively higher sophistication of candidates and lobbyists, and (b) the likely greater harm which may coming from late lobbying and campaign finance filings. Many Form 700 non-filers are volunteer board members or mid-level City staff (many of whom are likely not filing out of inadvertence), as opposed to candidates or lobbyists who are more likely to have professional assistance with regulatory compliance. Candidates and lobbyists must also register with the PEC, where filing disclosures is the *primary* reason for having to register, whereas Form 700 filing is more incidental to City employment or commission service. In addition, while Form 700 filing is done with the City Clerk, who provides Form 700 filing education, it generally falls to each Department's Single Point of Contact (SPOC) or each commission's board liaison to ensure filing happens for that board or department, which can lead to varying levels of oversight and engagement by department/commission. By contrast, candidates or lobbyists file directly with the PEC, and so receive more uniform training from the PEC and are in direct and frequent contact with our agency, so are much more likely to be aware of filing deadlines.

Finally, there is generally a greater urgency to timely filings of candidate and lobbyist activity than with Form 700, which justifies a higher streamline penalty for the former. For candidates, campaign filings provide voters with a clear picture of who supports or opposes a candidate, and can become a campaign issue, so these disclosures need to be promptly filed and generally before the election. Lobbyist filings frequently involve disclosures as to pending legislation or government action, where knowledge of support or opposition can provide important context for government decision-makers, the media, and the public. Form 700 filing is important, and provides important context for decision-maker action and can surface potential conflicts of interest, but is not as directly linked to a specific time-sensitive activity like an election or pending government decision.

Second, staff's proposed streamline penalty would increase in severity from diversion to higher fines based on the number of days a filing is late, as opposed to the number of PEC Enforcement contacts. Because it was sometimes difficult to verify that a non-filer had actually received notice from Enforcement, staff was reluctant to escalate non-filer fines from diversion to a \$400 penalty, and from \$400 to an \$800 penalty. This was particularly the case for volunteer commissioners, who generally use non-City emails, where it was difficult to verify that the email had not been transcribed by the City in error. While City staff emails generally would be correct, changes in last name due to marriage, or the use of generic City department email addresses as opposed to staff-specific emails, also created

Item 12 – Amendment to the PEC's Penalty Guidelines

uncertainty as to whether an employee was receiving Enforcement's notices. A time-based penalty structure aligns more appropriately with these realities, as it allows penalties to escalate based on measurable, objective criteria rather than determinations about the sufficiency of contact efforts. By shifting the burden of compliance to filers and minimizing disputes over contact verification, this approach not only ensures fairness but also significantly reduces administrative workload, allowing staff resources to focus on more substantive enforcement priorities.

By contrast, for lobbyists and campaign committees, where staff would retain the contact-based approach, the filer would have recently (generally within the prior year) provided the contact information to be used to contact them for filings, so notice can more reasonably be presumed and the filer would more clearly bear responsibility for having entered incorrect contact information or failing to regularly check their provided means of contact, like email. In addition, the comparatively small volume of lobbyists and candidate filers (dozens of filers, generally less than 10 late filers) versus the very large volume of City employees and commissioners who are Form 700 filers (thousands of filers, hundreds of alleged late filers), also makes a contact-based enforcement approach more administrable and less staff-intensive for candidates and lobbyist filings than is the case for Form 700.

Finally, a time-based enforcement fines would be potentially redundant for lobbyists and candidates, who are already subject to significant time-based late fees, whereas time-based late fees for Form 700 non-filers are fairly low and cease to incentivize filing after 10 days. Campaigns, lobbyists, and Form 700 non-filers are all subject to a \$10/day late fee for non-filing, but the fees are capped differently based on the filer. Lobbyist late fees are capped at \$1,000 (a 100-day late filing) and there is virtually no cap for campaign committees (the maximum late fee cannot exceed the amount that needed to be reported in the filing). By contrast, Form 700 non-filer late fees are capped at just \$100 (a 10-day late filing).

Recommendation

Staff recommends that the Commission's Penalty Guidelines be amended to reduce the streamline penalty for Form 700 non-filing and adopt a time-based late filing penalty, instead of a contact-based penalty. This amendment will improve enforcement efficiency, reduce unnecessary disputes, and create a clearer and more equitable framework for ensuring compliance. By adopting these changes, the Commission reaffirms its commitment to transparency and accountability while addressing the practical challenges of large-scale compliance efforts. Amendments to the PEC's Penalty Guidelines go into effect 60 days after adoption, unless vetoed by the City Council. If adopted, PEC staff would implement these changes prospectively, beginning with the April 1, 2025, deadline for the filing of the 2024 Annual Form 700.

Attachment: Redline of Proposed Changes to the PEC's Penalty Guidelines

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

Public Ethics Commission

ENFORCEMENT PENALTY GUIDELINES

The Public Ethics Commission (PEC) is authorized by the Charter of the City of Oakland (City Charter) to impose penalties, remedies, and fines as provided for by local ordinances that are within the PEC's jurisdiction, including the Government Ethics Act, Oakland Campaign Reform Act and Lobbyist Registration Act. This Guideline includes general principles and factors to consider in determining a penalty, and a tiered approach to penalties based on the seriousness of the violation. This Guideline is advisory only, and does not limit the PEC from using discretion to deviate from the guidance when atypical or egregious circumstances exist.

The penalties set forth in this Guideline are separate and apart from any late filing fees that may be owed by a respondent.

Guiding Principles for Enforcement

The overarching goal of the PEC's enforcement activity is to obtain compliance with rules under its responsibility, and provide timely, fair and consistent enforcement that is proportional to the seriousness of the violation. The following principles guide the PEC's compliance activities as part of an effective enforcement program:

- 1. Timeliness** – For all violations, timeliness brings accountability. Public confidence in government and the deterrence effect of enforcement is reduced when enforcement is delayed. Compliance should be timely to provide the public with required disclosures, and to mitigate harm caused by a violation(s). Enforcement resolutions should be viewed through this lens to craft a range of penalties and enforcement actions that drive timely compliance and mitigate harm. For campaign violations, this should mean swift resolution and correction of violations, especially before an election. Timely public disclosure is crucial in these cases, as the value of required pre-election disclosure declines significantly after the election. Similarly, PEC enforcement of violations should also be pursued in a diligent and timely manner as allowed by PEC staffing/priorities.
- 2. Fairness** – The core of the PEC's work is fairness to ensure that enforcement actions are even-handed and consistent, as well as to ensure due process for those accused of violating the law. The PEC frequently investigates and administratively prosecutes public officials, and it is essential that politics and rivalries not become part of such investigations. The PEC shall track penalty amounts over time and articulate in each enforcement action its consistency with previous actions. This allows the public, respondents, and future PEC Commissioners to see the articulated rationale for the decision and the reasons for any variation. Additionally, effective enforcement of violations leads to fairness in government, as timely enforcement of government ethics rules also shows respect and fairness to those who follow the rules.
- 3. Focus on Serious Violations and Repeat Offenders** – The focus of the PEC's work – both in terms of resources spent as well as the level of penalty imposed – should reflect the seriousness of each violation so that penalties urge compliance, while preserving PEC resources for major

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

violations that may occur. Minor violations will not be ignored, but proportionality in penalties and an ability to take on more significant cases is important to creating a culture of compliance. Violations will not be considered minor where a pattern of violations exists.

- 4. Education and Support** – To fully embrace the goals of its enforcement responsibilities, the PEC has implemented a full range of services for the purpose of educating and supporting the regulated community, including: voluntary and mandatory training sessions; published materials and guidebooks explaining rules and requirements; on-line access to rules, forms, guidebooks and advice; access to staff members in person, via email and by phone for guidance and assistance; proactive monitoring, communication and reminders regarding filing deadlines; and electronic filing platform for most filing requirements. These services are intended to ensure that the regulated community is advised of, and aware of, filing and reporting requirements, and to ensure full and timely compliance with various regulatory requirements. Given the array of services, including the availability of PEC staff for questions, claims of ignorance regarding the obligations of the regulated community will not be given much weight, if any, in an enforcement action.

Specific Factors to Consider in Determining a Penalty

The PEC will consider all relevant mitigating and aggravating circumstances surrounding a violation when deciding on a penalty, including, but not limited to, the following factors:

1. The seriousness of the violation, including, but not limited to, the extent of the public impact or harm;
2. The presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violation was isolated or part of a pattern;
5. Whether the respondent has a prior record of violations and/or demonstrated knowledge of the rule or requirement at issue;
6. 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);
7. The degree to which the respondent cooperated with the PEC's enforcement activity in a timely manner;
8. The relative experience of the respondent;
9. 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.

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.

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

Penalty Options Based on Levels

To obtain compliance with the law and provide timely and fair enforcement that is proportional to the seriousness of the violation, the PEC institutes a three-tiered approach that utilizes warning letters, streamlined stipulations, and more severe penalties based on the level of public harm and the articulated aggravating and mitigating circumstances. This approach aims to provide consistency across similar violations and an expedited way to handle cases according to the level of seriousness so that staff resources are allocated according to the level and significance of the violation.

1. **Warning Letter:** A warning letter is an enforcement option for any minor violations without any aggravating circumstances. It is a public acknowledgement by the PEC via letter to the respondent that explains the allegation and allows the PEC to create a record of a potential or proven low-level violation. This allows for respondents to be educated about the rules and provides the PEC with a historical list of prior violations for future consideration in enforcement cases. A warning letter may be used to address a violation where the evidence demonstrates that a monetary penalty is not justified, or in the interest of justice. A warning letter will not be available where the respondent has had a prior violation of the same or similar type.
2. **Streamline Stipulation:** The streamlined stipulation program takes common low-level violations, such as the non-filing of a campaign statement, and provides a scaled-down stipulation document and set penalties. These more common cases can be quickly handled with a penalty commensurate to the violation, which helps preserve staff time to focus on more serious cases. The streamlined stipulation program is an option (but is not required) to resolve the following types of low-level violations without any serious aggravating circumstances:
 - a. Form 700 Non-Filer (GEA § 2.25.040), where the form in question is no more than ~~six months~~ 180 days late;
 - b. Form 700 Non-Reporter (GEA § 2.25.040), where the unreported interest does not give rise to a reasonable likelihood or appearance of a conflict of interest or undue influence over the Respondent's exercise of their official duties;
 - c. Misuse of City Resources (GEA § 2.25.060(A)(1)), where the total value of misused City resources is \$100 or less and does not involve campaign activity;
 - d. Gift Restrictions (GEA § 2.25.060(C)), where the aggregate amount of the gift(s) from a single source is no more than \$250 over the legal limit, the source of the gift(s) was not a restricted source or a lobbyist, and the gift does not give rise to a reasonable likelihood or appearance of a conflict of interest or undue influence over the Respondent's exercise of their official duties;
 - e. Contribution Limits (OCRA §§ 3.12.050 - 3.12.080), where the total amount of the aggregate contributions from a single source in excess of the contribution limit is \$250 or less;
 - f. Contractor Contribution Prohibition (OCRA § 3.12.140), where the total amount of the aggregate contributions from a single prohibited source or its principals is \$250 or less;

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

- g. Form 301 Non-Filer (OCRA § 3.12.190), where the form in question is no more than ninety (90) calendar days late;
- h. Campaign Statement/Report Non-Filer and Non-Reporter (OCRA § 3.12.240), where:
 - i. for a pre-election report, the report is no more than thirty (30) calendar days late and the unreported activity does not exceed \$5,000 in either contributions raised or expenditures made;
 - ii. for a semiannual report, the report is no more than one-hundred and eighty (180) calendar days late and the unreported activity does not exceed \$5,000 in either contributions raised or expenditures made;
 - iii. for a late contribution or late independent expenditure report, the report is no more than seven (7) calendar days late, the unreported activity does not exceed \$10,000 in either contributions raised or expenditures made, and the report is filed before the date of the election;
- i. Lobbyist Registration Non-Filer (LRA § 3.20.040.), where the registration form is no more than one-hundred and eighty (180) days late, and the total compensation received for previously-unreported lobbying does not exceed \$2,000 in a single quarter or, in the case of a salaried lobbyist, the total pro rata share of their salary attributable to lobbying activity over the unreported period does not exceed \$2,000;
- j. Lobbyist Report Non-Filer and Non-Reporter (LRA § 3.20.110.), where the report in question is no more than ninety (90) days late. and the total compensation received for unreported lobbying activity is \$2,000 or less or, in the case of a salaried lobbyist, where the total pro rata share of their salary attributable to lobbying activity over the unreported period does not exceed \$2,000.

For purposes of streamlined settlements, the term “non-filer” includes late filers.

The streamlined stipulation program takes into account that the articulated evidence demonstrates a greater degree of public harm than a case that qualifies for a warning letter and is therefore worthy of a penalty. Streamlined stipulations will not be available where the respondent has had a prior violation of the same or similar type resolved by way of Commission action in the previous six years, except as to treasurers in OCRA cases where the violation was primarily due to the actions of others. Streamlined stipulations will be offered based on a tiered penalty structure. Additionally, the stipulation documents for streamlined stipulations have been standardized and shortened to promote efficiency.

The penalty tiers applying to streamlined stipulations set forth [in the tables](#) below shall be applied on a per-violation basis and are contingent upon the following conditions:

- the respondent has taken corrective action as requested by Commission staff, such as filing the form or amendment that forms the basis of the violation, or returning or disgorging a prohibited contribution or gift;
- the respondent has agreed to the terms of the streamlined stipulation; and
- the respondent has paid all late filing fees.

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

Violation	Compliance prior to or in response to first PEC enforcement contact	Compliance in response to second PEC enforcement contact	Compliance prior to publication of PEC investigation report
Form 700 Non-Filer and Non-Reporter (GEA § 2.25.040)	Diversion	\$400	\$800
Gift Restrictions (GEA § 2.25.060C)	Diversion	\$400	\$800
Form 301 Non-Filer (CRA § 3.12.190)	Diversion, plus 2% of contributions received over limit prior to filing form	\$400, plus 2% of contributions received over limit prior to filing form	\$800 plus 2% of contributions received over limit prior to filing form
Campaign Statement/Report Non-Filer and Non-Reporter (CRA § 3.12.340)	Diversion, plus 1% of all financial activity not timely reported	\$400, plus 1% of all financial activity not timely reported	\$800, plus 1% of all financial activity not timely reported
Misuse of City Resources. (GEA § 2.25.060A1.)	Diversion, plus the unlawful amount	\$400, plus the unlawful amount	\$800, plus the unlawful amount
Contribution Limits (CRA §§ 3.12.050 - 3.12.080.)	Diversion, plus 1% of the total amount received over the limit	\$400, plus 1% of the total amount received over the limit	\$800, plus 1% of the total amount received over the limit
Contractor Contribution Prohibition. (CRA § 3.12.140.)	Diversion, plus 1% of the total amount of the prohibited contribution	\$400, plus 1% of the total amount of the prohibited contribution	\$800, plus 1% of the total amount of the prohibited contribution
Lobbyist Registration Non-Filer. (LRA § 3.20.040.)	Diversion, plus \$200	\$400	\$800
Lobbyist Report Non-Filer and Non-Reporter. (LRA § 3.20.110.)	Diversion	\$400	\$800

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

As used in the table above, the term “contact” means any method of communication reasonably calculated to ensure notice based upon Commission staff’s due diligence in obtaining the respondent’s contact information. The contact may be made verbally or in writing. In the case of verbal contacts, Commission staff shall keep a record of all verbal contacts. In the case of a written contact, the contact may be made electronically and/or physically, and need not be personally served on the respondent. Contact is presumed to be effective if it is sent via email to the City email address of a current City employee or official, or in the case of an open campaign committee or registered lobbyist, to the most recent email address provided by that committee or lobbyist to the PEC.

<u>Violation</u>	<u>Form Filed 1-60 Days Late</u>	<u>Form Filed 61-120 Days Late</u>	<u>Form Filed 121-180 Days Late</u>
<u>Form 700 Non-Filer and Non-Reporter (GEA § 2.25.040)</u>	<u>Diversion</u>	<u>\$200</u>	<u>\$400</u>

Formatted Table

- 3. Mainline Penalty.** For more serious violations and violations that do not qualify for a warning letter or the streamlined stipulation program, the PEC will start with the following “base-level” penalty amount and then adjust the penalty amount based on mitigating and aggravating factors of the enforcement action, which will be articulated in any decision to impose a monetary penalty.

Violation	Base-Level Per Violation	Statutory Limit Per Violation
Form 700 Non-Filer and Non-Reporter. (GEA § 2.25.040.)	\$1,000.	\$5,000 or three times the amount not timely reported, whichever is greater.
Conflicts of Interest and Personal Gain Provisions. (GEA § 2.25.040.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Revolving Door Provisions. (GEA § 2.25.050.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Misuse of City Resources. (GEA § 2.25.060A1.)	\$2,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Misuse of Position or Authority (GEA § 2.25.060A2.)	\$5,000	\$5,000 or three times the unlawful amount, whichever is greater.
Prohibitions Related to Political Activity and Solicitation of Contributions. (GEA § 2.25.060B.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Gift Restrictions. (GEA § 2.25.060C.)	\$1,000 plus the unlawful amount.	\$5,000 or three times the unlawful amount, whichever is greater.
Contracting Prohibition. (GEA § 2.25.060D.)	\$2,000.	\$5,000 or three times the unlawful amount, whichever is greater.

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

Bribery/Payment for Position. (GEA § 2.25.070A-B.)	\$5,000, or three times the unlawful amount, whichever is greater	\$5,000 or three times the unlawful amount, whichever is greater.
Nepotism/Influencing Contract with Former Employer. (GEA § 2.25.070C-D.)	\$3,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Non-Interference in Administrative Affairs Provision. (GEA § 2.25.070E.)	\$1,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Contribution Limits. (CRA §§ 3.12.050 -3.12.080.) and Contractor Contribution Prohibition. (CRA § 3.12.140.)	\$1,000, plus the unlawful amount.	\$5,000 or three times the amount of the unlawful contribution, whichever is greater.
One Bank Account Rule. (CRA § 3.12.110.)	\$1,000.	\$5,000 or three times the unlawful amount, whichever is greater.
Fundraising Notice Requirement. (CRA § 3.12.140P.)	\$1,000.	\$5,000 or three times the unlawful expenditure, whichever is greater.
Officeholder Fund Requirements. (CRA § 3.12.150.)	\$2,000.	\$5,000 or three times the unlawful expenditure, whichever is greater.
Form 301 Requirement. (CRA § 3.12.190.)	\$1,000, plus 2% of contributions received over contribution limit prior to filing Form 301.	\$5,000 or three times the unlawful contribution or expenditure, whichever is greater.
Independent Expenditure Advertisement Disclosure Requirement. (CRA § 3.12.230.)	\$1,000.	\$5,000 or three times the unlawful expenditure, whichever is greater.
Contribution and Expenditure Restrictions. (CRA §§ 3.12.065 and 3.12.130.)	\$1,000	\$5,000 or three times the unlawful contribution or expenditure, whichever is greater.
Campaign Statement/Report Non-Filer and Non-Reporter. (CRA § 3.12.340.)	\$1,000, plus 1% of the all financial activity not timely reported.	\$5,000 or three times the amount not properly reported, whichever is greater.
Public Finance Program Requirements. (LPFA § 3.13.010.)	\$1,000.	\$1,000 and repayment of public financing unlawfully received or expended.
Lobbyist Registration Non-Filer. (LRA § 3.20.040.)	\$750.	\$1,000.
Lobbyist Report Non-Filer and Non-Reporter. (LRA § 3.20.110.)	\$750.	\$1,000.

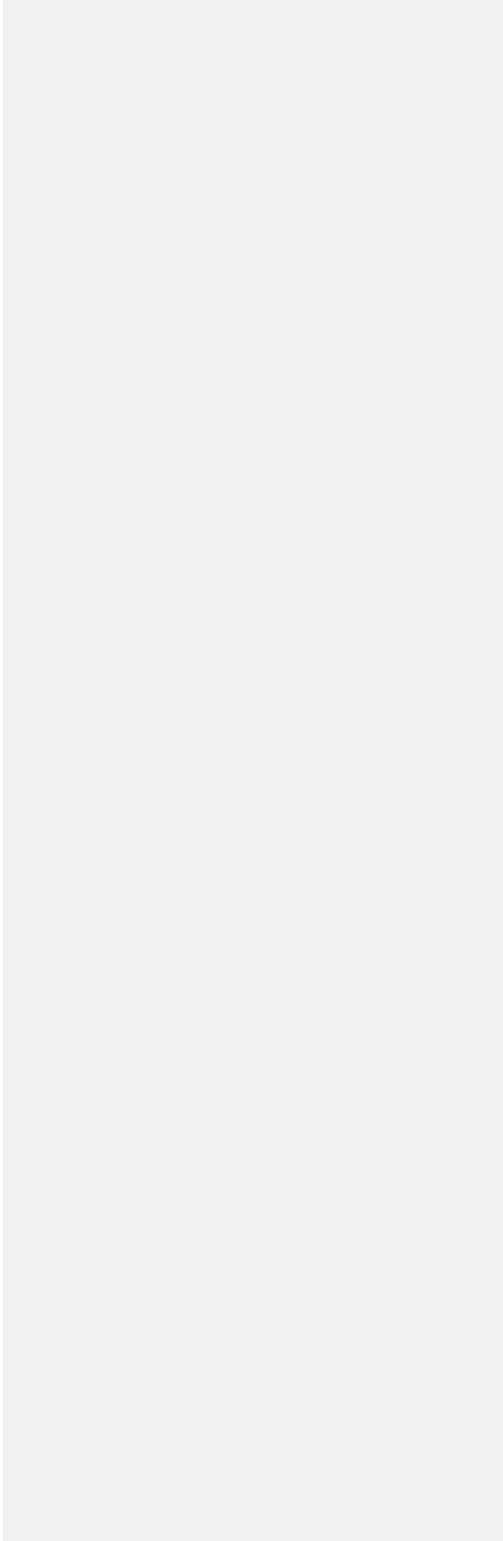
Application of this Guideline

Item 12 - Amendment to the PEC's Penalty Guidelines

Public Ethics Commission

Effective August 11, 2024

While most enforcement matters will likely fall within the penalty structure outlined in this guideline, this document was created merely to assist the PEC in determining an appropriate penalty in certain types of cases; it does not limit the PEC or its staff from agreeing to a settlement or imposing a penalty that deviates from this guideline or from the PEC's past practice. Additionally, this guideline is not a comprehensive list of violations for which the PEC has jurisdiction to investigate and impose a penalty, and exclusion of a type of violation from this guideline does not in any way limit the PEC or its staff from investigating and imposing a fine or penalty on any person who commits such a violation.





Item 13 - PEC Commissioner Appointment Process

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

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Commissioner Francis Upton IV
DATE: January 15, 2025
RE: Commissioner Proposal Regarding the PEC's Vacancy Appointment Procedures

As agreed at the last meeting, I'm writing to provide details of the proposal we discussed about commissioner selection.

Motivation

1. Streamline the current process such that fewer commission and staff resources are required for unexpected vacancies. This currently requires an expensive full commissioner selection process including outreach, much staff work, and a subcommittee.
2. Clarify the actual commissioner voting process so that the rankings of each commissioner can be fairly considered and the process is unambiguous.

Commissioner Selection Process

1. Often there are unexpected commissioner vacancies throughout the year. It's important to fill these with qualified candidates as quickly as possible. To support this, the annual commissioner selection process can recommend that approved candidates for which there are no current vacancies can be reconsidered later in the year as needed.
2. The annual selection process will produce a list of candidates that have been deemed acceptable by the commission and who were not immediately appointed. This list expires after a year. Each candidate on the list will have been recommended by the selection subcommittee and selected by the full commission after the usual presentation and questioning. Selection for the list will be done by the full commission voting on each candidate, candidates with a majority vote are added to the list.
3. Should there be an unexpected vacancy, the list will be consulted by the commission. Each member on the list will be contacted to determine if they are still interested and available. All interested and available members can then be voted on by the full commission for selection at any meeting.
4. If the unexpected vacancy is for the Mayor, Auditor, or City Attorney appointee, staff will check to see which candidates meet the qualifications for that appointee and forward the names of those candidates to the appointing office for their consideration.

Item 13 - PEC Commissioner Appointment Process

Commissioner Selection Voting Process

1. If there are multiple candidates for a seat on the commission, whether this is a result of the annual selection process or an unexpected vacancy, this voting process is used to allow commissioners to rank their choice of candidates.
2. To vote, each commissioner orally states their ranking of the candidates. If a candidate has a majority of first place rankings, a motion is made to vote on the approval for that candidate. Failing this, the process is repeated such that commissioners can change their rankings. This continues until there is a majority first place candidate.

Item 14A - Charter Review Subcommittee

Chair's Termination Statement:

Charter Review Ad Hoc Subcommittee

(ad hoc, created December 13, 2023)

Members: Ryan Micik (Chair), Charlotte Hill (formerly), Karun Tilak.

A) What was the specific goal of the committee?

To review the provisions of the City Charter relating to the PEC and to recommend potential changes to those sections.

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

The Subcommittee shall present potential charter changes for the Commission's consideration within the first half of 2024.

C) What did the Commission accomplish?

The subcommittee proposed well-researched and meaningful reforms, which staff and commissioners successfully guided through the legislative process and were ultimately approved overwhelmingly by voters with the passage of Measure OO in November 2024.

D) Are there any recommended next steps coming out of the Subcommittee's work?

The City Council stopped short of including the full set of reforms in Measure OO. The commission may wish to continue to pursue PEC-backed proposals to enhance the PEC's capacity and independence.

E) Are there any lessons learned or other comments to memorialize about the Subcommittee's work or process?

By moving quickly in formulating and submitting a reform proposal, the commission was able to capitalize on a unique moment where ethics reform was on the mind of City leaders and residents to pass meaningful Charter reform. Future ethics commissions should continue to look for unique opportunities to strengthen the capacity, effectiveness, independence, and mission of the commission.

Another important lesson learned in this process is that the citizens of Oakland care deeply about ethics reform: despite no campaign in favor of the Measure OO, an overwhelming 73% of voters supported expanding the commission's authority and independence. This continues a trend of a supermajority of Oaklanders supporting the PEC and its mission, as evidence by similar 70%+ voter support of Measure CC (2014) and Measure W (2022).

As expected, councilmembers did not fully support all of the PEC's recommendations. This left the PEC with difficult decisions about how much to compromise and limited options once the proposal reached the council, which has the authority to amend such measures at its discretion. Future ethics commissions should consider these challenges and limitations when deciding whether to invest the substantial effort required to amend the charter and may benefit from developing a robust outreach strategy for educating the public, groups, and City leaders on the reforms as they advance. Had there been more time in the process, the PEC may have benefitted from partnering with a Council Office to

Item 14A - Charter Review Subcommittee

advance the proposal and presenting its proposed reforms to other City organizations to build greater community support for the proposals.

Overall, the subcommittee and commission's work promoting charter reform were successful, and future commissions should seek to build on this work by seeking the enactment of those reforms which were proposed but not enacted in Measure OO as future opportunities at charter reform arise.

With that in mind, and to memorialize the Commission's work, I am attaching:

1. A lengthier description of the subcommittee's work, process, and outcomes
2. A chart identifying provisions of the PEC's charter reform package that were not enacted in Measure OO.
3. The draft language of the Commission's proposed charter reforms and the staff and subcommittee reports explaining the basis for these recommendations.

I am also asking Staff to post this closure memo and associated materials to the PEC's website as a **public statement of the endorsed charter reform proposals** of the Commission, which may be helpful to future Commissions, organizations, or members of the public interested in City Charter reform.

Item 14A - Charter Review Subcommittee

CHARTER REVIEW SUBCOMMITTEE – EXPANDED CLOSURE MEMO

PURPOSE

The PEC Charter Review Ad Hoc Subcommittee was formed to develop a set of recommended reforms to update and build upon Measure CC, the 2014 measure that established the PEC in its modern incarnation, taking into account developments over the last 10 years. The reforms were intended to enhance Oaklanders’ trust in government by strengthening anti-corruption rules, establishing the PEC more firmly as a vigorous, independent agency free of political influence, and move Oakland toward the more inclusive democracy that voters demanded with the passage of Measure W (2022).

PROCESS

The subcommittee met several times to examine each provision of City Charter Section 603 (the section established by Measure CC pertaining to ethics and the PEC), alongside other best practices and models from peer jurisdictions, such as the state FPPC and ethics commissions in San Francisco, Los Angeles, San Diego, and Sacramento. The review also incorporated insights from organizations like the Campaign Legal Center and City Ethics.

The Subcommittee’s work resulted in a proposal to modernize the PEC through three primary objectives:

1. Strengthening the PEC’s staffing and administrative capacity to meet its expanded responsibilities.
2. Enhancing the PEC’s independence to maintain public trust and ensure integrity in its work.
3. Aligning the Charter with the PEC’s broadened mission, as reflected in Measure W (2022), which included administering the “Democracy Dollars” public financing program.

The proposal sought to ensure that Oakland remains a leader in ethical governance and responsive to the city’s evolving needs. The subcommittee envisioned the proposal as part of an expected measure to transfer mayoral salary setting to the PEC, which was requested by the City Council.

The proposal was endorsed by the full commission in March and April 2024 for inclusion in the November 2024 general election ballot.

OUTCOME

The City Council adopted a revised subset of the recommendations as Measure OO, which voters approved with 73 percent of the vote. Most significantly, Measure OO made the following changes:

- **Staffing:** Increases minimum PEC staffing by one investigator beginning in July 2026 and limits City Council ability to reduce the staffing level.
- **Legal capacity:** Grants the PEC executive director sole discretion to select outside legal counsel when the City Attorney has a conflict of interest.

Item 14A - Charter Review Subcommittee

- **Legislative proposals:** Requires that PEC legislative proposals be referred to the City Council for consideration within 180 days.
- **Salary setting:** Changes to frequency with which the PEC adjusts the salaries of the City Attorney and City Auditor from annually to every two years.
- **Lobbyist gift restriction:** Prohibits registered lobbyists from giving gifts with a cumulative value exceeding \$50 during a calendar year to elected officials, candidates, and their immediate family.
- **Vacancy appointments:** Empowers the PEC to make a commissioner appointment if a vacancy has not been filled within 120 days by the appointing authority.
- **Commissioner qualifications:** Adds additional minimum qualifications and service restrictions for commissioners, to promote independence.
- **Mission:** Specifies that one of the PEC's roles is to promote more inclusive, representative, and accountable democracy in Oakland, consistent with Measure W.

REFORMS ENDORSED BY THE PEC NOT INCLUDED IN MEASURE OO

The City Council stopped short of including the full set of reforms in Measure OO. Significant PEC-backed proposals that the commission believes would enhance the PEC's capacity and independence, that the commission may wish to continue pursuing in the future, include:

- **Staffing:** Add an additional enforcement position beyond the investigator granted in Measure OO, to address the PEC's severe case backlog, and require that cuts to staffing be proportionate to citywide staffing cuts.
- **Legal capacity:** Authorize the PEC to hire legal staff, including outside counsel at its discretion, instead of relying exclusively on the City Attorney's Office, for the purposes of expertise and independence.
- **Legislative proposals:** Authorize the commission, by supermajority vote, to refer ordinances directly to the ballot for voter consideration.
- **Salary setting:** Transfer the responsibility of mayoral salary-setting to the PEC, with specific and transparent guidelines for determining any adjustments.
- **Lobbyist gift restrictions:** Prohibit lobbyist gifts of any amount to elected officials, candidates, and their immediate family.
- **Executive Director:** Grant the PEC the ability to appoint its Executive Director, rather than the current process of recommending candidates to the City Administrator, who selects the E.D.
- **Democracy Dollars:** Provide that the Democracy Dollars minimum budget may be reduced only in an extreme fiscal necessity and by no more than the same proportion as any reductions in General Purpose Fund expenditures.

A detailed table of the remaining unenacted provisions of the PEC's ballot measure proposal is attached, as are the PEC's staff reports explaining the reform proposals, and the draft language the PEC produced.

Item 14A - Charter Review Subcommittee

REMAINING UNENACTED PROVISIONS OF THE PEC’S CHARTER AND OMC REFORM PROPOSAL

In 2024, the PEC proposed a package of changes to the City Charter and Oakland Municipal Code relating to the Commission or the laws it enforces. The Council placed a measure on the November 2024 ballot, Measure OO, which included some but not all of these proposed changes, which the voters adopted. This chart summarizes the recommendations that the PEC had proposed which are not part of current law (including after the adoption of Measure OO), and might be considered in future reform efforts.

Charter Section Affected	Current Law (including Measure OO)	Outstanding Changes from PEC’s Original Proposal (difference in blue)
Executive Director Selection C.603(g)(4)	<ul style="list-style-type: none"> ▪ Has the PEC recommend Executive Director candidates to the City Administrator, who selects the Director. 	<ul style="list-style-type: none"> ▪ Have the PEC appoint the Executive Director.
During & Post-Service Restrictions C.603(e)	<ul style="list-style-type: none"> ▪ Prohibits Commissioners, while on the Commission, from running for City or OUSD Office. ▪ Prohibits Commissioners, while on the Commission, from being a paid staffer or paid consultant to a City or OUSD elected official or receive gifts from the same officials. 	<ul style="list-style-type: none"> ▪ Prohibit Commissioners, while on the Commission and for 2 years after, from running for City or OUSD Office. ▪ Prohibit Commissioners, while on the Commission and for 1 year after, from being a paid staffer or paid consultant to a City or OUSD elected official or receive gifts from the same officials.
Extended Vacancy C.603(d)(5)	<ul style="list-style-type: none"> ▪ Provides that, if a Commission vacancy has not been filled within 120 days by an appointing Citywide official, either the official or the PEC may fill the vacancy 	<ul style="list-style-type: none"> ▪ Provide that, if a Commission vacancy has not been filled within 120 days by an appointing Citywide official, the responsibility for filling the vacancy transfers to the PEC.
Staffing C.603(g)(2)&(3)	<ul style="list-style-type: none"> ▪Increases the PEC’s minimum Enforcement staffing by 1 investigator in FY 2027-2027 ▪ Prohibits a reduction in the PEC’s minimum staffing requirement unless the Council declares an extreme fiscal necessity and the reduction is part of a general reduction in expenditures across multiple departments. 	<ul style="list-style-type: none"> ▪ Increase the PEC’s minimum Enforcement staffing by 1 investigator in FY 2025-2026 and 1 additional non-administrative enforcement position in FY 2027-28. ▪ Prohibit a reduction in the PEC’s minimum staffing requirement unless the Council declares an extreme fiscal necessity and the reduction is proportional to the overall reduction in the General Purpose Fund. ▪ Update the Charter to reflect the PEC’s current staffing levels. ▪ Provide greater flexibility in determining which positions to hire with the PEC’s non-enforcement minimum staffing requirement

Item 14A - Charter Review Subcommittee

<p>Legal Capacity C.603(g)(5),(i);</p>	<ul style="list-style-type: none"> ▪ Provides that the Enforcement Chief may be an attorney. ▪ Designates the City Attorney as legal counsel for the Commission, except in cases of a legal conflict, in which case the Executive Director selects conflict counsel. 	<ul style="list-style-type: none"> ▪ Provide that the Enforcement Chief shall be an attorney. ▪ Authorize the PEC to hire legal staff, including outside counsel in its discretion, to provide legal services relating to the laws the PEC administers or enforces, or when the PEC determines there is an actual or perceived conflict in the City Attorney representing the Commission. ▪ Codify in the Charter that the City Attorney provides legal advice and assistance to the Commission. ▪ Require a reasonable budget for hiring outside counsel, investigators, or holding administrative hearings.
<p>PEC Legislative Proposals</p>	<ul style="list-style-type: none"> ▪ Requires the Council or a Council Standing Committee to consider PEC legislative proposals within 180 days. 	<ul style="list-style-type: none"> ▪ Authorize the Commission, by supermajority vote, to refer ordinances relating to its subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration.
<p>Salary Setting C.603(c)</p>	<ul style="list-style-type: none"> ▪ Requires the PEC to adjust the City Attorney, City Auditor, and City Council’s salaries every two years 	<ul style="list-style-type: none"> ▪ Require the PEC to adjust the City Attorney, City Auditor, and City Council’s salaries every two years and permit the PEC to reduce or waive a salary increase if the City is facing an extreme fiscal necessity or fiscal crisis/emergency, or if General Purpose Fund Revenue declines ▪ Add to the PEC the responsibility setting the Mayor’s salary using defined criteria
<p>Lobbyist Gifts OMC 3.20.180</p>	<ul style="list-style-type: none"> ▪ Prohibits lobbyist gifts of more than \$50 to elected officials, candidates, and their immediate family, subject to certain existing exceptions. 	<ul style="list-style-type: none"> ▪ Prohibit lobbyist gifts of any amount to elected officials, candidates, and their immediate family, subject to certain existing exceptions.
<p>Vote Threshold C.603(d)(4)</p>	<ul style="list-style-type: none"> ▪ Permits the Commission to take action by a majority of those present at a meeting, except where a different vote threshold is required by the Charter or another law. 	<ul style="list-style-type: none"> ▪ Clarify that the Commission may take action by a majority of those present at a meeting, except where a different vote threshold is required by the Charter or another voter-approved law.
<p>Democracy Dollars Budget OMC 3.15.060 (E)</p>	<ul style="list-style-type: none"> ▪ Minimum funding for the Democracy Dollars Program set by Measure W (2022) may be reduced in an extreme fiscal necessity as part of general reduction in expenditures across multiple departments if the City is facing an extreme fiscal necessity. 	<ul style="list-style-type: none"> ▪ Minimum funding for the Democracy Dollars Program set by Measure W (2022) may be reduced in an extreme fiscal necessity by no more than the same proportion as any reductions in General Purpose Fund expenditures.

Item 14A - Charter Review Subcommittee

<p>Democracy Dollars Implementation Rules OMC 3.15.050 (C)(1)</p>	<ul style="list-style-type: none"> ▪ Generally PEC-adopted rules and regulations go into effect 60 days after adoption, unless vetoed by the Council. However, there is ambiguity as to whether this applies to rules implementing the Democracy Dollars program. 	<ul style="list-style-type: none"> ▪ Clarify that Commission rules and regulations implementing the Democracy Dollar Program go into effect immediately and are not subject to Council veto.
--	--	---



Item 14A - Charter Review Subcommittee

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

Nicolas Heidorn, Executive Director

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

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

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

Recommendation

Staff recommends that the Commission pass a motion:

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

Background

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

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

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

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

Summary of Proposals

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

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

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

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

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

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



TABLE 1: PROPOSED AMENDMENTS

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

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

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

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

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

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

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

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

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

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

Item 14A - Charter Review Subcommittee

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

Oakland City Charter

Section 603. Public Ethics Commission.

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

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

Commented [HN1]: Rec. 1 - Purpose

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

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

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

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

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

Commented [HN3]: Rec. 1 - Purpose

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

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

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

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

(1) Foster and enforce compliance with:

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

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

Item 14A - Charter Review Subcommittee

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

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

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

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

Commented [HN4]: Conforming to Rec. 13.

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

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

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

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

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

Commented [HN5]: Rec. 1 - Purpose

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

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

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

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

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

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

Item 14A - Charter Review Subcommittee

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

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

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

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

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

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

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

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

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

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

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

~~(2) Commissioner Qualifications.~~

Commented [HN10]: Rec. 3 – Commissioner Qualifications

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

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

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

Item 14A - Charter Review Subcommittee

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

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

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

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

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

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

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

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

(H) A registered Oakland lobbyist.

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

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

Commented [HN11]: Rec. 4 – Holdover Term

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

Commented [HN12]: Rec. 5 – Vote Threshold

Item 14A - Charter Review Subcommittee

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

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

Commented [HN13]: Rec. 6 - Automatic Vacancy

Vacancies not filled by the Mayor, City Attorney, or City Auditor within ~~120~~90 days of the occurrence of such vacancy ~~may shall~~ be filled instead by the Commission ~~City Council in the same manner as provided by Charter, Section 604 following a public recruitment and application process and by the affirmative vote of at least four (4) members of the Commission. The Commission's appointee shall possess the same background qualifications that would otherwise be required of an appointee of the Mayor, City Attorney, or City Auditor.~~

Commented [HN14]: Rec. 7 – Extended Vacancy

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

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

Commented [HN15]: Rec. 8 - Removal

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

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

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

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

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

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

Item 14A - Charter Review Subcommittee

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

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

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

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

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

(f) Enforcement.

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

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

Item 14A - Charter Review Subcommittee

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

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

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

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

- ~~(i) Placement of the item on a Public Ethics Commission meeting agenda; Final enforcement action by the Commission;~~
- ~~(ii) Passage of one year since the complaint was filed;~~
- ~~(iii) Action by the Executive Director closing the file matter without placing it on the agenda, pursuant to the Commission's complaint procedures or policies; or~~
- ~~(iiiiv) Expiration of the Statute of Limitations.~~

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

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

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

- (i) Assessments. Any instance of late filing that triggers the assessment of a fee of \$1,000 or more by the Commission shall be placed on a Commission meeting agenda before issuance of the fee;
- (ii) Waiver guidelines. The Commission shall establish waiver guidelines in accordance with state law, which the Commission, as the filing officer, shall follow in determining whether or not to grant a waiver. These guidelines shall be published on the Commission's website. The Commission shall prescribe criteria for appeal to the Commission of waiver decisions made by the Executive Director. At each regular Commission meeting, the Executive Director shall provide a written report, which shall be published online, regarding any waivers decisions made since the previous regular meeting;

Commented [HN17]: Rec. 10 – Records Confidentiality

Item 14A - Charter Review Subcommittee

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

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

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

(g) Staff Assistance & Budget.

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

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

(i) Executive Director;

(ii) Enforcement Chief;

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

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

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

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

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

Commented [HN18]: Rec. 11 - Staffing

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

Item 14A - Charter Review Subcommittee

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

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

Commented [HN20]: Rec. 13 – Legal Capacity

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

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

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

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

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

(i) Legal Services.

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

Commented [HN23]: Rec. 13 – Legal Capacity

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

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

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

Commented [HN24]: Rec. 15 – Ballot Referral

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

(Added by: Stats. November 2014.)

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

Item 14A - Charter Review Subcommittee

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

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

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

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

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

Item 14A - Charter Review Subcommittee

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

Oakland Municipal Code

Chapter 2.24 - PUBLIC ETHICS COMMISSION

2.24.020 - Commission operations.

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

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

Commented [HN27]: Rec. 5 – Vote Threshold

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

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

2.24.050 - Staff assistance.

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

Commented [HN28]: Rec. 13 – Legal Capacity

~~2.24.060 – Legal assistance.~~

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

Commented [HN29]: Rec. 13 – Legal Capacity

2.24.110 - City Council amendments.

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

Commented [HN30]: Rec. 14 - Amendments

Item 14A - Charter Review Subcommittee

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

Chapter 3.15 - THE CITY OF OAKLAND FAIR ELECTIONS ACT

3.15.050 - Duties of the Commission.

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

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

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

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

Item 14A - Charter Review Subcommittee

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

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

Item 14A - Charter Review Subcommittee

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

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

Item 14A - Charter Review Subcommittee

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

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

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

Commented [HN32]: Rec. 17 - Voter Guide

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

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

(Res. No. [89316](#), § 2, 7-22-2022)

3.15.060 - Oakland Democracy Dollars Fund.

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

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

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

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

Item 14A - Charter Review Subcommittee

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

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

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

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

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

(Res. No. 89316 , § 2, 7-22-2022)

Chapter 3.20 - THE CITY OF OAKLAND LOBBYIST REGISTRATION ACT

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

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

Commented [HN34]: Rec 19 – Lobbyist Gifts

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

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

Item 14A - Charter Review Subcommittee

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

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



Item 14A - Charter Review Subcommittee

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

Nicolas Heidorn, Executive Director

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

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

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

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

BACKGROUND & CHARTER REFORM GOALS

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

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

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

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

- Other City of Oakland independent commissions created after the PEC, including the City's Independent Redistricting Commission and Police Commission;
- The State Fair Political Practices Commission (FPPC);
- Other California local ethics commissions, and especially Oakland's closest peer commissions in Los Angeles, San Francisco, and San Diego;
- Select non-California local ethics commissions, including Seattle and New York; and
- Best practices for ethics commissions as identified by good government organizations such as the Campaign Legal Center or City Ethics.

To focus its work, the Subcommittee identified three primary principles to guide the types of reforms it would consider and propose, which build off of the important foundation set by Measure CC. Amendments should:

- I. **Strengthen PEC Staffing.** For the PEC to fulfill its functions, it must be adequately staffed. Traditionally, the PEC's staff has almost entirely grown by ballot measure. Minimum staffing/budget helps to ensure the PEC's independence when/if the Commission investigates or prosecutes current officeholders.
- II. **Strengthen PEC Independence.** The PEC plays a unique, important, and sensitive role in maintaining the integrity of Oakland's government and political process. It is vital that the PEC be perceived to be and actually be impartial and not beholden to any elected official or political faction.
- III. **Align the Charter with the PEC's New Mission of Building a More Inclusive Democracy.** The PEC's current mission is focused primarily on the Commission being an enforcement agency. However, the PEC's role has expanded with the passage of Measure W to encompass supporting a more inclusive, representative, and accountable democracy. The Charter should reflect that mission.

Guided by these principles, the Subcommittee adopted ten proposed charter reforms for the full Commission's consideration.

PROPOSALS

I. Strengthen PEC Staffing and Administration

These recommendations would strengthen the PEC staff capacity and independence to better fulfill the PEC’s mission.

1. Executive Director Selection

Current law: The Board interviews and nominates candidates to be the PEC’s Executive Director (ED). The City Administrator appoints the ED from those candidates.

Subcommittee proposal: To ensure the ED is solely selected for their alignment with the Commission’s mission and priorities, the Commission should directly appoint its ED.

Rationale: The Commission is an independent agency of the City. It is important that its ED, the chief executive officer for the Commission, be perceived to be and actually be independent from the City’s overall administration. The duties of the ED include providing oversight over the Commission’s policy implementation and enforcement work. Giving final hiring authority to the City Administrator, even from a list of candidates selected by the PEC, could create the risk or the appearance that an ED was selected who may be less aggressive in enforcing Oakland’s laws or, worse, that they are aligned with a current administration rather than independent.

Notably, of its primary peer jurisdictions (Los Angeles, San Diego, San Francisco), Oakland is the only jurisdiction that does not have the Commission select its own ED. Having the Commission appoint the ED is also a best practice in the field, recommended, for example, by the nonprofit [City Ethics](#), which promotes local government ethics best practices. Oakland also followed this practice in establishing its Police Commission, which was created more recently than the PEC, and authorizes that Commission to directly hire the Community Police Review Agency (CPRA) Director.

Other Jurisdictions – Executive Director Selection Process

	Executive Director Appointment Process	Citation
Oakland	PEC reviews applications and nominates 2-3 candidates for ED to the City Administrator, who appoints the ED	C s603(g)(4) & (6)
Oakland Police Commission	Police Commission hires the Agency Director and Inspector General	C s604(e)(6)
FPPC	Commission appoints ED	GC s83107
Los Angeles	Commission appoints ED	C s701(a)&(d)
San Diego	Commission appoints ED, subject to confirmation by the Council	MC s26.0411
San Francisco	Commission appoints ED	C s15.101

2. Commission Enforcement Staffing

Current law: The City Charter mandates that the PEC have two enforcement staff: an Enforcement Chief and one Ethics Investigator. The Council may reduce this staffing set-aside by declaring that the City is facing an extreme fiscal necessity.

Subcommittee proposal: To ensure the PEC has sufficient staffing to fulfill its enforcement and watchdog role, the PEC's minimum staffing should provide two *additional* non-administrative enforcement staff, which could include an investigator, auditor, or staff attorney.

Rationale: The PEC must have sufficient staff to fulfill its core responsibility of ensuring the fair, effective, and timely enforcement of Oakland's ethics laws. The PEC's current enforcement staffing minimums of one Chief and one Ethics Investigator were set a decade ago, in 2014, with the passage of Measure CC.¹ Those staffing levels were based on the Commission's caseload at the time; however, over the past ten years the PEC's caseload has vastly increased, and these staffing minimums – which have not been increased through the discretionary budget process – are no longer sufficient to meet the Commission's caseload demands. Caseload now vastly exceeds staff capacity and, as of January 1, 2024, 60% of the PEC's cases had to be placed on hold. The PEC has also fallen far below the staffing levels of peer jurisdictions: for example, Oakland's PEC has an untenable staff to caseload ratio of one enforcement staffer per 44 cases, compared with San Francisco's more manageable ratio of one staffer per 14 cases. The Enforcement Program estimates that a bare minimum of two additional investigators are required to keep up with the PEC's current caseload, although the PEC's actual full staffing needs are significantly higher.

Increasing the charter-mandated minimum staffing is also important for preserving the PEC's independence. The Commission, as contrasted with every other City department or Board, regulates the conduct of Oakland's elected officials. Public confidence in the Commission is diminished if the PEC's ability to fulfill its core watchdog role through adequate staffing is perceived to depend on receiving the approval and funding of the very officials it regulates. Moreover, unlike other City programs, the PEC has no natural constituency to argue for increased funding for its services, which places the Commission at a disadvantage in the budget process; in fact, of the PEC's current 8 positions, all but one were created through the City charter, and not the biannual discretionary budget process.

3. Measure W Funding

Current law: To implement the Democracy Dollars Program, Measure W required that the PEC be provided with \$700,000 in startup funding; \$350,000 in ongoing administrative funding; \$4 million per two-year cycle for Democracy Dollars candidate funds; and four staff positions. However, these minimum budget and staffing set-asides may be reduced if the Council finds that the City is facing an extreme fiscal necessity. For this two-year budget, the Council declared a fiscal emergency and these minimums were reduced to \$525,000 in startup funding and one staff position.

¹ Prior to that, the PEC as a whole had only two staff total, none dedicated solely to enforcement. Measure CC originally provided for a "Deputy Director" rather than an Enforcement Chief, although that role was envisioned as being the chief prosecutor for the Commission.

Subcommittee proposal: To ensure that Measure W is properly implemented, and cannot be cancelled for political reasons, the Charter should provide that the PEC’s minimum staffing and budget for the Democracy Dollars Program may only be reduced in the same general *proportion* as any general budget reduction.

Rationale: Measure W allows the Council to cut Measure W funding where there is an extreme fiscal necessity, but “only as a part of general reduction in expenditures across multiple departments.” While the clause “part of a general reduction” was likely intended to ensure that a budget deficit was not disproportionately balanced using Measure W funding, this is in effect what occurred. For the current two-year cycle, the PEC budget was cut 58% compared to the baseline funding required under Measure W, likely a larger proportional cut than any other department. Because Measure W has yet to be implemented, the cut this cycle (while re-establishing the Limited Public Financing Program) largely preserved the status quo for public financing in Oakland; however, this disproportionate cut may have set a dangerous precedent that cancelling Democracy Dollars will be the first fix to balance future difficult budgets, undermining the will of Oaklanders in adopting this transformational program, and potentially making this program vulnerable to incumbent veto for political reasons. Under this proposal, the Charter (or City Code) would clarify that any cuts to Measure W must be in proportion to the general budget reduction, so that the PEC is contributing a fair but not disproportionate share to resolving the City’s fiscal challenges.

4. Legal Capacity

Current law: The City Attorney is the designated legal counsel for the Commission. If the City Attorney determines that the office may have a conflict in representing the PEC, the City Attorney may select an outside counsel to advise the Commission. None of the PEC’s staff, including the Enforcement Chief, are required to be attorneys.

Subcommittee recommendation: Because Oakland’s City Attorney is elected and subject to regulation by the PEC, they should not be the exclusive legal counsel to the Commission. The Charter should specify that:

- A. The Enforcement Chief is required to be an attorney.
- B. The PEC may hire legal staff, including outside counsel in its discretion, to provide legal services relating to the laws the PEC administers or enforces, or when the PEC determines there is an actual or perceived conflict in the City Attorney representing the Commission.
- C. The City Attorney should continue to provide legal advice and assistance to the Commission.

Rationale: The PEC administers and enforces a sometimes complex body of law, especially when applied to nuanced fact patterns. For reasons of capacity and independence, the Commission should have in-house staff with the specialized legal expertise to interpret, apply, and enforce these laws, including appearing in court when necessary (e.g., for an injunction or to enforce subpoena). The need for in-house legal expertise is especially true of the Enforcement Chief, who is the chief prosecutor for the Commission, and needs a firm understanding of the laws the Commission enforces as well as a general legal grounding in administrative law and substantive due process. Because the Commission regulates the City Attorney’s Office, the Commission should not be solely reliant on that office for legal

advice or services, which may create the appearance of a conflict; this is especially true in Oakland, where the City Attorney is an elected official who must campaign for office.

Other established ethics commissions in California either have attorneys on staff or the ability to hire outside counsel, which is generally considered to be a best or essential practice for ethics commissions. For example, the FPPC and Los Angeles Ethics Commissions are expressly authorized to employ attorneys, whereas San Diego and Sacramento require their commissions hire outside counsel to avoid the appearance that these boards are relying on the city attorney. “A commission should have its own independent experts, including investigators, auditors, general counsel, and trainers,” explains the Campaign Legal Center. “By relying on these independent experts, a commission can not only obtain independent advice and analysis of facts and law in specific cases, but also avoid the appearance that it depends on an elected official or appointee of an elected official, such as a secretary of state or city attorney.” In Oakland, likely for similar reasons, the more recently-established Police Commission is authorized to hire attorneys and outside counsel.

Under this proposal, the PEC would not exclusively rely on its own or outside counsel and would in fact continue to use the City Attorney for legal advice and services in most instances, especially for all issues outside of the Commission’s subject matter expertise. In rare cases where the City Attorney may be legally conflicted out of providing legal advice or services to the Commission, the Commission should select its outside counsel, to avoid any allegation that the Attorney may select a counsel sympathetic to their interests.

Other Jurisdictions – Legal Capacity

	Role of City Attorney	Commission Legal Staff Positions?	Commission Can Hire Outside Counsel?	Citation
Oakland	- City Attorney appoints one Commissioner - City Attorney is Commission’s counsel - PEC consults with City Attorney on oral advice and written opinions	None	City Attorney may retain outside counsel for Commission if there is a conflict	C. s603(b)(3) & OMC 2.24.060
Oakland Police Commission (PC); CPRA		PC: may hire attorneys CPRA: Requires minimum of 3 attorneys	PC: yes CPRA: not specified	C. s604(b)(12), (e)(1), (e)(4)
FPPC	May request legal advice from the Attorney General	May employ legal counsel	Can contract for services that can’t be performed by staff	GC s83117
Los Angeles	City Attorney provides legal services to commission	May employ or contract for staff counsel to give advice to the commission and to take action on matters involving the City Attorney	Yes, see previous column	C s708

San Diego	City Attorney nominates appointees	Must retain own legal counsel outside of City Attorney	Must retain own legal counsel outside City Attorney (also has attorneys on staff)	MC s 26.0411 C s41(D)
San Francisco	- City Attorney is legal advisor to Commission - Commission reports findings to City Attorney when appropriate - Commission transmits some advisory opinions to City Attorney	Commission can employ individuals who have graduated from a law school to assist with advice and opinions	None Provided	C s15.102 MC s3.699-11 MC s3.699-12
Sacramento	- City Attorney assists Commission with its investigatory procedures - Commission advises City Attorney on law firms to use to investigate sexual misconduct allegations	None Provided	Yes - required for all investigations	MC 2.112.030

II. Strengthen PEC Independence.

These recommendations would strengthen the Commission’s independence to promote public trust in the Commission’s work.

5. Commissioner Qualifications

Current law: To be eligible for appointment to the Commission, an applicant:

- **must** be a registered voter;
- **must** have attended one prior meeting of the PEC;
- for Mayor, City Attorney, and City Auditor appointees, **must** have a specified professional experience or background; and
- for Mayor, City Attorney, and City Auditor appointees, **cannot** have been paid during the past two years for work by a committee controlled by the appointing official.

Subcommittee recommendation: To avoid the appointment of a Commissioner who may appear biased in favor or against of a candidate, incumbent, or political faction, the Charter should **prohibit*** the appointment of an applicant who, at any point in the two years prior to the start of their term on the Commission, was:

- A. an elected official, or the partner or spouse of an elected official;
- B. a candidate for City or OUSD office;
- C. a paid staffer or paid consultant to a City or OUSD campaign;
- D. an officer or employee of a political party political party; or
- E. a substantial local campaign donor, defined as someone who has contributed in the aggregate more than two times the City contribution limits (2 x \$600 in 2024) to candidates for a City or OUSD office or to a campaign committee making independent expenditures in City or OUSD campaigns.
- F. **These new qualifications would apply only prospectively to new Commissioners.*

Rationale: Commissioners serve in a quasi-judicial role where they will adjudicate whether or not incumbents, candidates, and City officials have violated city ethics or campaign finance laws, among other laws. Commissioners also have the sensitive responsibility of administering the Democracy Dollars Program beginning in 2026, which will likely become the largest source of funding for candidates running for City office. The selection of a Commissioner who appears to be strongly biased in favor of an official, candidate, or political faction could undermine public trust in the Commission, its adjudications, and its implementation of critical programs like Democracy Dollars. In structuring an ethics commission, the [Campaign Legal Center](#), a good government nonprofit, advises putting up minimum qualification guardrails to protect against this so that it is “clear to the public that the ethics commission serves the public interest and not the interests of those groups subject to the commission’s oversight.” [City Ethics](#), a nonprofit that advocates for local ethics reform best practices, similarly advises prohibiting the appointment of commissioners who in the prior three years have been “party officials, recent government officials, individuals who have done substantial work in local political campaigns, large contributors, or political advisers.”

Oakland’s current Ethics Commissioner qualifications are fairly similar to, and in some ways stronger than, those of other established ethics commissions, like the Fair Political Practices Commission (FPPC), Los Angeles Ethics Commission, and San Francisco Ethics Commission. However, the trend among more recently-established ethics commissions, including Sacramento’s and Orange County’s, is to include stronger requirements up front to prevent recent political actors from being appointed to the Commission, mirroring the best practices identified by City Ethics above. Oakland has followed a similar model with respect to its more-recently established Independent Redistricting Commission, which similarly excludes from appointment applicants who were recently lobbyists, candidates, or consultant to a City political campaign. The PEC should adopt similar, but less strict, restrictions, in recognition of the fact that the PEC must recruit civically-active residents to serve on the Commission on a nearly annual basis, as compared with the Redistricting Commission which only recruits applicants once every ten years.

Other Jurisdictions - Commissioner Qualifications

	Qualifying Criteria	Disqualifying Criteria	Citation
Oakland	<ul style="list-style-type: none"> -Oakland registered voter & resident -Attest to having attended one PEC meeting -Professional background requirements for Mayor, City Attorney, and Auditor appointees 	<ul style="list-style-type: none"> -Mayor, Attorney, and Auditor may not appoint an individual who was paid during the past two years for work by a committee controlled by the official -See also during-service restrictions 	C. s603(d)(1)-(2) & (e)
Oakland Redistricting Commission	<ul style="list-style-type: none"> -Oakland resident for 3 years 	Cannot be: <ul style="list-style-type: none"> -City employee or commissioner - Redistricting consultant in prior 5 years - A person or their family who in prior 10 years was a: <ul style="list-style-type: none"> ~ Candidate or elected official ~ Paid consultant to a campaign ~ Registered lobbyist 	C. s220((D)(1) & J)(5)

Item 14A - Charter Review Subcommittee

		<ul style="list-style-type: none"> ~ Employee/consultant to elected official ~ Officer of a City campaign committee - Contributor over 50% of contribution limits to City candidate in last election 	
FPPC	<ul style="list-style-type: none"> -Elector -Members cannot all be of the same political party 	-See during service restrictions	GC s83101, 83102
Los Angeles	- Registered voter	-See during service restrictions	C s700(d)
San Diego	<ul style="list-style-type: none"> - Professional background requirements for 5 members - At most 3 members registered with same political party - Must be a qualified elector of the City, subject to exceptions 	<ul style="list-style-type: none"> - Can't have run for office against a current elected City official - Can't have served in a staff capacity for the campaign of a candidate running against a current elected City official 	MC s 26.0404(b)
San Francisco	Mayor, City Attorney, and Assessor appointees must have certain professional backgrounds	<p>Cannot be:</p> <ul style="list-style-type: none"> - Any person removed from federal, State, County, or City office or employment for a moral turpitude felony in prior 10 years - Any person removed from federal, State, County, or City office or employment for official misconduct in prior 5 years - See during service restrictions 	C s15.100 C s15.105
Sacramento	<ul style="list-style-type: none"> -Sacramento resident -3 (of 5) members must meet professional background requirements 	<ul style="list-style-type: none"> -Applicant (or partner/child) can't have given 50%+ of contribution limit in last 2 elections -Applicant (or partner/child) cannot have been a City employee, lobbyist, or local/state elected official appointee in prior 2 years -Applicant (or partner/child/parent/ sibling) cannot have been a City elected official, candidate, employee/contractor to a City elected official in prior 4 years -See also during-service restrictions 	MC s2.112.040 (B)
Orange County	- Registered voter	<p>10 years prior to appointment, cannot have:</p> <ul style="list-style-type: none"> - employed a lobbyist - been an elective County officer or County department head/executive - been a partisan political committee officer - been convicted of a felony or misdemeanor involving dishonesty or election law - worked for County of Orange, or any Special District operating in the County - worked with an County employee representative organization 	CO s 1-2-354

6. Commissioner During & Post-Service Restrictions

Current law: PEC Commissioners cannot be involved in City politics during their term and cannot, during their term and for one year after, be employed by the City or register as or employ a lobbyist.

Subcommittee recommendation: To avoid the appointment of a commissioner who may appear biased in favor of or against a candidate, incumbent, or faction, amend the Charter to add:

- A. During-service restrictions*: While serving on the Commission, Commissioners may not:
 - i. Contribute or participate in an OUSD campaign
 - ii. Serve as an officer or employee of a political party
- B. During and post-service restrictions*: Commissioners may not:
 - i. Run for City or School Office while serving on the Commission and for 2 years after their term ends.
 - ii. Be a paid staffer or paid consultant to a City or School elected official, or receive gifts from the same officials, while serving on the Commission and for 1 year after their term ends.
- C. Exception: Commissioners should be able to advocate in support or opposition to ballot measures that affect the PEC or the laws it enforces.
 - **These new restrictions would apply only prospectively to new Commissioners.*

Rationale: The PEC already imposes a number of common sense restrictions on Commissioners while serving on the Commission, including that they cannot participate in local political campaigns, lobby, or be City employees. Because the Commission regulates campaigns, lobbyists, and city officials, these restrictions help to prevent Commissioners from having conflicts of interest or their appearance. In the campaign context in particular, these restrictions also reinforce Commissioners' impartiality, by avoiding a situation where a Commissioner's campaign activity may make it appear that they are biased for or against a candidate or ballot measure. This proposal makes modest extensions to these rules, modelled off of restrictions in other jurisdictions, by prohibiting commissioners from being staff or officers in political parties (which may suggest bias against other partisans) and clarifying that the restriction against Commissioners contributing to "municipal" campaigns also applies to OUSD campaigns.

Under current law, PEC Commissioners are also subject to two post-service restrictions: they cannot become a City employee or lobbyist (or employ a lobbyist) for one year after their term concludes. Post-service restrictions serve a slightly different purpose than during-service restrictions: they prevent the risk or appearance that a Commissioner may favor a party before the Commission in the hopes that they will receive a benefit from that party (e.g., employment) immediately after their service concludes. This proposal extends this restriction by similarly preventing Commissioners from being employed by or receiving gifts from an elected official for one year after their service. The proposal would also prohibit Commissioners from running for City or OUSD office for two years (one election cycle) after leaving the Commission. This restriction, which is fairly common among ethics commissions, prevents a situation where a Commissioner may vote to fine an elected official and shortly thereafter leave the Commission to run against that official, which could undermine public confidence in that adjudication.

One area where the proposal would *relax* restrictions is by permitting Commissioners to advocate for or against ballot measures affecting the PEC, which is the rule in San Diego. This would permit Commissioners, who are particularly knowledgeable about the Commission's structure and laws, to share this perspective with the public. Commissioners are generally prohibited from advocating for or against measures because the Commission may have to adjudicate whether a ballot measure committee has violated the City's campaign finance laws; however, for measures affecting the PEC,

the Commission’s practice is already to refer such complaint to other agencies, like another local ethics commission, to avoid the appearance of bias.

Other Jurisdictions -- During & Post-Service Restrictions

	During Service Only	During & Post-Service	Citation
Oakland	Cannot: - Seek election to public office in a jurisdiction intersecting with Oakland - Participate or contribute in an Oakland municipal campaign - Endorse or work on behalf of candidate/measure in Oakland election	<i>During & 1 year post, cannot:</i> - Be employed or contract with the City - Be a registered lobbyist or employed by/receive gifts from a registered lobbyist	C s603(e)
Oakland Redistricting Commission		<i>During & 10 years post:</i> hold elective office for City <i>During & 4 years post:</i> - hold appointive City or OUSD office - serve as paid staff/consultant to Councilmember or OUSD member - Receive a no bid City contract - Register as a City lobbyist	C s220(D)(4)
FPPC	Cannot: - Hold or seek election to public office - Serve as an officer of any political party or partisan organization - Participate in or contribute to an election campaign - Employ or be employed as a lobbyist -Receive a gift over \$10/month	None specified	GC s83105, 83117.5
Los Angeles	- Hold public office - Participate or contribute to a City or School Board campaign - Participate or contribute to a councilmember or school board member running for another office - Employ or be employed as a lobbyist	-Cannot run for City or School Board office unless it is 2 years past the end of their term	C. s700(d)
San Diego	Cannot: - make a financial contribution to candidate for City office - participate in a campaign supporting or opposing a candidate for City office - participate in a campaign supporting or opposing a City ballot measure (except one affecting the Commission) - become a candidate for elective governmental office - become a City lobbyist	- For 12 months, can't be a candidate for elective governmental office	MC s 26.0406

<p>San Francisco</p>	<p>Cannot:</p> <ul style="list-style-type: none"> - Hold any other City or County office or be an officer of a political party - Be a registered lobbyist, campaign consultant, or be employed by or receive gifts/compensation from same - Hold employment with the City - Participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure, or a City officer running for any elective office 	<p>None</p>	<p>C s15.100 C s15.101</p>
<p>Sacramento</p>		<p><i>During & 1 year post, cannot:</i></p> <ul style="list-style-type: none"> - Be appointed to a City Commission - Be paid staff/consultant to City elected official - Receive a no bid City contract - Register as a City lobbyist. <p><i>During & 4 years post, cannot:</i></p> <ul style="list-style-type: none"> - Hold City elected office 	<p>MC s2.112.040 (B)(3)&(4))</p>
<p>Orange County</p>	<p>May not:</p> <ul style="list-style-type: none"> - Hold an elected or appointed position - Work for an elected/appointed officer - Work for an elected official appointee - Be a public employee of a body that is appointed by an elected official - Participate in or publicly support or oppose a candidate - Hire anyone working as a lobbyist - Have been convicted of a felony or misdemeanor involving dishonesty or election law - Provide services to candidates/elected officials within Orange - Engage in public affairs or legislative liaison services for employers doing business within Orange 	<p>None</p>	<p>CO s 1-2-354</p>

7. Ethics Commission Vacancy

Current law: Vacancies not filled by the Mayor, City Attorney, or City Auditor within 90 days **may** be filled by the City Council.

Subcommittee recommendation: To avoid long vacancies which could disrupt the effectiveness of the PEC, if a Commission vacancy has not been filled within 120 days by the appointing Citywide official, the responsibility for filling the vacancy should transfer to the PEC.

Rationale: The PEC can only function if a quorum of its members attend a Commission meeting. Extended vacancies may impact the Commission’s ability to adjudicate cases or adopt policies. Currently, the PEC has had one vacancy for over one year and had to cancel one meeting last year for

lack of a quorum. Other ethics commissions, like Los Angeles's in 2023, have been legally unable to meet for months because the number of appointed commissioners fell below quorum.

Oakland's Charter attempts to prevent this situation by authorizing the City Council to fill a PEC seat appointed by a citywide official that has been vacant for more than 90 days; however, for the Council to exercise this option it would in effect be "taking" an appointment away from a citywide elected official, which is politically sensitive, and would likely only be done if the Council and citywide official were at odds. This proposal would provide citywide officials with more time to fill a vacancy, but a stricter remedy if that deadline is missed.

8. Ballot Referral

Current law: The PEC may recommend to the City Council changes to the laws the PEC administers or enforces.

Subcommittee proposal: The PEC should have the authority, by supermajority vote, to refer ordinances relating to its subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration.

Rationale: An important responsibility of most local ethics commissions is to periodically review and recommend improvements to the laws the commission enforces or administers to promote more honest and accountable government. Traditionally, an ethics commission, as is the case with Oakland's Ethics Commission, would only provide a recommendation for the city council's consideration. However, increasingly, academics and good government reformers have advocated that ethics commissions be authorized to place measures on the ballot by supermajority vote, in recognition of the fact that elected officials may have a conflict or appearance of a conflict in enacting or rejecting laws that directly regulate their conduct. For example, the Los Angeles Good Governance Project, which is a consortium of university research centers at UCLA, USC, Loyola Marymount, Pomona, CSU Northridge, and CSU Los Angeles, recently included this [recommendation](#) in its package of proposed ethics reforms for Los Angeles. Project authors explained in a [press conference](#) that, "for ethics matters in particular, the City Council is an interested party, so we would recommend that the Ethics Commission have the option ... to place measures directly on the ballot." Good government organizations, like nonprofit California Common Cause, have also advocated this reform as a best practice for ethics commissions, and the LA Ethics Commission has also sought this authority.

Currently, the San Francisco Ethics Commission is the only California commission to have this power, which it has used to propose limited reforms that were fairly uncontroversial with voters. Under San Francisco's City Charter, Commissioners may only place a measure on the ballot by a 4/5 vote. From 2013 to 2023, the Commission placed two measures on the ballot, accounting for less than 2% of all San Francisco ballot measures in that time period. Each measure responded to a local corruption scandal and was approved by large margins: Proposition C (2015) required additional lobbying reporting and passed with 75% of the vote and Proposition T (2016) restricted gifts from lobbyists to officials and passed with 87% of the vote. The Commission has placed a measure on the March 2024 ballot, Proposition D, which adds restrictions on gift-giving to City officials in response to another recent corruption scandal.

III. Align the Charter with the PEC's New Mission

These recommendations seek to align Section 603 with new responsibilities the PEC has taken on, principally of implementing Measure W, but also aligning the PEC's new salary-setting responsibilities for City elected officials with the Commission's best practice recommendation for setting the Mayor's salary.

9. Commission Mission

Current law: The City Charter defines the PEC's primary roles as being the (1) "enforcement of laws, ... intended to assure fairness, openness, honesty and integrity in City government," (2) education on such laws, and (3) "impartial and effective administration" of its programs. The Charter further enumerates a number of specific duties of the Commission, including different laws the Commission enforces.

Subcommittee proposal: To better align the Charter with the PEC's expanded role under Measure W, the Charter should be amended to:

- A. Add that one of the PEC's roles is to promote more inclusive, representative, and accountable democracy in Oakland; and
- B. Include the administration of the Democracy Dollars Program, including the creation of an impartial voter guide to assist voters in assigning their vouchers, as one of the PEC's enumerated duties.

Rationale: The PEC has traditionally been primarily an enforcement and government watchdog agency. However, with the passage of Measure W, the Commission's role expanded to administering a public financing that's stated goal is to promote a more inclusive and participatory democracy. This goal should inform how the PEC approaches its work and should be added to the PEC's enumerated core roles and responsibilities. Administering the Democracy Dollars Program, and adopting and administering policies that facilitate the implementation of this Program, such as creating a voter guide to assist voters in assigning their vouchers, should also be expressly added to the Charter.

10. Elected Official Salary-Setting

Current law: The PEC adjusts the City Council's salary every two years to account for inflation and adjusts the City Attorney and City Auditor's salary every year to provide for competitive compensation and equitable alignment.

Subcommittee proposal: To align the PEC's existing salary-setting process with the recommendations the Commission made for setting the Mayor's salary, the PEC, in its discretion, should have the authority to waive or reduce a salary increase for the City Council, City Attorney, or City Auditor if either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) if General Purpose Fund revenue for the current fiscal year is projected to decline.

Rationale: As explained in the staff report on options for adjusting the Mayor's salary for the PEC's December 2023 meeting, in years where the City is facing significant financial hardship, it may be inappropriate or controversial to award elected officials a large pay increase when the City is financially

struggling. This proposal, which the Commission endorsed for setting the Mayor's salary, would permit the PEC to waive or reduce a salary increase but only if an objectively-determined precondition is met, which is that a financial urgency exists.

SUMMARY OF PROPOSALS

For ease of reference, the proposals discussed above are re-listed here:

1. Executive Director Selection: The Commission should directly appoint the Commission's Executive Director.
2. Commission Enforcement Staffing: The PEC's minimum staffing should provide two *additional* non-administrative enforcement staff, which could include an investigator, auditor, or staff attorney.
3. Measure W Funding: The Charter should provide that the PEC's minimum staffing and budget for the Democracy Dollars Program may only be reduced in the same general proportion as any general budget reduction.
4. Legal Capacity: The Charter should specify that:
 - A. The Enforcement Chief is required to be an attorney.
 - B. The PEC may hire legal staff, including outside counsel in its discretion, to provide legal services relating to the laws the PEC administers or enforces, or when the PEC determines there is an actual or perceived conflict in the City Attorney representing the Commission.
 - C. The City Attorney provides legal advice and assistance to the Commission.
5. Commissioner Qualifications: In addition to existing Commissioner qualifications, the Charter should prohibit the appointment of an applicant who, at any point in the two years prior to the start of their term on the Commission, was:
 - A. an elected official, or the partner or spouse of an elected official;
 - B. a candidate for City or OUSD office;
 - C. a paid staffer or paid consultant to a City or OUSD campaign;
 - D. an officer or employee of a political party political party; or
 - E. a substantial local campaign donor, defined as someone who has contributed in the aggregate more than two times the City contribution limits (2 x \$600 in 2024) to candidates for a City or OUSD office or to a campaign committee making independent expenditures in City or OUSD campaigns.
6. Commissioner During & Post-Service Restrictions: In addition to existing during and post-service restrictions, add:
 - A. *During-service restrictions*: While serving on the Commission, Commissioners may not:
 - i. Contribute or participate in an OUSD campaign
 - ii. Serve as an officer or employee of a political party
 - B. *During and post-service restrictions*: Commissioners may not:
 - i. Run for City or School Office while serving on the Commission and for 2 years after their term ends.

- ii. Be a paid staffer or paid consultant to a City or School elected official, or receive gifts from the same officials, while serving on the Commission and for 1 year after their term ends.
- C. *Exception:* Commissioners should be able to advocate in support or opposition to ballot measures that affect the PEC or the laws it enforces.

7. Ethics Commission Vacancy: If a Commission vacancy has not been filled within 120 days by the appointing Citywide official, the responsibility for filling the vacancy should transfer to the PEC.

8. Ballot Referral: The PEC should have the authority, by supermajority vote, to refer ordinances relating to the subject matter jurisdiction (campaign finance, government ethics, lobbying, and transparency) to the ballot for voter consideration.

9. Commission Mission: Amend the Charter to:

- A. Add that one of the PEC's roles is to promote more inclusive, representative, and accountable democracy in Oakland; and
- B. Include the administration of the Democracy Dollars Program, including the creation of an impartial voter guide to assist voters in assigning their vouchers, as one of the PEC's enumerated duties.

10. Elected Official Salary-Setting: The PEC, in its discretion, should have the authority to waive or reduce a salary increase for the City Council, City Attorney, or City Auditor if either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) if the GPF revenue for the current fiscal year is projected to decline.

CHARTER AMENDMENT PROCESS

Charter amendments require approval by a majority of Oakland voters to go into effect. There are only two ways for a charter amendment to make it to the ballot: the City Council may place a measure on the ballot or Oakland voters, through the local initiative process, may collect sufficient signatures to place a measure on the ballot. Prior amendments to the PEC's scope and responsibilities have been placed on the ballot by the City Council. To make the November 2024 ballot, the City Council would likely need to vote to place a measure on the ballot no later than August 2024. The Council is already likely to consider a proposal later this year to amend the City Charter to move the responsibility for setting the Mayor's salary from the City Council to the PEC.

SUBCOMMITTEE AND STAFF RECOMMENDATION

The Subcommittee and Staff recommend that the Commission vote to direct staff to draft potential language for a charter amendment, consistent with these recommendations, and to bring them back to the Commission at a future meeting. The Subcommittee is also still considering other changes to the City Charter and may bring those recommendations back to the full Commission at that time as well.

Attachment: Oakland City Charter Section 603 and Oakland Municipal Code Chapter 2.24.

Item 14A - Charter Review Subcommittee

Minutes

Charter Review Ad Hoc Subcommittee

(ad hoc, created December 13, 2023)

Members: Ryan Micik (Chair), Karun Tilak

December 6, 2024 Minutes

Attendees – Members: Commissioners Micik, Tilak

Attendees – Staff: Director Nicolas Heidorn

Discussion

1. Commissioners discussed the lessons learned from the process of proposing a charter amendment.
2. Commissioners discussed the Chair Micik producing a Closure Memo to memorialize the work of the Commission. It would include:
 - a. A discussion of reforms that could still be adopted (ie that were not included in Measure OO) and recommendations on the process of proposing charter reforms
 - b. To memorialize the Commission's work, and make it available for future reform efforts, the memo should include as attachments:
 - i. A chart showing current law (as adopted by Measure OO) vs what remains unenacted of what the PEC had produced – **NH to work on chart**
 - ii. The PEC's staff reports explaining its reform proposals
 - iii. The draft language the PEC produced
 - c. The Chair's Closure memo and materials would be posted on the PEC's website