



Public Ethics Commission Role and Authority

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City Charter – Creates PEC

Public Ethics Commission = created by City Charter to ensure compliance with City laws and policies seeking fairness, openness, honesty and integrity in City government, including the following:

- Oakland's Campaign Finance Reform Ord.
- Conflict of Interest Code
- Code of Ethics
- Brown Act/PRA supplement (Sunshine Ordinance)

(City Charter, Sec. 202)

City Charter – PEC Powers

"The City [Council] shall by ordinance prescribe the function, duties, powers, jurisdiction and the terms of members of the Commission..."

(City Charter, Sec. 202)

City Ordinance – Outlines Duties

Per Ordinance, PEC duties include: (OMC 2.24.020)

- Oversee compliance with the laws mentioned above (and Lobbyist Registration, False Endorsement...)
- Review policies/programs re: elections/campaigns
- Recommend amendments to law to City Council
- Set and adjust compensation for City Councilmember
- Assess PEC staff and budget needs, report to City Council
- Recommend imposition of fees to enforce local ordinances
- Recommend additional penalty provisions to City Council
- Issue advice and written opinions
- Prescribe forms, conduct trainings

City Ordinance – Grants Authority

To further the duties listed above, the Public Ethics Commission is authorized to:

1. Conduct investigations
2. Perform audits
3. Hold public hearings
4. Issue subpoenas to compel papers or testimony
5. Impose penalties and fines as provided for by ordinance

(OMC 2.24.030)

Penalties by Ordinance – Oakland Campaign Reform Act

OCRA: Regulates local campaign activities and imposes contribution and expenditure limits, expenditure ceilings, campaign finance disclosure requirements, and contractor contribution restrictions

Penalties:

- Criminal – DA or City Attorney may prosecute
- Civil – PEC may fine up to 3 times the amount of the unlawful contribution or expenditure
- Injunctive relief – PEC can sue to compel compliance

Sunshine Ordinance

Oakland Sunshine Ordinance: Reiterates the California Ralph M. Brown Act (open meetings) and CA Public Records Act and adds stricter requirements for open meetings and public records access

Penalties: No criminal or civil penalties, however:

- PEC can require “Cure and Correct” procedure for open meeting violation
- PEC can mediate between a complainant and respondent on a public records issue

Limited Public Financing Act

LPFA: Provides a limited amount of funding to a District City Council candidate for certain campaign expenditures

Penalties: apply to program participants only

- Criminal – DA or City Attorney may prosecute
- Civil – PEC can issue fines of up to \$1000 per violation

Lobbyist Registration

Lobbyist Registration Act: Requires professional lobbyists to register with the City before attempting to influence local government action and to file quarterly activity reports

Penalties:

- Criminal – DA or City Attorney may prosecute
- Civil – PEC may impose fines up to \$1000 per violation, may also bar lobbyist from lobbying

Conflicts of Interest

Conflict of Interest Code/Ordinance: sets forth the list of positions required to file a Form 700 – Statement of Economic Interests

Penalties: None

- PEC has no penalty authority, may refer to FPPC

False Endorsement in Campaign Literature

False Endorsement in Campaign Literature:
restricts a person from distributing campaign literature that contains a false endorsement

Penalties:

- Criminal – PEC may forward complaints to DA
- PEC has no penalty authority

Code of Conduct – City Council

- City Council Rules of Procedure includes a Code of Conduct to guide Councilmember behavior (Resolution 82580)
- Examples:
 1. Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties.
 2. Represent and work for the common good of the City and not for any private interest.
 3. Refrain from accepting gifts or favors or promises of future benefits which might compromise or tend to impair independence of judgment or action.
 4. Provide fair and equal treatment for all persons and matters coming before the Council
- Enforced by City Council censure
- PEC has no penalty authority, though this code is mentioned in City Charter



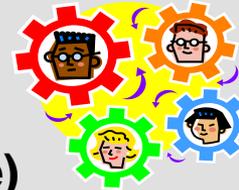
PEC has no authority over...

PEC has no authority to issue penalties for:

- Violations of City Charter section 218
 - (City Council Non-Interference in Admin Affairs)
- Violation of government ethics policies or laws such as the following:
 - Use of public funds/position for personal gain or campaign purposes
 - Gifts, Conflicts of interest
 - Economic interest disclosure (Form 700 violations)
 - Incompatible employment/activities
 - Soliciting political contributions by public officials
 - Competitive bidding on contracts

Achieving our Ethics Goals Depends on 3 P's:

People
(Staff/Leadership/
Culture/Knowledge)



Paper
(Laws/Policies)



Process
(System/Structure/Ops)





Paper – Laws/Policies

Campaign Finance

OCRA
Limited PEC penalties

Limited Public Financing Act
Penalties for participants

Transparency

Sunshine Ordinance
No PEC penalties

Lobbyist Registration Act
Penalties for lobbyists

Ethics

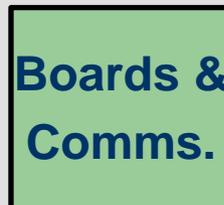
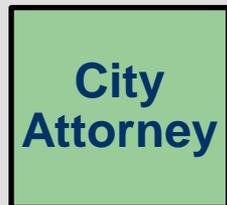
Conflict of Interest Code
No PEC penalties

Code of Ethics
No PEC penalties (no ordinance)

Process – Structure



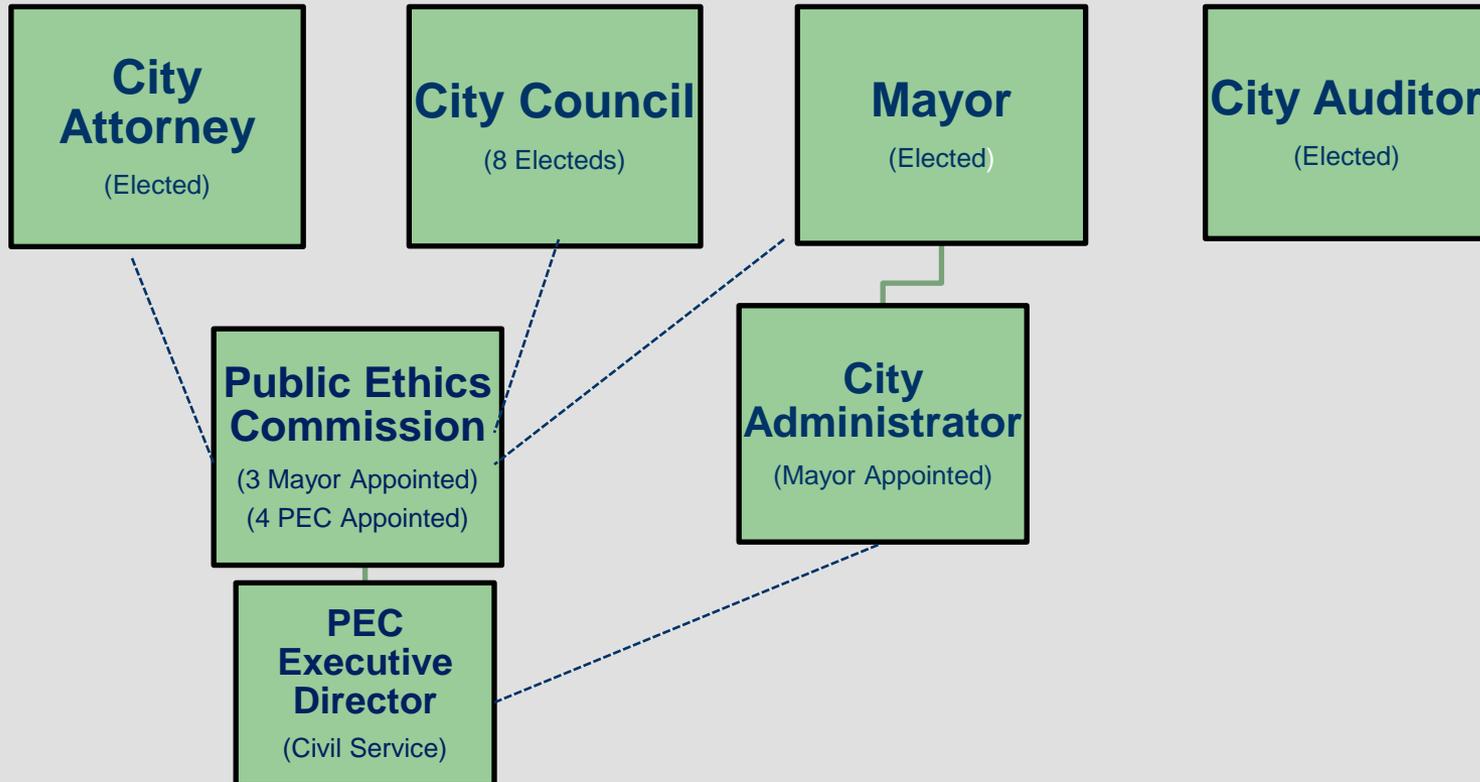
PEC oversees compliance... by the City of Oakland, its elected officials, officers, employees, boards and commissions.



...with regard to compliance with City laws and policies intended to assure fairness, openness, honesty, and integrity in City government.



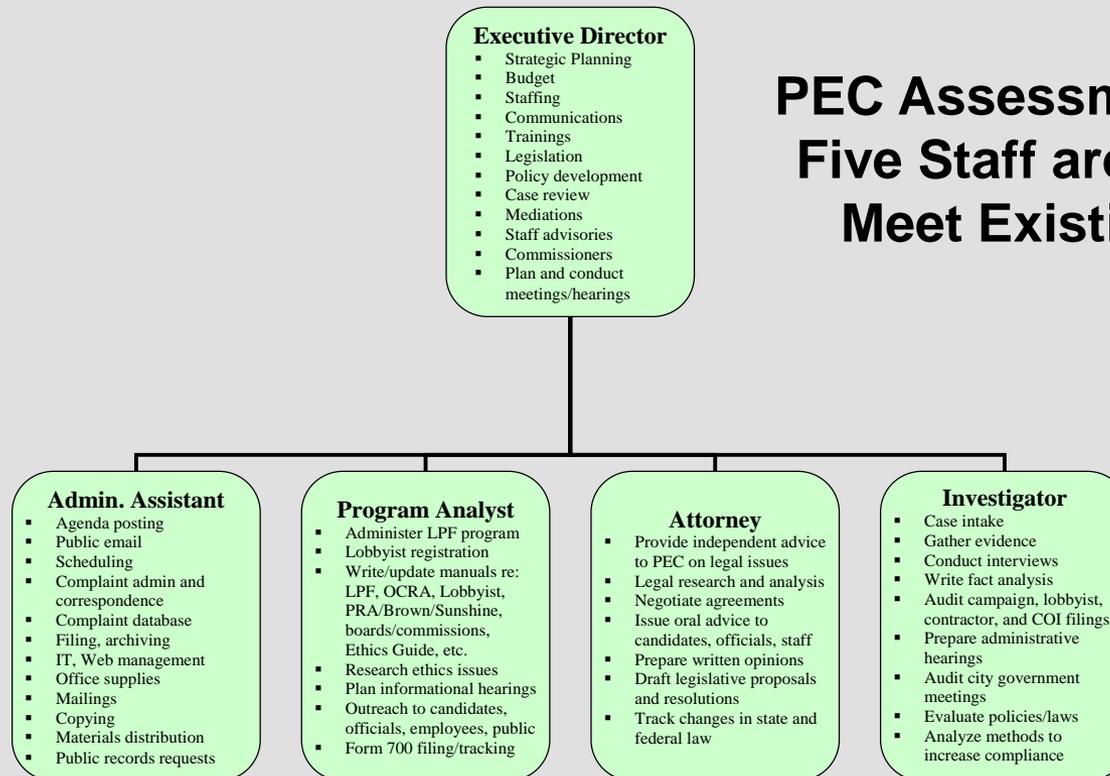
Current Structure

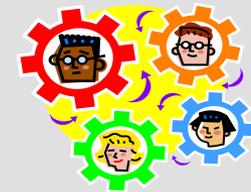




People – Staffing

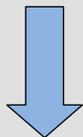
PEC Assessment in 2012: Five Staff are Needed to Meet Existing Needs





2013 Budgeted Staffing

One Program Analyst (FTE) position was added in the 2013-14 Budget passed by City Council in June 2013.

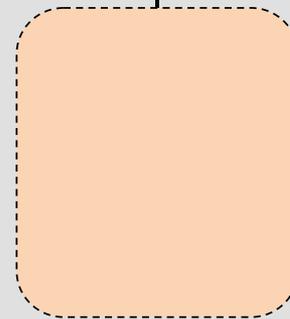
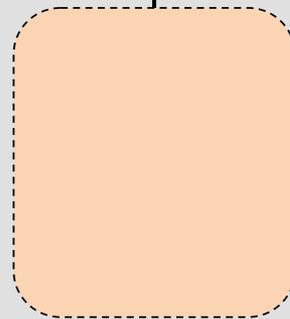
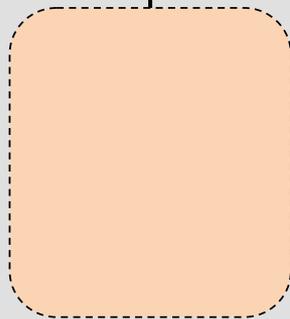


Executive Director

- Strategic Planning, Budget, Staffing
- Communications
- Plan meetings/hearings
- Commissioner liaison
- Lead projects to increase compliance with laws
- Legal research/analysis
- Education/advice to candidates/officials/staff
- Evaluate policies, systems
- Investigate complaints
- Leg/policy development

Program Analyst

- Administer LPF program
- Lobbyist registration
- Update educational materials
- Conduct research
- IT, Web, Social media, Outreach
- Agenda posting
- Complaint administration and correspondence
- Public assistance
- Administrative duties
- Special Projects
- Assist in investigations



How to Enhance PEC Authority and Effectiveness

1. What **penalties** are appropriate?
2. What kind of **independence** should the PEC have?
3. What should the **substantive laws** require and which laws should PEC oversee?
4. What PEC **staffing** is necessary?

Penalty Options to Consider

1. Resignation, Compensatory Action, Apology
2. PEC Advisory Letter
3. PEC Warning Letter
4. Disciplinary Action – reprimand, suspension, removal from position
5. Administrative Fine
6. Civil Forfeiture
7. Debarment from contracting in the future
8. Remedial Action
9. Public Censure
10. Removal for Official Misconduct
11. Other penalties?

How to Proceed

Staff Recommendation: Discuss conceptual changes now, return in September with a specific proposal and recommendation to City Council

Suggested Process:

1. Determine framework/questions to address
2. Brainstorm issues, concepts
3. Prioritize