City of Oakland

Public Ethics Commission

Annual Report 2014

Public Ethics Commission
1 Frank Ogawa Plaza (City Hall), 11th Floor
Oakland, CA 94612
www.oaklandnet.com/pec
ethicscommission@oaklandnet.com
(510) 238-3593

FAIRNESS INTEGRITY HONESTY OPENNESS

CITY OF OAKLAND

A NEW ERA

By the end of 2014, the Public Ethics Commission (PEC or Commission) was legislatively reshaped to accomplish the goals for which the Commission was originally designed: fairness, openness, honesty and integrity in City government. With the passage of Measure CC by Oakland voters overwhelmingly on November 4, 2014, the Oakland City Charter was amended to augment the authority, independence, and staffing of the Commission. In addition, on December 10, 2014, City Council unanimously approved the Commission's proposed Government Ethics Act to ensure education and enforcement of government ethics rules in and around City Hall. These two monumental changes require the PEC, in the first half of 2015, to enhance its presence, accessibility, and capacity, the success of which could propel the City forward in this new era of government integrity in Oakland.

While the Commission invested a good deal of its energy into the above legislative changes in 2014, it also focused heavily during this election year on ensuring compliance with campaign finance rules by all candidates for City elective office. Also in 2014, the PEC distributed a record $143,368 in public funds to eligible City Council district candidates in November 2014, and it received a positive audit of the Commission's disbursement of public financing in 2012.

On the enforcement front, the Commission received a near-record 29 complaints in 2014, 8 of which were initiated by the PEC proactively; the PEC also increased both the number of case closures and fines imposed by the Commission during the same time. However, it was not able to keep pace with incoming complaints. This reflects a structural problem, evident even before the Commission went without staff in 2011-12, that will be addressed by the 2014 Charter Amendment, including funding for new staff positions.

Another highlight: the Commission partnered with civic volunteer organization OpenOakland to create Open Disclosure, an online application that displays campaign finance data in a simplified and interactive manner for the public. Open Disclosure launched officially in September 2014, showing data for mayoral candidates, and received national attention for its visualization and searchability of campaign finance information.

While the Commission's new framework promises to enhance the Commission's ability to fulfill its intended purposes, more legislative work is needed to bolster the legal rules as well as the Commission's enforcement authority under the Oakland Campaign Reform Act, Sunshine Ordinance, and Lobbyist Registration Act. And although the Commission does not receive its new staff positions until after July 1, 2015, Commission staff already are educating staff and officials about new Government Ethics Act to ensure that City public servants understand and can comply with the new ordinance. The first part of 2015 will be devoted to implementing both the new Government Ethics Act and City Charter amendment provisions and staff augmentations. Meanwhile, 2014 will go down in history as the year of legislative sea-change that led to the tripling of the Commission's authority and capacity to ensure integrity in City government. This report summarizes these and other Commission accomplishments and challenges in 2014.

EXPANDING PEC AUTHORITY AND DESIGN

The Public Ethics Commission (PEC or Commission) was created in 1996 to ensure fairness, openness, honesty and integrity in City government. In reality, the PEC's work is governed by local ordinances which are designed around three key areas: campaign finance, transparency, and ethics. The Commission's ability to do its work rests heavily on the provisions outlined in each relevant ordinance, listed as follows:

- Oakland's Campaign Reform Act (OCRA)
- Oakland Sunshine Ordinance (Open Meetings and Public Records)
- Limited Public Financing Act
- Lobbyist Registration Act
- Oakland's False Endorsement in Campaign Literature Act
- Government Ethics Act (NEW!)
- Conflict of Interest Code (PEC now charged with enforcement authority)

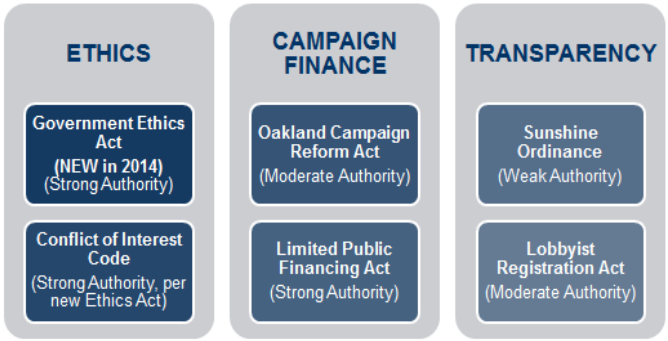
Heading into 2014, the Commission had no authority to enforce government ethics laws, given the absence of a local ethics ordinance that gives the PEC penalty authority. The Commission acknowledged that it had long been ill-equipped to address the full range of enforcement cases that came in due to lack of staffing and authority overall, so it prioritized this issue for 2014.

The Commission created a subcommittee to **draft a new Government Ethics Act** to consolidate state and local ethics laws into one ordinance for the Public Ethics Commission to provide education and enforcement. The Commission partnered with the City Attorney's office and the Ethics and Good Government Working group led by Councilmember Dan Kalb, and it further refined and approved the ordinance in September 2014 before handing it over to Councilmember Dan Kalb to submit to City Council. City Council **approved the ordinance** unanimously at its meeting on December 10, 2014, and **the new Government Ethics Act became effective immediately.**

Throughout 2014, the Commission partnered with Councilmember Dan Kalb in his effort to **amend the Oakland City Charter to enhance the PEC's operational framework** so that it has the authority, independence, structure, and staffing necessary for a modern-day government ethics commission. The Charter Amendment was passed unanimously by City Council and placed on the November 2014 ballot as Measure CC, which ultimately passed with 74% support.

Under the newly amended City Charter, the Commission's staffing will triple, from two staff positions to a total of six positions mandated by the Charter beginning in July 2015. Most of the changes and tasks of the new City Charter section 603 are effective January 1, 2015; however, the Commission continues to be supported by only two staff and one part-time worker until July 2015. This means that some of the changes that are effective in January may not actually occur until later, when and after the Commission has the new, additional staff in place.

Going forward, the Commission still needs to propose amendments to the legal rules and refine its authority in the other two categories: campaign finance and transparency, in order to keep up with modern advancements in the City as well as state and national law and technology. The graphic to the right reflects the Commission's core subject matter areas and the level of enforcement authority that each ordinance provides the Commission.

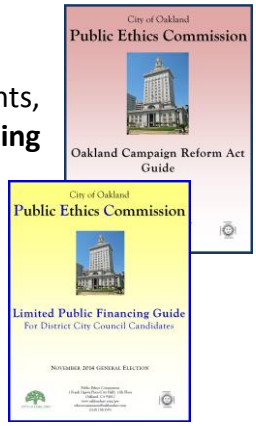


Beyond the legal and operational framework, the Commission conducted a variety of activities under its authority and jurisdiction available in 2014 to foster transparency, promote open government, and ensure compliance with campaign finance, transparency, and ethics laws. The Commission's comprehensive approach on these issues emphasizes **prevention, enforcement, and collaboration.**

PREVENTION

Prevention activities consist of education, outreach, and online information to help Commission clients comply with government integrity laws. Commission clients include candidates for local elective office, elected officials, public officials, City staff, lobbyists, people doing business with Oakland, City residents, businesses, and organizations.

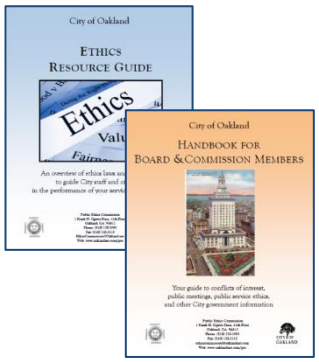
EDUCATION AND ADVICE



To assist candidates in meeting state and local campaign reporting requirements, the Commission provided early **outreach and resources for candidates running for office in 2014**. In addition, Commission staff contacted City Council District candidates directly to share information about the Limited Public Financing Program and the **availability of public funds to assist with their campaigns**. Commission staff conducted trainings on the Limited Public Financing Program rules and requirements and worked with candidates to maximize participation.

In 2014, Commission staff responded to approximately 75-80 **advice requests** regarding campaign finance, conflicts of interest, and lobbyist registration laws. PEC staff issued **advisories to City staff** regarding ethics rules such as the improper use of public funds for campaign purposes as well as gift limits and reporting requirements for gifts received by staff. Commission staff also **consulted with City officials on issues** including City Council non-interference in City administration, use of public funds for campaign or personal purposes, electronic filing of campaign statements, gift limits and reporting requirements, and officeholder account rules and restrictions.

COMMUNICATIONS



The Commission **updated and distributed its Guide to the Oakland Campaign Reform Act** and its **Limited Public Financing Program Guide** for candidates running for City elective office. In addition, the Commission continues to offer the following publications:

- A Guide to Lobbyist Registration
- Ethics Resource Guide
- Handbook for Board and Commission Members

Commission staff continued to **update the Commission's website** to provide information to Commission clients, especially candidates running for office in 2014. To enhance access to PEC meetings, Commission staff **redesigned its meeting information webpage** to utilize the City's Granicus platform that integrates meeting agendas and video in one place so that **meeting videos are accessible online and immediately** to the public.

2014 Commission Monthly Meeting Schedule

Upcoming Events

Date	Name
February 02, 2015 - 06:30 PM	Public Ethics Commission Regular Meeting

Search Archives:
Enter Keywords here Search

Public Ethics Commission Meetings

Date	Name	Duration				
Jan 5, 2015	Public Ethics Commission Regular Meeting	03h 03m	Agenda		Video	MP4
Dec 1, 2014	Public Ethics Commission Regular Meeting	01h 10m	Agenda	Draft Minutes	Video	MP4
Nov 3, 2014	Public Ethics Commission Regular Meeting	02h 02m	Agenda	Minutes	Video	MP4
Oct 6, 2014	Public Ethics Commission Regular Meeting	00h 33m	Agenda	Minutes	Video	MP4
Sep 2, 2014	Public Ethics Commission Regular Meeting	02h 35m	Agenda	Minutes	Video	MP4

The PEC **created a blog in March 2014** to share news and information about the Commission's work, and staff have continued to utilize social media platforms initiated in 2013 in order to enhance the PEC's communications capability. The PEC now has roughly **423 Twitter followers** and **37 likes on Facebook**.

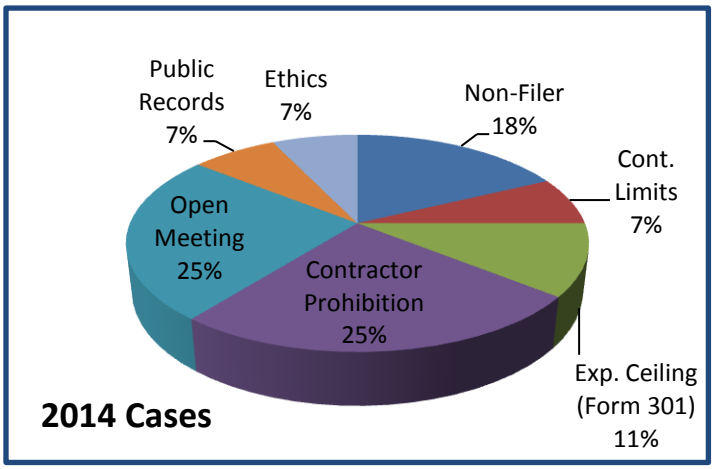
Individual unique **visits to the homepage of the PEC's website during 2014 increased** from 2012, with 2,752 unique page-views in 2014, up from 2,608 in 2012 (another election year).

ENFORCEMENT

The Public Ethics Commission conducts investigations, performs audits, holds public hearings, issues subpoenas, and imposes fines and penalties as provided for by ordinance. City ordinances give the Commission the authority to issue penalties for selected campaign finance violations, lobbyist registration requirements, false endorsements in campaign literature, and limited ability to mediate and require "cure and correction" for violations of public records and open meetings laws respectively. In 2014, the PEC had no authority to enforce violations of ethics laws, yet that changed under the new Government Ethics Laws to be enforced in 2015. Given the Commission's lack of penalty authority in some of these areas, the PEC deploys additional, alternative strategies to achieve compliance, such as sharing information publicly, ensuring effective disclosure of campaign finance and lobbyist information, and referring issues to other enforcement entities where appropriate.

COMPLAINTS

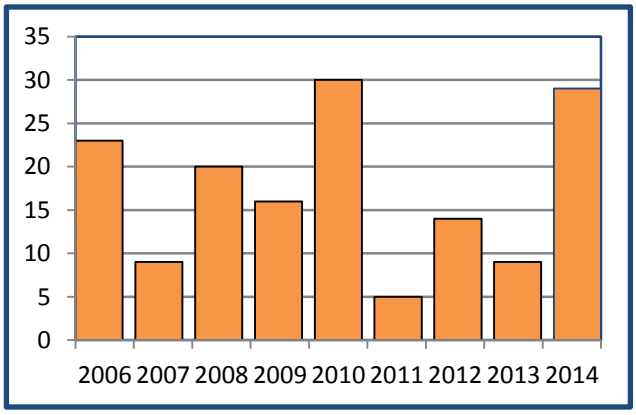
The Commission received a total of **29 complaints in 2014** alleging violations of campaign finance, conflicts of interest, open meetings, public records, and other ethics-related laws; 8 of the 29 complaints processed in 2014 were PEC-initiated. The graphic to the right shows the types of complaints that were received or initiated by the PEC in 2014.



The number of complaints received in 2014 is a significant increase from a total of 9 complaints in 2013, 14 complaints in 2012, and 5 complaints in 2011. See the graphic below for a summary of the number of complaints received per year.

The PEC **ended 2014 with a total of 31 open cases**, 22 of which were opened in 2014. The Commission closed a total of 20 cases in 2014, 8 of which were PEC-initiated. The remaining 15 cases were filed in 2012 or earlier, including 5 cases that were filed in 2012, 2 cases in 2011, 6 in 2010 and 2 in 2009.

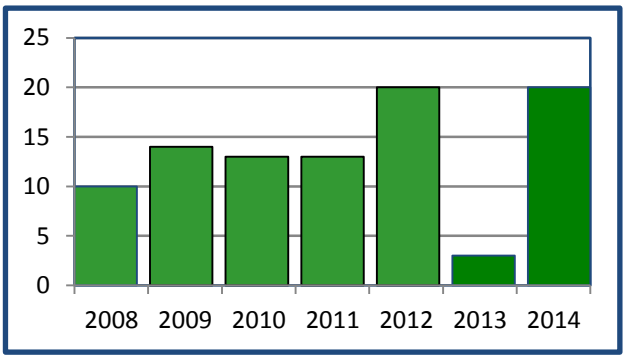
Complaints Received per Year



BACKLOG OF COMPLAINTS

In May 2012, when the Commission began meeting again after a one-year hiatus, there were 22 cases pending review, 12 of which were received in 2010 or earlier. Of the total 22 cases that existed when the Commission began to rebuild, 13 have been resolved. That leaves 9 cases on the docket of 31 cases as of December 31, 2014, that are deemed "backlogged."

Complaints Closed per Year



The Commission **addressed much of the backlog of cases** regularly this past year, while also **prioritizing campaign finance cases** in light of the election in November 2014. This has caused newer complaints regarding Sunshine Ordinance violations (open meetings and public records) to remain on the docket far longer than they should. Overall, despite an increase in both case closures and fines imposed by the Commission this year, the Commission **has not been able to keep pace with incoming**

complaints. This is due to the PEC's lack of adequate resources and capacity, two issues addressed by the new Charter Amendment.

With 4 new positions on the horizon to begin July 1, 2015, the planned staffing framework **devotes two of the four new positions primarily to enforcement**. A full-time investigator will be able to focus solely on all stages of an investigation and the preparation of the factual analysis for cases which will consist of public complaints as well as PEC-initiated investigations. The PEC will also implement proactive programs aimed at detecting significant crimes such as money laundering. In addition, the Deputy Director's primary role, once hired, will be to lead the Commission's enforcement program.

With these changes, it is the **Commission's goal to resolve any remaining backlogged cases by the end of 2015**, while also attempting to work through more recent cases that are now beginning to get stale. Eventually, once new staff are hired and trained the PEC expects to keep pace with incoming cases and avoid backlogs. However, the Commission's expanded authority under the new Government Ethics Act makes it difficult to predict the number of complaints that will be filed, which will impact the PEC's overall caseload and turnaround time.

ENFORCEMENT INFORMATION ONLINE

The Commission **created an enforcement webpage** to share information about violations found and fines issued by the Commission, as well as information about how to file a complaint. Information about fines also is uploaded to the City's Socrata Open Data Portal for easy accessibility. Information can be found on the enforcement page about **PEC-initiated reviews of campaign committees** that failed to file campaign statements in 2013 and the **fines issued by the PEC against non-filers**.

LOBBYIST ACTIVITY DISCLOSURE

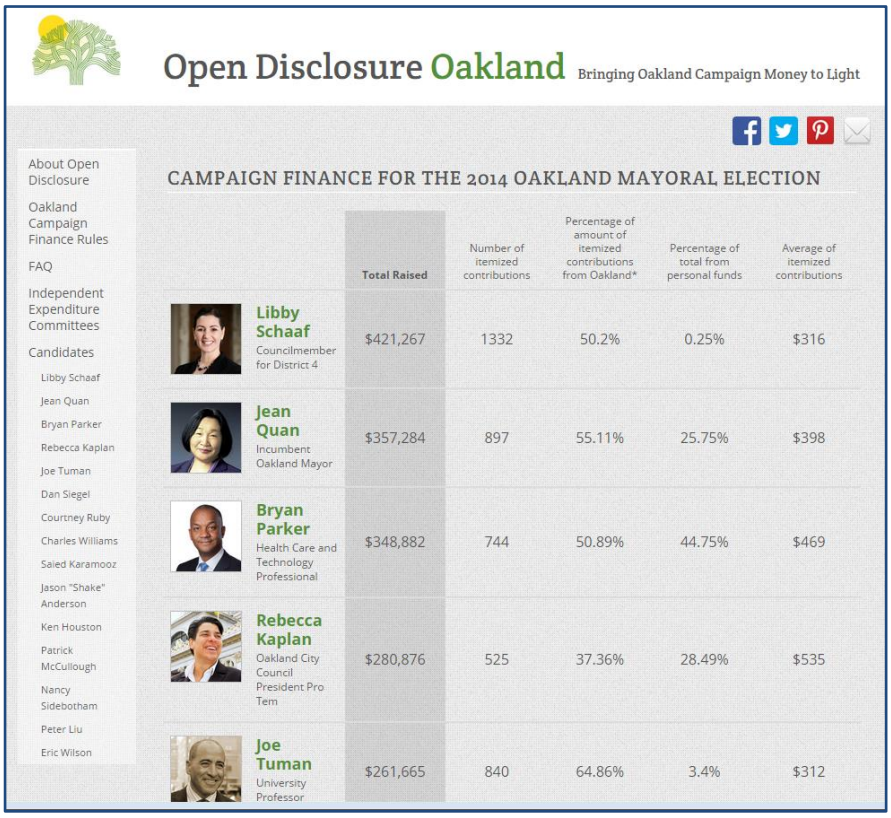
To ensure compliance with the Lobbyist Registration Act and to share information about lobbyist activities, the Commission continues to **publish lobbyist registration and report forms on its website and on the City's Socrata Open Data platform**. In 2014, a total of 60 lobbyists registered and submitted quarterly reports throughout the course of the year. Commission staff maintains an electronic database of all lobbyist activity including the date a report was submitted, lobbyist's clients, the subject of governmental action lobbied upon, and who was lobbied. The Lobbyist Registration Act requires all professional lobbyists to register with the City before attempting to influence a local governmental action on behalf of another person. It also requires paid, professional lobbyists to file initial and quarterly reports with the City Clerk disclosing all lobbyist activities. Commission staff **revised and posted new lobbyist forms for 2015** that will enhance lobbyist data collection by providing information on lobbyist type and amounts of economic consideration received for lobbyist activity in Oakland.

COLLABORATION

The Public Ethics Commission enhances government integrity through collaborative approaches that leverage the efforts of City and community partners working on similar or overlapping initiatives. A collaborative approach recognizes that lasting results in transparency and accountability are achieved not through enforcement alone, but through a comprehensive strategy that aligns all points in the administration of City government – including clear policies and process, effective management and use of staff resources, technology that facilitates the process, and an understanding of staff culture and citizen expectations.

ILLUMINATING CAMPAIGN DATA

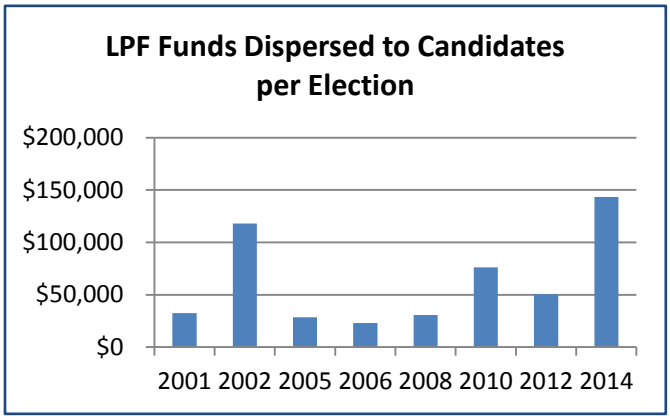
Commission staff partnered closely with OpenOakland on a project to create a website portal that displays a simplified and interactive visualization of Oakland campaign finance data that is submitted by candidates via the City's Netfile system for collecting campaign finance information. The Commission launched the project, **OpenDisclosure**, in September 2014 to share mayoral campaign finance data in time to be a resource during the November 2014 election. From early September to late October, the platform received 5,970 pageviews, which represents the number of times that any page on the site was visited. Of those, 4,290 are unique pageviews, which means each view is from a unique user and not from a device that had previously visited the page. In addition, the online application subsequently received local and national attention, and other Cities expressed interest in re-creating the tool in their jurisdictions.



	Total Raised	Number of itemized contributions	Percentage of amount of itemized contributions from Oakland*	Percentage of total from personal funds	Average of itemized contributions
Libby Schaaf, Councilmember for District 4	$421,267	1332	50.2%	0.25%	$316
Jean Quan, Incumbent Oakland Mayor	$357,284	897	55.11%	25.75%	$398
Bryan Parker, Health Care and Technology Professional	$348,882	744	50.89%	44.75%	$469
Rebecca Kaplan, Oakland City Council President Pro Tem	$280,876	525	37.36%	28.49%	$535
Joe Tuman, University Professor	$261,665	840	64.86%	3.4%	$312

PUBLIC FUNDS FOR CANDIDATES

For the 2014 election, the Commission **administered the Oakland Limited Public Financing program**, in which candidates for City Council seats could apply for and receive public money via reimbursements to assist them in their campaigns. Commission staff **distributed $143,368 in public funds among 8 eligible candidates**. Staff continues to improve collection and tracking processes to ensure candidates can easily navigate through program and that compliance requirements are met. Staff implemented a new phase II process which allowed for a redistribution of funds to candidates which in turn increased the maximum allocation amount available and used by each eligible participant. The number of participants who received public funds and the amount of funds dispersed in 2014 represent record highs for the Limited Public Finance program.



In May 2014, the **City Auditor released an audit report** of the Commission's administration of the Limited Public Financing Program in 2012, stating, "[t]he audit found that all candidates received appropriate reimbursements and met key LPFA requirements, and that PEC staff has implemented an effective process for administering and monitoring the LPFA program."

PUBLIC ENGAGEMENT REVIEW

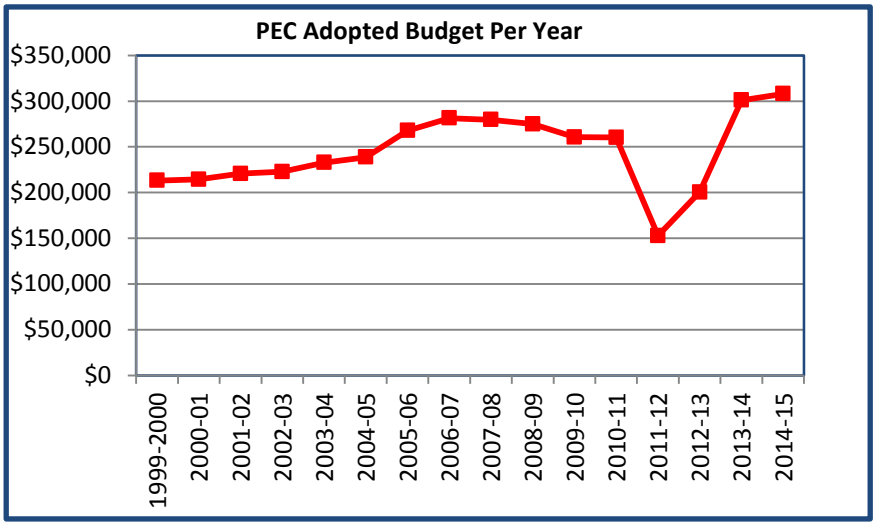
With the help of the U.C. Berkeley Goldman School of Public Policy, the Commission partnered with graduate student Emily Vaughan to conduct a **policy analysis of the public engagement platforms used by the City of Oakland.** This project followed the Commission's Transparency Project in 2013 which resulted in various recommendations that included, among other things, that the City should expand its use of technology to engage citizens in City work. Ms. Vaughan's findings were presented to the Commission and shared with City staff who manage the City's online public engagement.

CITY COUNCIL SALARIES

Pursuant to Measure P, adopted by Oakland voters in 2004, the **Oakland City Charter requires the Public Ethics Commission to annually adjust City Council salaries** by the increase in the consumer price index over the preceding year. In June 2014, the Commission approved a 2.4 percent salary increase – the minimum required by law – for City Council Members, putting the total salary at $81,550.11, effective for FY 2014-15. The newly revised City Charter amends the required adjustment to occur every two years instead of annually so that the Commission's next increase to the salary will not occur until 2016.

PEC BUDGET

The Commission's budget has continued to grow since 2012, thanks to City Council augmentations in recent years. The current budget of roughly $308,000 is the highest amount ever budgeted for the Commission. Below is a summary of the PEC's budget, as adopted, per year.



With the passage of Measure CC, Commission staff is working with budget staff in early 2015 to establish appropriate funding to support the minimum staffing of six positions required by the new City Charter amendment.

2014 COMMISSIONERS

Ben Kimberley, Chair

PEC Appointee 6/11/2012 – 1/21/2015

Ben Kimberley is an attorney at the law firm of Winston & Strawn LLP. Over the last four years, Mr. Kimberley has investigated and litigated a number of cases involving relationships of trust and confidence. He is currently Chair of the White-Collar Crime Subcommittee of the American Bar Association's Litigation Section's Commercial & Business Litigation Committee, and he previously chaired the Ethics Subcommittee and Alternative Dispute Resolution Subcommittee. Mr. Kimberley also previously served on the Executive Board of the Young Lawyers Association and the American Bar Association's Young Lawyers Division ("ABA-YLD"). He was also the ABA-YLD's Northern California District Representative, where he was responsible for coordinating with the Federal Emergency Management Agency to provide legal services to victims of disaster in northern California. Mr. Kimberley has provided pro bono legal service to senior citizens, veterans, and the wrongly incarcerated. He has lived in the Bay Area since 2005.

Mr. Kimberley received a B.A. in Political Science and International Studies from Northwestern University and a J.D. from the University of California, Boalt School of Law.

Monique Rivera

Mayoral Appointee 5/15/2012 – 1/21/2015

Monique Rivera is a community activist and currently manages complex projects for Kaiser Permanente. She is a former business manager for Mustang Engineers & Constructors and has extensive financial and project management experience in the construction industry. Ms. Rivera is active in the Oakland Community Action Program, Big Brothers Big Sisters, the Hispanic Employee Association, and the Hispanic Chamber of Commerce. In addition, she served as the City of Oakland Mayor's Ambassador Coordinator. Ms. Rivera also is a member of the Professional Women in Construction and Construction Management Association of America.

Ms. Rivera earned her undergraduate degree from University of California, Berkeley, in Ethnic Studies and Biology. Currently, she is completing her Masters of Business Administration at Golden Gate University.

Stephen Shefler

PEC Appointee 1/22/2014 - 1/21/2017

Stephen Shefler is a retired attorney. He worked in a variety of legal and administrative positions over the course of his career including Chief Assistant United States Attorney for the Northern District of California, Deputy Assistant Secretary for Policy and International Affairs at the United States Department of Transportation, and counsel on the United States Senate Banking, Housing and Urban Affairs Committee. During more than more twenty years as an attorney in the United States Department of Justice, Mr. Shefler specialized in fraud cases brought on behalf of the United States. He was a pioneer in the development of the False Claims Act. Following his retirement from the Justice Department, Mr. Shefler taught a course on fraud as an adjunct professor at the University of San Francisco.

Mr. Shefler received both his undergraduate degree and law degree from Stanford University.

Sonya Smith

Mayoral Appointee 5/1/2014 - 1/21/2017

Sonya Smith is a 10-plus-year Oakland resident, residing in the Santa Fe neighborhood in North Oakland. She is an attorney for the California Commission on Judicial Performance, which is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges, pursuant to the California Constitution. Her background includes international work on Rule of Law projects through the American Bar Association and other U.S. Agency for International Development-funded organizations. She served as the director of a Rule of Law project in Yerevan, Armenia between 2006 and 2008 and has also participated in Rule of Law projects in Serbia, The Republic of Georgia, and Ecuador. These projects, in collaboration with local counterparts, worked toward the goal of building strong, independent, and transparent legal and political institutions that engender public trust and confidence. Before serving with the American Bar Association's Rule of Law Initiative in Armenia she worked as an attorney for the California Judicial Council/Administrative Office of the Courts. In that capacity, she made policy recommendations and drafted rules of court and legislative proposals relating to the administration of justice and judicial independence.

Ms. Smith received her undergraduate degree from the University of Washington and her law degree from the University of California, Berkeley School of Law.

Eddie Tejeda, Vice-Chair

Mayoral Appointee 1/22/2013 - 1/21/2016

Eddie Tejeda is a self-described civic technologist who has devoted his career to building technologies to help civic institutions become more transparent, ethical, and efficient. Mr. Tejeda recently co-founded OpenOakland, a group of developers, designers, and organizers working to bring innovative solutions to Oakland governance. Serving as a 2012 Code for America fellow in New Orleans, his focus as a fellow was on building tools that encouraged civic participation. His team most recently led a successful collaboration with the City of New Orleans to develop and launch BlightStatus. Previously, Mr. Tejeda co-founded Digress.IT, a paragraph-level commenting system used by local governments and universities around the world. He also lead the development of Regulation Room, a project lead by Cornell University in collaboration with the Department of Transportation, aimed at increasing public participation in federal rule making. Mr. Tejeda worked at the Institute for the Future of the Book, a small publishing think-tank working on innovative publishing projects and developed LittleSis.org, a free database detailing the connections between powerful people and organizations.

Mr. Tejeda earned his B.A. from Hampshire College with a focus on the digital divide and wrote his senior thesis on power efficient microprocessors.

Jenna Whitman

Commission Appointee 1/22/2013 – 1/21/2016

Jenna Whitman is a legal research attorney at the Alameda County Superior Court, where she advises judges on law and motion matters in civil litigation, serving one of the court's two complex litigation departments that handle class actions and other lawsuits requiring exceptional judicial management. Before that, Ms. Whitman represented both corporate clients and class action plaintiffs in a wide variety of complex civil disputes. She has provided pro bono representation to low-income clients, and for three years served on the board of the AIDS Legal Referral Panel, a non-profit legal services organization. While in law school, Ms. Whitman clerked in the U.S. Department of Justice, Criminal Division, Economic Crimes Unit, and participated in the U.S. Department of

Defense, General Counsel's Office Summer Honors Program, where she provided analysis and counsel on issues relating to ethics and conflicts of interest.

Ms. Whitman is a bay area native who earned her undergraduate degree at Yale College, majoring in American Studies, studying Russian, and competing for the varsity swimming squad, and her law degree at Georgetown University Law Center.

Carol Wyatt

Commission Appointee 1/22/2014 - 1/21/2017

Carol Wyatt is a Director of HR and Creative Talent for a highly regarded and recognized SF Bay Area-based advertising/marketing creative communications corporation. Ms. Wyatt devotes her 25+ year people management career to the service of diverse business owners sourcing top-notch creative talent, full-cycle recruiting, corporate compliance and business management. Her work passion connects individuals from all walks of life to share their unique business experiences, professionally and socially, with the goal of designing diverse and inclusive work-life balances. An active participate within her West Oakland community, Ms. Wyatt's community service includes mentoring children and teens to showcase access to their interests, dreams and goals and engaging neighbors and community care partners in identifying creative opportunities that bridge the community, and spark discussions that advocate action toward in-common goals.

Ms. Wyatt received a B.S. in Business Administration from Long Island University, Brookly, NY. Born and raised in Brooklyn, NY and an Oakland resident for 11 years, Ms. Wyatt lives in a restored 100+ year old Victorian in West Oakland.

Public Ethics Commission

At a Glance

Commission Meetings

The Commission meets regularly on the first Monday of every month at 6:30 p.m. and may hold additional meetings as necessary throughout the year. Meetings generally are held in Hearing Room 1 of City Hall.

Commission Office

1 Frank H. Ogawa Plaza (City Hall), 11th Floor
Oakland, CA 94612
phone: (510) 238-3593
fax: (510) 238-3315
email: ethicscommission@oaklandnet.com

Current Commissioners

Jenna Whitman (Chair)
Sonya Smith (Vice-Chair)
Dana King
Stephen Shefler
Eddie Tejeda
Carol Wyatt
(one City Attorney-appointment vacancy)

Commission Staff

Whitney Barazoto, Executive Director
Lauren Angius, Program Analyst
Jelani Killings, Program Analyst (P/T)

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