



Ethics Commission Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2018-01210

August 27, 2018

Discussion Item 01

Title: Approval of the Sacramento Ethics Commission Operating Procedures

Location: Citywide

Recommendation: Pass a Motion approving the Ethics Commission Operating Procedures.

Contact: Kevin Greene, Government Ethics and Transparency Administrator, (916) 808-7267, Office of the City Clerk

Presenter: Kevin Greene, Government Ethics and Transparency Administrator, (916) 808-7267, Office of the City Clerk

Attachments:

1-Description/Analysis

2-Operating Procedures

Description/Analysis:

Issue Detail: The Sacramento Ethics Commission has been reviewing draft Operating Procedures to guide the commission in its activities. After reviewing and providing direction to the Government Ethics and Transparency Administrator at its August meeting, staff is asking for final approval of the Operating Procedures. The Operating Procedures will provide guidance to commissioners, the public and staff on the operations, jurisdiction and general processes of the commissions activities.

The Operating Procedures allow for regular review and amendments when deemed necessary by the commission or staff.

Policy Considerations: None

Economic Impacts: None

Environmental Considerations: None

Commission/Committee Action: The Ethics Commission reviewed and provided direction to the Government Ethics and Transparency Administrator at the July 30, 2018 Ethics Commission meeting.

Rationale for Recommendation: The Operating Procedures will provide guidance to commissioners, the public and staff on the operations, jurisdiction and general processes of the commissions activities.

Financial Considerations: None

Local Business Enterprise (LBE): None

**CITY OF SACRAMENTO
OFFICE OF THE CITY CLERK**

CITY OF SACRAMENTO ETHICS COMMISSION
OPERATING POLICIES/BYLAWS

Effective: MONTH XX, 2018

**ORIGINALLY APPROVED BY THE SACRAMENTO
ETHICS COMMISSION ON XX/XX/XXXX**

TABLE OF CONTENTS

ARTICLE I – MISSION STATEMENT

ARTICLE II – PURPOSE, DUTIES AND RESPONSIBILITIES

Section 1: Purpose

Section 2: Powers and Duties

ARTICLE III – JURISDICTION, APPLICABLE LAW

ARTICLE IV - COMMISSION STRUCTURE AND SUPPORT

Section 1: Commission

Section 2: Qualifications and Eligibility

Section 3: Terms of Office: Vacancy

Section 4: Government Ethics and Transparency Administrator

Section 5: Legal Advisor

Section 6: Commission Spokesperson

ARTICLE V – OFFICERS

Section 1: Election of Officers

Section 2: Chair

Section 3: Vice Chair

ARTICLE VI - COMMITTEES

Section 1: Standing Committees

Section 2: Ad Hoc Committees

ARTICLE VII - COMMISSION MEETINGS

Section 1: Meetings: Time, Location, and Notice

Section 2: Commissioner Attendance

Section 3: Quorum

Section 4: Public Engagement

Section 5: Public Participation at Meetings

Section 6: Chair

Section 7: Meeting Minutes

Section 8: Closed Sessions

ARTICLE VIII - AGENDA REQUIREMENTS

Section 1: Agenda Preparation

Section 2: Consent Calendar

ARTICLE IX – VOTING

Section 1: Voting, Abstention, and Recusal

ARTICLE X - TREATMENT OF CONFIDENTIAL INFORMATION

Section 1: Confidential Information

Section 2: Prohibitions on Disclosure or Misuse of Confidential Information

Section 3: Affirmative Duty to Safeguard Confidential Information

Section 4: Term of Obligation

ARTICLE XI – PARLIAMENTARY PROCEDURE

ARTICLE XII - STANDARDS OF CONDUCT

ARTICLE XIII - OPERATIONS POLICIES AMENDMENTS

ARTICLE I—MISSION STATEMENT

The City of Sacramento Ethics Commission (Commission) ensures compliance with the City of Sacramento's government ethics, campaign, campaign finance, transparency, and lobbyist registration laws that aim to promote fairness, openness, honesty, and integrity in city government. To fulfill its mission, the Commission will provide direction to the Government Ethics and Transparency Administrator (Administrator) in the following activities:

- Provide education and trainings to city officials and the public to promote awareness and understanding of the city's campaign finance, ethics, and transparency laws.
- Provide direction to the Administrator in order to facilitate accurate, effective, and accessible disclosure of government data, such as campaign finance reporting, conflicts of interest/gifts reports, and lobbyist activities.

ARTICLE II – PURPOSE, POWER, AND DUTIES

Section 1: Purpose

The Purpose of the Commission is to review and consider complaints against elected and appointed city officials to ensure those city officials are conforming their conduct to the city's laws and policies. (Sacramento City Code § 2.112.020).

Section 2: Powers and Duties

The Commission shall:

1. Review, investigate and consider complaints under the Commission's jurisdiction.
2. Enforce administrative penalties for violations of provisions within the Commission's jurisdiction.
3. Report annually to the City Council regarding the activities of the Commission, including any recommendations to enhance ethics policies, trainings, and regulations in the City of Sacramento.
4. Review the contract the city has with the Fair Political Practices Commission, for the purpose of reporting to the City Council on the contract's efficacy. The Commission may also make recommendations regarding renewal of the contract.
5. Provide annual input to the City Attorney on the list of law firms used by the City Attorney to conduct investigations of sexual harassment claims against city officials.
6. Provide input on the initial selection of a third-party evaluator. Make recommendations for subsequent contracts with an evaluator and make recommendations regarding the retention or replacement of an evaluator.
7. Act as the screening panel for selection of independent redistricting commission candidates, as provided in Article XII of the Sacramento City Charter. The Commission is to initiate the

screening process no later than September 15, 2020 and by September 15 in each year ending in the number zero thereafter (Sacramento City Charter §174).

ARTICLE III - JURISDICTION, APPLICABLE LAW

The Commission was created by Ordinance in 2017 (2017-0026) (Sacramento City Code (SCC) §2.112). The Commission oversees compliance with the following laws and will review, investigate, and consider complaints alleging violations of:

- A. City of Sacramento Code of Ethics (SCC §4.02).
- B. City of Sacramento's Campaign Contribution Limitations (SCC §2.13), the California Political Reform Act, and Campaign Spending Limits and Public Financing (SCC §2.14), if the city has not contracted with the Fair Political Practices Commission for enforcement purposes.
- C. City of Sacramento Sunshine Ordinance (SCC §4.08), the California Ralph M. Brown Act (Gov. Code §54950, et seq.);
- D. California Public Records Act (Gov. Code §6250, et seq.);
- E. City of Sacramento Lobbyist Registration and Reporting Code (SCC §2.15);
- F. City of Sacramento Conflict of Interest Code (SCC §2.16);
- G. Sacramento City Charter (§35);
- H. Chapter 3 (Conduct of Members) and Rule 6.E (Closed Sessions) of the Council Rules of Procedure;
- I. These Operating Policies and other policies adopted by the Commission.

The Commission's authority extends to city elected officials (Mayor and Councilmembers), candidates for city elected office, independent expenditure committees, members of boards and commissions, charter officers (e.g. City Attorney, City Clerk, City Manager, City Treasurer) and city council appointed officers (e.g. City Auditor, Independent Budget Analyst, and Public Safety Accountability Officer).

ARTICLE IV - COMMISSION STRUCTURE AND SUPPORT

Section 1: Commission

The Commission is a five-member board of City of Sacramento residents responsible for establishing Commission policies and priorities, promoting government transparency, and serving as a quasi-judicial body that adjudicates enforcement matters brought to the Commission by Commission staff. Commissioners shall be nominated by the Personnel and Public Employees Committee and appointed by the Mayor with the concurrence of a majority of the City Council.

Acceptance of the Oath of Public Office constitutes a commissioner's sworn responsibility to the public trust. Commissioners must collectively and individually respect and honor their appointed role and strive to maintain public confidence in the Commission's role in the government of the City of Sacramento.

Section 2: Qualifications and Ineligibility

Commissioners shall be residents of the city. Three members shall have a background in law, ethics, local government, or similar experience. The following persons are not eligible to be a commissioner:

1. A person who – or whose spouse, registered domestic partner, or child – has contributed to a candidate for city elective office, in a single city election cycle in either of the last two city election cycles preceding their date of application to be on the commission, more than 50 percent of the allowable amount for a councilmember candidate.
2. A person who – or whose spouse, registered domestic partner, or child – is or has been, within the two years immediately preceding their date of application to be on the Commission, a paid employee of the city; a registered city lobbyist, or someone who was required to be a registered city lobbyist; an appointee of any local or state elected official or a person who – or whose spouse, registered domestic partner, parent, sibling, or child – has been, within four years immediately preceding their date of application to be on the commission, any of the following:
 - a. Elected to, or a candidate for, city elective office;
 - b. An employee of, or paid consultant or contractor to, a campaign for city elective office; or
 - c. A paid employee of, a consultant to, or someone under contract with any city elected official.
3. A commissioner shall be ineligible, during service on the Commission and for a period of four years thereafter, to hold city elective office. A commissioner shall be ineligible, during service on the Commission and for a period of one year thereafter, to be appointed to another city commission, to serve as paid staff for or as a paid consultant to any city elected official, to receive a non-competitively bid contract with the city, or to register as a city lobbyist.

Section 3: Terms of Office: Vacancy

1. Except as provided in this Section for the length of the terms of the initial appointees, commissioners shall serve a term of four years. A commissioner shall hold office until his or her successor has been appointed.
2. Terms shall be staggered. The terms of the initial appointees to the seats designated A, C, and, E shall expire two years from the date of their initial appointment, with the remaining two seats having a term expiring four years from the date of initial appointment. Thereafter, all commissioners shall be appointed to serve four-year terms.
3. No commissioner shall serve more than two consecutive terms. The terms established for the initial appointment constitute a full term for the purpose of calculating the two-consecutive term limit.
4. If a vacancy occurs during the term of any commissioner, a successor to serve the unexpired term shall be nominated by the Personnel and Public Employees Committee and appointed by the Mayor with the concurrence of a majority of the City Council. A successor appointed to complete an unexpired term may be eligible to serve up to two consecutive terms in addition to the unexpired term.

Section 4: Government Ethics and Transparency Administrator

The Administrator supports the work of the Commission and is responsible for establishing priorities in consultation with the Chair and consistent with policy direction provided by the Commission.

Section 5: Legal Advisor

The City Attorney is the Commission's legal advisor. Any commissioner may consult informally with an attorney assigned to the Commission on any matter related to Commission business.

Section 6: Commission Spokesperson

The spokesperson for the Commission is the City Clerk, the Administrator, the Chair, or commissioner designee as assigned by the Chair.

ARTICLE V – OFFICERS

Section 1: Election of Officers

The officers of the Commission are the Chair and Vice Chair. At the first regular meeting of each calendar year, commissioners must elect a Chair and Vice Chair. At the meeting, a commissioner may nominate any commissioner to serve in the office of chair or vice chair or self-nominate. If more than one commissioner is nominated for an office, nominees may speak regarding their qualifications and willingness to serve and answer questions of commissioners and of the public. The Commission may discuss the nominations and, when the vote is called, each commissioner may cast a single vote for each office.

Section 2: Chair

The Chair presides at all meetings of the Commission.

Section 3: Vice Chair

The Vice Chair performs the duties and responsibilities that may be delegated by the Chair. In the absence or disability of the Chair, the Vice Chair will perform the duties and responsibilities of the Chair.

ARTICLE VI - COMMITTEES

Section 1: Standing Committees

It is the policy of the Commission to appoint individual commissioners to perform specific tasks or functions by serving on standing committees. Thus, as necessary, the Chair, with majority approval of the commission, may create a standing committee, identify its purpose, appoint commissioners as members, and designate a Committee Chair. Committee meetings may be called by the Chair, committee chair(s), or by majority vote of members of a committee. Standing committee meetings must follow the same procedures provided under Article VII, sections 3 through 7 of these Operating Policies. A majority of the members of a committee constitutes a quorum.

Section 2: Ad Hoc Committees

The Chair and/or the Commission, may establish ad hoc committees of no more than two persons to perform procedural tasks or functions as necessary. Terms of ad hoc committees may not exceed one year. Ad hoc committee meetings are not subject to public notice requirements.

ARTICLE VII - COMMISSION MEETINGS

Section 1: Meetings: Time, Public Location, and Notice

The Commission must hold regular meetings at an established time and place suitable for its purposes, and consistent with the requirements of the Ralph M. Brown Act (Brown Act) and Sacramento Sunshine Ordinance. Generally, regular Commission meetings are held on the fourth Monday of each month at 5:30 p.m., or as otherwise set forth in the published calendar and posted on the Commission's website with the proper notice. Regular meetings are held at Sacramento City Hall, New City Hall, 915 I Street, Sacramento, California.

Meetings scheduled for a time or place other than for regular meetings are designated as special meetings.

Written notice of regular meetings must be provided at least 120 hours (5 days) in advance, in the manner required by the Sacramento Sunshine Ordinance and the Brown Act.

Section 2: Commissioner Attendance

Membership on the Commission is a serious and important civic function. Commissioners recognize that, among their obligations in service, attendance at monthly and special meetings is an important component. It is the policy of the Commission that all commissioners strive to attend meetings whenever possible and that, when absence from scheduled meetings is necessary, that Commission staff be notified as far in advance as feasible. Prior notification of absence from Commission and committee meetings constitutes an excused absence.

A commissioner's failure to attend three consecutive regular meetings is good cause for removal. (SCC § 2.40.100)

Section 3: Quorum

At all regular and special meetings of the full Commission, the presence of three (3) commissioners constitutes a quorum. No action can be taken on an agenda item unless a quorum is present. If ever during a meeting there is less than a quorum present, a motion to adjourn or recess is appropriate. When a quorum is present, official action requires a majority vote of those commissioners present when the vote is called.

Section 4: Public Engagement

The Commission values and encourages public input and, regarding public participation in Commission proceedings, will liberally construe the public's rights under the Brown Act and Sacramento Sunshine Ordinance. All interested persons are encouraged to provide input or request information regarding Commission business by contacting Commission staff at (916) 808-7267 or ethics@cityofsacramento.org. Additionally, information on the Commission can be viewed online at www.cityofsacramento.org.

At each regular Commission meeting, all interested persons may express their views regarding a matter within the Commission's jurisdiction. This opportunity for comment, called "Public Comments for Matters Not on the Agenda," will appear on each regular meeting agenda. Each speaker may speak for

up to two minutes and the Chair has discretion to limit or extend the time, provided such changes are reasonable in nature and uniformly applied.

At regular and special Commission and standing committee meetings, all interested persons must also be allowed to express their views on any agenda items upon the Commission's review of the item. Before taking action on any agenda item, the Commission (or standing committee) must provide the opportunity for public comment on that item. Each person wishing to speak on an agenda item is permitted to speak once, for a maximum of two minutes; however, the Chair or Committee Chair has discretion to limit or extend the time, provided such changes are reasonable in nature and uniformly applied.

The Commission urges the public to use Formal complaint procedures to make complaints or ask the Commission to investigate alleged violations rather than doing so during the public meetings. Such public disclosure of complaints or requests may undermine any subsequent investigation.

Section 5: Public Participation at Meetings

The agenda for each meeting will provide instructions for public participation. To encourage public participation, the Commission will employ the least formal, least restrictive procedures for public comment, so long as order is maintained.

If during a meeting it becomes apparent that the existing procedure for public comment is inadequate or inappropriate, the Chair has discretion to modify the procedure during the meeting. In that case, the Chair must state the reasons justifying the change in procedure, clearly explain how members of the public may provide comment as to each agenda item and apply the modified process uniformly to all speakers.

Section 6: Chair

The Chair must maintain order in the chamber, has authority to refuse the floor to any person, and may limit or extend the time allocated to any speaker. The Chair may rule a public speaker or meeting attendee out of order if:

- A. The speaker is speaking beyond the allocated time limit;
- B. The speaker's remarks are not relevant to the agenda item;
- C. The speaker is disruptive to the meeting's proceedings.
- D. Any attendee disrupts the meeting in violation of Chapter 5.A.1 of the City of Sacramento Council Rules of Procedure guiding conduct of the public.

Section 7: Meeting Minutes

Commission staff will draft minutes after every regular and special Commission meeting, and every standing committee meeting, subject to approval by majority vote of the Commission or standing committee. The minutes must reflect meeting start and end time, commissioner attendance (including the absence of any commissioner for any votes taken), and vote (if applicable) for each item considered.

Section 8: Closed Sessions

Upon the determination by a legal advisor from the City Attorney's Office or outside counsel that a closed session is both authorized and appropriate under the circumstances, the Administrator may call for a closed session. Appropriate notice must be given of all closed sessions.

ARTICLE VIII - AGENDA REQUIREMENTS

Section 1: Agenda Preparation

Commission staff will work with the Chair or standing committee chair(s) to develop the agenda for all meetings. The agenda must contain a meaningful description of each item to be transacted or discussed at the Commission or standing committee meeting so that people can reasonably determine if the item may affect their interests. The agenda will also provide instructions for public participation.

Section 2: Consent Calendar

A consent calendar is the portion of the printed agenda that lists routine matters that are expected to be non-controversial and on which there are no scheduled speakers. There will be no separate discussions on individual consent calendar items unless, prior to its adoption, a request is made by a commissioner, and accepted by the Commission, to remove the item from consent and consider it as a separate item.

ARTICLE IX - VOTING

Section 1: Voting, Abstention, and Recusal

Each commissioner present at a Commission or standing committee meeting must vote on all matters put to a vote, unless the commissioner abstains or recuses her- or himself from an agenda item.

A commissioner wishing to abstain from a vote must state publicly the reason for abstention and leave the dais. The abstaining commissioner must refrain from further discussion of the item and will not vote on the item.

A commissioner who has been advised by the City Attorney to recuse her- or himself from voting on an item due to a conflict of interest must do so and leave the dais during discussion and voting on the item. A commissioner who recuses as to a particular item is not present for purposes of determining the existence of a quorum in Article VII, Section 3, above.

ARTICLE X - TREATMENT OF CONFIDENTIAL INFORMATION

In the course of their duties, commissioners and city staff may be exposed to privileged, confidential, or other information protected by law. While commissioners and city staff enjoy the full protection of the First Amendment and the public is entitled to full access to public information, misuse of confidential information may have significant adverse consequences to the city, the Commission, city employees, or other persons.

Section 1: Confidential Information

Generally, “Confidential Information,” includes the following:

- A. Any information concerning a complaint that is still under preliminary review;
- B. Any communication or information provided to commissioners in preparation for, or during, a duly authorized closed session;
- C. Any communications by or from the City Attorney or any legal advisor to the Commission that reflect the legal advisor’s work on behalf of the Commission, including the advisor’s mental impressions, legal strategy, analysis, advice or conclusions;
- D. Non-public materials concerning pending or past litigation to which the Commission is/was a party;
- E. Information concerning Commission personnel matters, including but not limited to those concerning the hiring, performance, counseling, discipline or termination of any member or prospective member of Commission staff; or
- F. Other sensitive personal or financial information of third parties (including respondents to complaints) that would otherwise be protected by law.

Confidential Information does not include information generally available to the public or previously disclosed to members of the public, including at a Commission meeting. Nor does it include information that is required by law to be reported out of closed session.

The fact that Commission staff shares Confidential Information with another enforcement agency, such as the California Fair Political Practices Commission, does not render the information non-confidential.

Section 2: Prohibitions on Disclosure or Misuse of Confidential Information

Commissioners are prohibited from using, directly or indirectly, Confidential Information for purposes other than the official business of the Commission.

If a commissioner has any doubt about a person’s authorization to access information or is uncertain whether a particular use could constitute “misuse,” the commissioner must, before disclosing or using the information, consult the Administrator.

Section 3: Affirmative Duty to Safeguard Confidential Information

Commissioners must actively protect and safeguard Confidential Information through the use of physical and technical safeguards (e.g., strong passwords for access to electronically stored information) and secure methods of destruction, once materials are no longer needed.

A commissioner who discovers an unauthorized disclosure or misuse (potential or actual) of Commission Information must promptly notify the Administrator. Similarly, a commissioner who receives a request, subpoena, or court order for disclosure of Confidential Information must immediately notify the Administrator.

Section 4: Term of Obligation

A commissioner’s obligations pursuant to this Article do not terminate with the end of the commissioner’s term of office.

ARTICLE XI - PARLIAMENTARY PROCEDURE

The business of the Commission and its standing committees must be conducted, so far as it is practical in accordance with parliamentary rules as contained in Rosenberg’s Rules of Order, except as modified by these rules and in accordance with the Brown Act and the Sacramento Sunshine Ordinance. The City Attorney, or other person designated by the Chair and approved by the Commission, shall serve as the official parliamentarian for meetings of the Commission.

ARTICLE XII – STANDARDS OF CONDUCT

In addition to complying with the foregoing policies, each commissioner should aspire to:

- A. Actively and diligently support the mission, goals and objectives of the Commission, for example, by thoroughly preparing for and attending Commission meetings; serving on committees; working cooperatively with Commission staff on officially-sanctioned projects; and attending civic events relevant to the Commission’s purpose and jurisdiction.
- B. Preserve public confidence in commissioners’ conduct, intentions, and impartiality, for example, by fairly and objectively enforcing laws and regulations within the Commission’s jurisdiction; refraining from conduct or statements that suggest personal bias; avoiding personal involvement in the investigation and prosecution of complaints (absent a recusal); and avoiding inappropriate political activity (endorsing, supporting, opposing, or working on behalf of a candidate or measure in a City of Sacramento election).
- C. Protect the independence and integrity of the Commission, for example, by working for the public good and not private interest in all matters related to city government; refraining from using their official positions to secure special advantages or benefits for self or others; declining to accept benefits or to participate in activities that might influence or undermine their ability to fairly and objectively discharge their Commission duties; and, avoid speaking to the press or public about confidential Commission matters, to ensure a commission matter is not compromised by doing so.
- D. Set the highest example of civil and efficient conduct of city government, for example, by recommending and adopting rules and procedures that promote transparency and fair process in city government; treating the public, Commission staff, Commission legal advisors, and commissioners with dignity and fairness; and conducting the Commission’s business in an efficient and timely manner.

ARTICLE XIII - OPERATIONS POLICIES AMENDMENTS

As necessary, and at least annually, the Commission will review and amend these Operations Policies. They may be amended at any regular or special meeting of the Commission by a majority vote of those present, provided any proposed amendments are circulated in writing to all Commissioners, and posted publicly in advance of the regular or special meeting.