



## **Ethics Commission Report**

915 I Street, 1<sup>st</sup> Floor

Sacramento, CA 95814

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**File ID:** 2019-00223

February 25, 2019

**Discussion Item 05**

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**Title:** Ethics Commission Penalty Guidelines

**Location:** Citywide

**Recommendation:** Pass a Motion approving the Sacramento Ethics Commission Penalty Guidelines.

**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-Draft Sacramento Ethics Commission Penalty Guidelines

## Description/Analysis

**Issue Detail:** In accordance with City Code § 2.112.030.C.6, the Sacramento Ethics Commission proposes to adopt guidelines for imposing monetary penalties when adjudicating ethics complaints.

The proposed guidelines are intended to ensure a fair, just, and timely process for the resolution of ethics complaints submitted to the Commission by creating a clear process for imposing monetary penalties. The independent evaluator will use the guidelines when making recommendations on penalties for the Commission to consider when adjudicating complaints.

The guidelines include general principles and factors to consider in determining a penalty and a tiered approach to penalties based on the seriousness of the violation. They are advisory only, and the Commission may depart from them when unusual or egregious circumstances exist.

**Policy Considerations:** None

**Economic Impacts:** None

**Environmental Considerations:** None

**Sustainability:** None

**Commission/Committee Action:** These draft penalty guidelines were developed in conjunction with a subcommittee composed of Commissioners Moylan and Underwood.

**Rationale for Recommendation:** The guidelines will create a just and timely process for the resolution of ethics complaints submitted to the Commission.

**Financial Considerations:** None

**Local Business Enterprise (LBE):** None

# City of Sacramento Ethics Commission

## Penalty Guidelines

Effective: Month XX, 2019

In accordance with City Code § 2.112.030.C.6, the Sacramento Ethics Commission has adopted the following guidelines for imposing monetary penalties. The terms *Administrator*, *Complaint*, *Evaluator*, and *Respondent* have the meanings given them in the Commission's Administrative Hearing Procedures.

**Purpose.** These guidelines are intended to ensure the fair, just, and timely resolution of Complaints submitted to the Commission by creating a clear process for imposing monetary penalties. The Evaluator will use these guidelines when making recommendations on penalties for the Commission to consider when adjudicating Complaints.

**Authority.** These guidelines apply to alleged violations of any of the City Charter and City Code provisions specified in City Code § 2.112.030.A.1. They set forth general principles and factors to consider in determining a penalty and a tiered approach to penalties based on the seriousness of the violation. They are advisory only, and the Commission may depart from them when unusual or egregious circumstances exist.

### ***Guiding Principles for Determining a Penalty***

The Commission has broad discretion in evaluating a violation and determining the appropriate penalty based on the circumstances of the violation. The following list of factors is not exhaustive but is intended to be a broad overview of what should be considered when imposing penalties on Respondents:

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 record of violations or has demonstrated knowledge of the rule or requirement at issue.
6. The extent to which the Respondent voluntarily and promptly took steps to cure the violation.
7. The degree to which the Respondent cooperated with the Commission's enforcement activity in a timely manner.
8. The relative experience of the Respondent.

There is no requirement or intention that each factor be present in an enforcement action when determining a penalty. The inability to prove or disprove any factor does not restrict the Commission from bringing an enforcement action or imposing a penalty.

### ***Penalty Options***

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 Commission in a letter to the Respondent that explains the allegations and allows the Commission to create a record of potential or proven minor violations.
2. *Monetary Penalty*: Under City Code § 2.112.030.A.2, the Commission has the authority to impose administrative penalties up to \$5000\* for violations of any of the City Charter and City Code provisions specified in City Code § 2.112.030.A.1.

### ***Application of these Guidelines***

These guidelines are intended to assist the Commission in determining an appropriate penalty in certain types of cases. They do not prohibit the Commission, the Administrator, or the Evaluator from agreeing to a settlement or imposing a penalty that deviates from these guidelines or from the Commission's past practice. These guidelines are not intended as a comprehensive list of violations for which the Commission can impose penalties.

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\* In the case of campaign-contribution violations, the City Code authorizes the imposition of a penalty not exceeding three times the amount the violator failed to report properly or unlawfully contributed or accepted. Because the City of Sacramento has a contract with the California Fair Political Practices Commission to enforce City Code chapter 2.13, violations of chapter 2.13 are not subject to these Penalty Guidelines.