



Ethics Commission Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2019-00222

February 25, 2019

Discussion Item 04

Title: Ethics Commission Settlement Procedures

Location: Citywide

Recommendation: Pass a Motion approving the Draft Sacramento Ethics Commission Settlement 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-Draft Ethics Commission Settlement Procedures

Description/Analysis

Issue Detail: The Sacramento Ethics Commission seeks to adopt, in accordance with City Code § 2.112.030.C.(2), the following procedures for settling Complaints submitted to the Commission. These procedures (1) are intended to ensure a fair, just, and timely process for the resolution of Complaints by creating a clear process for entering into settlement negotiations; (2) are intended to ensure timely enforcement and Complaint resolution; and (3) apply to alleged violations of any of the City Charter and City Code provisions list specified in City Code § 2.112.030.A.1.

Settlement negotiations and settlement of pending matters may occur at any time after the Administrator has determined that a Complaint falls within the Commission's jurisdiction. The Administrator or the Independent Evaluator, as appropriate, will conduct all settlement negotiations on the Commission's behalf. To encourage settlements, the Administrator or Independent Evaluator may propose a reduction of penalties when mitigating circumstances are present and the Respondent agrees to settlement before the issuance of a probable-cause determination.

A settlement will not become effective until approved by the Commission. Upon approval, the settlement will be publicly announced. If the Commission rejects a settlement, the related settlement agreement is null and void, and the matter continues either through the administrative-hearing process or through staff reengaging in negotiations with the Respondent.

Policy Considerations: None

Economic Impacts: None

Environmental Considerations: None

Sustainability: None

Commission/Committee Action: The proposed settlement procedures were reviewed by a Commission subcommittee composed of Commissioners Moylan and Underwood.

Rationale for Recommendation: Encouraging settlements saves time and resources for both the Commission and the Respondents. Settlement encourages cooperation with Commission investigations and results in timely resolutions and public disclosure of violations.

Financial Considerations: None

Local Business Enterprise (LBE): None

City of Sacramento Ethics Commission

Settlement Procedures

Effective: Month XX, 2019

In accordance with City Code § 2.112.030.C.2, the Sacramento Ethics Commission has adopted the following procedures for settling Complaints submitted to the Commission. The terms *Administrator*, *Complaint*, *Evaluator*, and *Respondent* have the meanings given them in the Commission's Administrative Hearing Procedures.

Purpose. These procedures are intended (1) to ensure a fair, just, and timely process for the resolution of Complaints submitted to the Commission by creating a clear process for entering into settlement negotiations; and (2) to ensure timely enforcement of ethics laws and resolution of Complaints.

Authority. These procedures apply to alleged violations of any of the City Charter and City Code provisions specified in City Code § 2.112.030.A.1.

Settlement Negotiations. Settlement negotiations and settlement of pending matters may occur at any time after the Administrator has determined, after a preliminary review, that a Complaint falls within the Commission's jurisdiction.

The Administrator or the Evaluator, as appropriate, will conduct all settlement negotiations on the Commission's behalf. The Administrator or Evaluator may enter into a proposed settlement regarding any matter that falls within the Commission's jurisdiction under City Code § 2.112.030 A.1.

To encourage settlements, the Administrator or Evaluator may propose a reduction of penalties (in accordance with the penalty guidelines) when mitigating circumstances are present and Respondent agrees to settlement before the issuance of a probable-cause determination.

Presentation of Proposed Settlement to Commission: To be presented to the Commission for consideration, a proposed settlement agreement must contain the following:

- A recitation of the facts pertinent to the alleged violations
- Reference to each violation and a statement that the settlement will or will not discharge each alleged violation
- The Respondent's obligations, including the payment of any monetary penalty.

Before a proposed settlement is presented to the Commission, the Respondent must agree to the following:

- To hold the City of Sacramento harmless from any liability related to the alleged violations
- To wave any rights to challenge the settlement on procedural grounds
- To timely comply with all terms of the settlement in good faith

A settlement will not become effective until approved by the Commission. Upon approval, the settlement will be publicly announced. If the Commission rejects a proposed settlement, the related settlement agreement is null and void, and the matter will continue either through the administrative-hearing process or through staff's reengaging in negotiations with the Respondent.

DRAFT