



Ethics Commission Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2018-01211

August 27, 2018

Discussion Item 02

Title: Intake Procedures and Preliminary Review Process for Ethics Complaints

Location: Citywide

Recommendation: Review and provide direction on the Intake Procedures and Preliminary Review Process for Ethics Complaints.

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 Complaint Intake & Preliminary Review

3-DRAFT Complaint Form

Description/Analysis

Issue Detail: Review the Complaint Intake and Preliminary Review Procedures and provide feedback and direction to the Government Ethics and Transparency Administrator (Administrator).

Below is a draft outline of the complaint intake process and details related to preliminary review and reporting of complaints. Future agenda items will describe the process for how and when a complaint is referred to the Independent Evaluator, and what procedures the Independent Evaluator must follow during their investigation.

Complaint intake: Complaints can be submitted formally, informally and anonymously. Formal complaints will be submitted on an approved form that will be available via email and on the Ethics Office webpage (seamless docs—see attached). Informal complaints can be submitted on the approved form (incomplete forms will be considered informal), via email, telephone or any written document received by the Administrator. Anonymous complaints will also be accepted through any of the above channels or through the Independent City Auditors Whistleblower Hotline. Upon receipt of a complaint, the administrator, will acknowledge receipt of the complaint (unless complainant is anonymous) and provide a tentative timeline for initial review.

Preliminary Review and the Preliminary Review Report (PRR): The administrator will begin a preliminary review process that will include an interview (in-person or via phone) with the complainant, initiate interviews with any potential witnesses identified in the complaint, and interview the person accused in the complaint. The Preliminary Review process will include the following steps:

- Preliminary determination of Commission jurisdiction
- Interview complainant
- Interview identified witnesses
- Review relevant documents
- Conduct interview with person/entity accused
- Other reasonable inquiries to determine whether further investigation is warranted
- Draft PRR
- Legal Review of PRR
- Place item on Ethics Commission agenda for EC determination

Upon completion of the preliminary review by the administrator, the administrator will prepare a report providing an overview of the violations alleged, a summary of the evidence gathered and a recommendation as to whether there is probable cause that a violation occurred. Upon review of the PRR by the commission, the commission will have the following options to consider:

- Close the complaint with no action.
- Close the complaint with an advisory or warning letter.
- Recommend further investigation by referring the complaint to the Independent Evaluator.
- Refer to outside agency (primarily to the FPPC for campaign finance violations).

Policy Considerations: None

Economic Impacts: None

Environmental Considerations: None

Sustainability: None

Commission/Committee Action: None

Rational for Recommendation: To seek input from the Ethics Commissioners on the complaint intake and Preliminary Review Process.

Financial Considerations: None

Local Business Enterprise (LBE): None

City of Sacramento

ETHICS COMMISSION

COMPLAINT INTAKE & PRELIMINARY REVIEW PROCEDURES

Effective: Month, XX, 2018

INTRODUCTION

The Sacramento Ethics Commission (Commission) adopts the following procedures applicable to the Commission's Complaint Intake and Initial Review Procedures authority as granted by Sacramento City Code (SCC) § 2.112.030. C.2.

- A. **Purpose.** These procedures are intended to ensure a fair, just, and timely process for the review, investigation, and hearing of complaints submitted to the Commission by doing the following:
 - A. Create a clear process for receiving, processing, and reviewing ethics complaints;
 - B. Maintain objective standards for investigations and enforcement;
 - C. Eliminate any improper influence in the investigation and resolution of complaints;
 - D. Provide a fair hearing for persons and entities accused of violations; and
 - E. Ensure timely enforcement and complaint resolution.

- B. **Authority.** These procedures are applicable to potential violations of the following provisions:
 - A. City of Sacramento Code of Ethics (SCC) § 4.02);
 - B. City of Sacramento's Campaign Contribution Limitations (SCC §2.13) 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); and
 - F. City of Sacramento's 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.

COMPLAINT INTAKE

Complaints. A complaint alleging a violation of any law listed above may be submitted by any person, including a member of the public, any employee or official of the City of Sacramento, or any member of the Commission.

Formal Complaints. A formal complaint must be submitted either 1) in writing on a complaint form as prescribed by the Government Ethics and Transparency Administrator (Administrator) of the Commission, or 2) in a manner designated as a method for submitting a formal complaint as determined by the Executive Director. The forms and instructions are available at the City Clerk's office, and on the Commission website. The Administrator shall process and review all formal complaints.

Contents of Formal Complaints. A formal complaint must be signed or verified by the complainant under penalty of perjury. A formal complaint also must include the following information:

- Name and contact information of complainant;
- Name of the respondent, and any known addresses or phone numbers;
- The facts of the alleged violation;
- Area of law allegedly violated, if known;
- Summary of information related to violations
- Names and addresses of any witnesses, if known;
- Summary of information to be provided by witnesses
- Any additional documentation that might aid in the investigation of the alleged violation.

Informal/Anonymous Complaints. An informal complaint may be submitted by telephone, in person, via email or in writing. An informal or anonymous complaint should include the name of the person or organization believed to have violated the law and the facts of the alleged violation. A complaint submitted on the prescribed complaint form that does not meet the requirements of a formal complaint will be considered as an informal complaint. A complaint may be submitted without a name or without identifying the complainant. These complaints will be considered anonymous complaints. An anonymous complaint shall be considered an informal complaint, whether submitted on a formal complaint form or in another form, and the processing of these complaints will be at the discretion of the Administrator.

Commission-initiated Complaints. The Administrator may initiate a complaint and a Commissioner may submit a formal or informal complaint. A member of the Commission will be recused from all consideration, review, investigation, or hearing of any complaint submitted by the member, but may provide information or be called as a witness at any hearing on the complaint.

Withdrawal of a Complaint. If a complainant requests that her or his complaint be dismissed or withdrawn, the Commission may continue to review, and investigate violations alleged in the complaint.

Ex-Parte Communications. Once a complaint is submitted, no Commissioner shall engage in oral or written communications outside a hearing, interview or settlement conference regarding the merits of an enforcement action with the respondent or complainant or any person communicating on behalf of the respondent or complainant unless the communication is necessary to investigate, remediate, enforce or enter into a stipulated order regarding the alleged violation.

PRELIMINARY REVIEW:

Preliminary Review of Complaints. Upon receipt of a formal complaint, the Administrator shall conduct a preliminary review of the complaint to determine whether there is probable cause to open an investigation. The preliminary inquiry may include reviewing relevant documents, communicating with the complainant, communicating with the person or entity accused of a violation, and any other reasonable inquiry to determine whether a full investigation is warranted.

The Administrator will provide a Preliminary Review Report (PRR) that will highlight the areas of law or policy that claim to have been violated, a summary of findings and evidence and make a recommendation to the commission as to the next steps.

The Commission shall review the Administrator's determination at a subsequent Commission meeting and take formal action in order to close the complaint, or to move the complaint forward to the Independent Evaluator for further investigation. Upon review of the PRR by the commission, the commission will have the following options to consider:

- Close the complaint with no action.
- Close the complaint with an advisory or warning letter.
- Recommend further investigation by referring the complaint to the Independent Evaluator.
- Refer to outside agency (primarily to the FPPC for campaign finance violations).

Notification to Respondent. After the preliminary review of the complaint, then the Administrator may notify the respondent of the receipt and dismissal of the complaint, or whether probable cause was found, and the complaint was referred to the Independent Evaluator for further investigation.

Sacramento Ethics Commission

FORMAL

Complaint Form

DRAFT: Version 7/31/2018

Your Name

First Name

Last Name

Address

Street Address

City

State

Zip

Telephone

Respondent Information: Please provide the name, and title of each person who committed the alleged violation.

Date of Alleged Violation: (or date you became aware of allegation/s).

Type of Allegation(s): Check the appropriate box below to indicate which set of laws you believe were violated by the Respondents.

Select all that Apply

- City of Sacramento Code of Ethics (SCC §4.02)
- City of Sacramento's Campaign Contribution Limitations (SCC §2.13) 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
- Sacramento's Sunshine Ordinance (SCC §4.04)

- California Ralph M. Brown Act (Gov. Code §54950, et seq.) and the California Public Records Act (Gov. Code §6250, et seq.)
- City of Sacramento Lobbyist Registration and Reporting Code (SCC §2.15)
- City of Sacramento's Conflict of Interest Code (SCC §2.16)
- Sacramento City Charter (§35)
- Chapter 3 (Conduct of Members) and Rule 6.E (Closed Sessions) of the Council Rules of Procedure.

Description of Facts: Describe the Facts constituting the alleged violation(s). Be as specific as possible and include exact or approximate dates (use additional pages if necessary)

Witness Information. Provide the name, and telephone number of each person you believe may have information that would assist the Commission in its evaluation of this complaint. Also, provide a brief summary of the information that you believe each of the persons listed can provide to support the allegations stated in this complaint (use additional pages if necessary).

Witness 1

Name

First Name

Last Name

Telephone:

Brief Summary of Relevant Information

Witness 2

Name

First Name

Last Name

Telephone:

Brief Summary of Relevant Information

Witness 3

Name

First Name:

Last Name:

Telephone:

Brief Summary of Relevant Information

Documentation. Please attach copies of any documents in your possession that relate to the allegations stated in this complaint. In addition, state below whether or there are other records not in your possession that you believe, may assist the commission in its evaluation of your complaint.

Upload File(s)

Drag your file(s) or [click here](#) to upload

Additional Information. Provide any additional information that you believe may assist in the Ethics Commission in its evaluation of this complaint.

Related Complaints. Have you made the same or similar allegations to another agency? If so, identify the agency or court and attach a copy of any complaint or other written description of the allegations submitted to that agency or court.

Select One

Yes

No

VERIFICATION:

I certify under penalty or perjury under the laws of the State of California that the above statements are true and correct.

Executed:
Date Picker



Full Address

Street Address

City

State

Zip

Signature: *

First Name

Last Name

Email

Draw Type