



ANNUAL REPORT
2014

MISSION STATEMENT

To preserve public confidence in our City government through education, advice, and the prompt and fair enforcement of local governmental ethics laws.

DUTIES AND RESPONSIBILITIES

The City of San Diego Ethics Commission is responsible for monitoring, administering, and enforcing the City's governmental ethics laws; conducting audits and investigations; providing formal and informal advice to persons who fall within the jurisdiction of the Commission; conducting training sessions for the regulated community; and proposing governmental ethics law reforms.

Governmental ethics laws include the Ethics Ordinance, the Election Campaign Control Ordinance, and the Municipal Lobbying Ordinance. The Ethics Commission accepts complaints regarding alleged violations of laws within its jurisdiction, and protects individuals from retaliation for reporting violations. The Ethics Commission may impose fines up to \$5,000 for each violation of local governmental ethics laws.

Persons who fell within the jurisdiction of the Ethics Commission in 2014 include the following:

- Mayor, Councilmembers, City Attorney, and their respective staffs
- Unclassified managerial employees, including employees of City agencies who file Statements of Economic Interests
- City candidates, political committees, and campaign treasurers
- Members of boards and commissions who file Statements of Economic Interests
- Consultants who file Statements of Economic Interests
- Lobbyists, Lobbying Firms, Organization Lobbyists, and Expenditure Lobbyists

The Ethics Commission is an independent City department that does not report to the Mayor or City Council. Instead, Commission staff reports directly to the Ethics Commissioners, who are appointed by the Mayor and City Council to serve four-year terms.

2014 COMMISSIONERS AND STAFF

Chair

John O'Neill

Vice Chair

Clyde Fuller

Commissioners

Deborah Cochran

Faye Detsky-Weil

Alex Kreit

Andrew Poat

Greg Zinser

Staff

Stacey Fulhorst, Executive Director

Stephen Ross, Education Program Manager

Lauri Davis, Senior Investigator

Rosalba Gomez, Auditor

Jennifer Duarte, Administrative Aide

General Counsel

Christina Cameron, Esq.

Stutz Artiano Shinoff & Holtz

EDUCATION AND OUTREACH

The Commission continued to make education and outreach top priorities during 2014. Specifically, the Commission made the following efforts to educate City Officials regarding the various provisions of the City's Ethics Ordinance:

- The Commission staff conducted a “refresher” training session on the Ethics Ordinance for the office of Council District 7.
- The staff also conducted live training sessions on the Ethics Ordinance for the offices of the newly-elected Mayor, the appointed Councilmember for District 2, and the newly-elected Councilmember for District 6.
- The Commission staff conducted four live training sessions on the Ethics Ordinance for unclassified management employees of the City in February, April, July, and October.
- In January, the Commission staff conducted a live training for the Historical Resources Board with special emphasis on issues related to the jurisdiction of this agency.
- In March, the staff conducted a live training session concerning the filing of Statements of Economic Interests for the members of the Board of Administration of the San Diego City Employees Retirement System.
- Approximately 315 City Officials (primarily volunteer members of City boards and commissions) obtained training on the City's Ethics Ordinance via the Commission's on-line application.
- The Commission staff issued one formal advisory opinion and responded to approximately 320 requests for informal advice from City Officials regarding compliance with the City's Ethics Ordinance.
- The staff monitored changes to state ethics laws that impacted corresponding local laws, and notified City Officials about these changes.
- The Commission staff updated three previously-issued Fact Sheets concerning various provisions of the City's ethics laws.

In addition, the Commission undertook the following efforts to educate City candidates and their staffs, as well as political committees, on the City's campaign laws:

- In February, the Commission staff conducted an additional training session for City candidates and their staffs on the City's campaign laws (three previous trainings for candidates in the 2014 election cycle took place during calendar year 2013).
- The staff responded to approximately 145 requests for informal assistance from City candidates and their staffs, as well as various political committees participating in City elections.

During 2014, the Commission made the following efforts to educate lobbying firms and organizations on the City's lobbying laws:

- In September and October, the Commission staff conducted three "refresher" training sessions for lobbying firms and organization lobbyists.
- The staff responded to approximately 125 requests for informal advice and assistance concerning the City's lobbying laws.

Finally, the Commission's education and outreach efforts during 2014 included the following:

- The staff developed an interactive online tool that pulls open data from the City's online filing system for campaign disclosures and arranges it in a format that allows the public to view contributor data for independent expenditures in a concise, user-friendly format.
- The Commission continued to disseminate information to the public, the regulated community, City Officials, and the media, via three "interested persons" e-mail lists: one for campaign finance issues, one for ethics issues, and one for lobbying issues.
- The Commission frequently updated its website (www.sandiego.gov/ethics) to provide the public with timely information regarding Commission meetings, legislative proposals, educational efforts, and enforcement activities.

- The Executive Director made presentations to groups inside and outside the City concerning the role of the Ethics Commission and the laws within its jurisdiction.

LEGISLATIVE PROPOSALS

During the 2012 election cycle, as well as the Council District 4 and Mayoral special election cycles, the Commission noticed two new campaign strategies employed by committees formed to support and oppose City candidates that suggested amendments were necessary in order to combat the appearance of corruption and ensure transparency with respect to the funding of campaign advertisements: (1) the duplication or re-publication of candidate materials in connection with “independent” expenditures; and (2) the dissemination of campaign advertisements on credit resulting in the avoidance of laws that require the disclosure of major donors.

The first trend involved situations in which candidates made campaign materials available on the Internet, which enabled committees to duplicate and re-distribute the material as “independent” expenditures. For example, it was not uncommon for candidates to produce candidate videos and post them in high-definition format on their campaign websites. In turn, an “independent” committee would download the video and pay to air it as a television commercial. This practice effectively circumvented contribution limits because wealthy donors, who are limited in the amount they can contribute directly to a candidate, are permitted to make unlimited contributions to “independent” committees that use the donors’ funds to pay the candidate’s advertising costs.

In order to combat this circumvention of contribution limits, the Commission proposed amendments to the City’s campaign laws that treat the duplication of candidate materials as an in-kind contribution to the candidate, subject to contribution limits and source prohibitions. The proposal was based on existing federal law and input received from a nationally-recognized expert at the Campaign Legal Center. In order to strike an appropriate balance between practical and policy considerations, the Commission’s proposal included exemptions for written statements in printed campaign materials, verbal statements made by a candidate, and duplication of three or fewer photographs produced by the candidate. Additionally, the Commission clarified that the amendments do not impose any liability on the candidate whose materials are duplicated because candidates cannot control the actions of committees that choose to copy and disseminate campaign materials.

The second trend involved situations in which committees used vendor credit to avoid disclosure of sponsors and major donors on campaign advertisements. For

example, with little or no cash on hand, a committee would ask a vendor for an extension of credit based on assurances that one or more donors had pledged contributions at a later date. By waiting to receive substantial contributions until after the advertisements were disseminated, the committees were able to withhold information concerning the identity of the major donors paying for the advertisements.

In order to ensure that the public receives timely information about the financing of committees formed to support or oppose City candidates and measures, the Commission recommended amending the City's campaign laws to limit the ability of these committees to pay for campaign advertising on credit. The Commission's proposals were narrowly crafted to apply to only those situations in which the identity of the committee's major donors or sponsors could be concealed by the extension of vendor credit.

In addition to the amendments discussed above, the package of amendments proposed by the Commission included some less substantial changes: (1) expand the rules pertaining to local bank accounts to permit candidates to establish campaign accounts at any bank located in California; (2) recognize an exemption to the telephone communication disclosure laws for member communications (other than those made by a political party); and (3) close a loophole in the electioneering communication rules to ensure that all issue advertisements include a "paid for by" disclosure.

The amendments proposed by the Commission were approved by the Committee on Economic Development and Intergovernmental Relations on September 22, 2014, and by the full City Council on October 21, 2014. The new laws went into effect on January 1, 2015.

AUDIT PROGRAM

On September 12, 2013, the Ethics Commission conducted a random drawing of committees from the 2012 election cycle and selected eighteen candidate committees and eight ballot measure committees for audit. In late 2013, the Commission's Auditor completed the audits of four candidate committees and two ballot measure committees. During 2014, the Auditor completed the audits of nine additional candidate committees from the 2012 election cycle:

Carl DeMaio for Mayor 2012

Taxpayers for Carl DeMaio – Mayor 2012

Too Extreme for San Diego-a committee to oppose Carl DeMaio for Mayor 2012

Ellis for Council 2012

San Diegans for Bob Filner for Mayor 2012

San Diegans for Reform in Opposition to Bob Filner – Mayor 2012 with major funding by the Lincoln Club of San Diego County and the Infrastructure PAC for the Associated General Contractors

Fletcher for Mayor 2012

City Attorney Jan Goldsmith for 2012

Mat Kostrinsky for City Council 2012

In addition, the Auditor completed the audit of the one additional ballot measure committee:

Comprehensive Pension Reform for San Diego (CPR for San Diego) with major funding by San Diegans for Pension Reform and The Lincoln Club of San Diego County, advocates for responsible city finances

The Commission anticipates completing the remaining audits from the 2012 election cycle (five candidate committees and five ballot measure committees) before September of 2015, at which time the Commission will conduct another random drawing to select committees from the 2013-2014 election cycles for audit.

ENFORCEMENT – STATISTICS

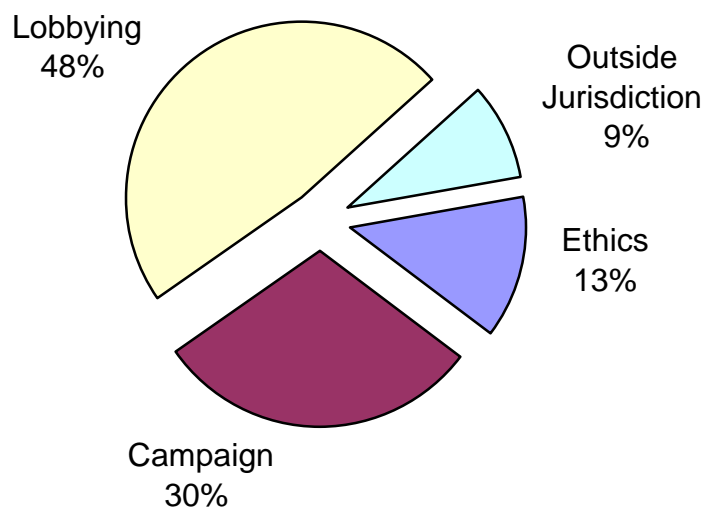
Number of Complaints

During 2014, the Ethics Commission processed a total of 56 complaints. These complaints were submitted by way of written complaint forms, letters, memos, e-mails, and telephone calls. They were presented by third parties and other governmental agencies, as well as Commission staff. One of the complainants was anonymous.

Types of Complaints

Complaints processed by the Ethics Commission in 2014 concern alleged violations of law as follows:

- 17 complaints alleged a violation of the Election Campaign Control Ordinance;
- 27 complaints alleged a violation of the Lobbying Ordinance;
- 7 complaints alleged a violation of the Ethics Ordinance; and
- 5 complaints alleged a violation outside of the Commission’s jurisdiction.

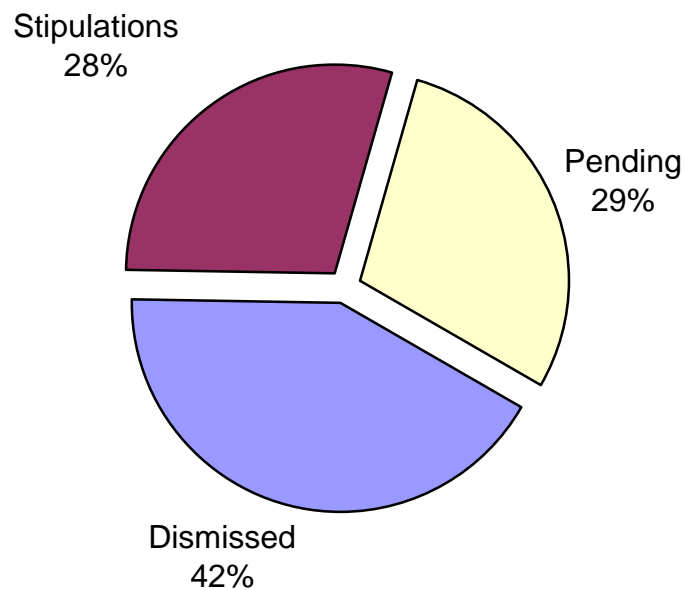


Investigations

Out of the 56 complaints processed by the Commission during 2014, 32 were approved for investigation and 5 were placed on hold pending further Commission consideration.

These 37 cases, together with 18 cases approved for investigation but not resolved in previous years, resulted in the following disposition during 2014:

- 23 matters were ultimately dismissed by the Commission after considering the results of staff investigations;
- 16 matters resulted in stipulated settlement agreements; and
- 16 matters are currently pending.



ENFORCEMENT – STIPULATIONS

During 2014, the Commission entered into twenty-six stipulated settlements in connection with violations of the City’s campaign laws, lobbying laws, and ethics laws. Seventeen of these stipulations concerned violations of the City’s campaign laws:

- Marc Chase, the owner of Symbolic Motor Car Company, and eight of his employees and associates paid fines totaling \$140,000 for laundering campaign funds from Jose Susumo Azano Matsura to various committees supporting mayoral candidates in the 2012 election cycle.
- Amir Iravani, the owner of owner of NK Towing and Roadside Services, paid a \$20,000 fine for laundering campaign contributions through four employees to the Bonnie Dumanis for Mayor 2012 committee.
- Milan Bakic, Cheryl Nichols, and Ryan Zylius each agreed to pay a \$5,000 fine for participating in a money laundering scheme by accepting cash from their employer Ernesto Encinas, the owner of Coastline Protection and Investigations, to serve as “straw donors” and make contributions in their own names to the Bonnie Dumanis for Mayor 2012 committee on December 31, 2011.
- Barry Pollard, a candidate for City Council District 4, agreed to pay a \$7,000 fine as a result of his failure to pay campaign vendors within 180 days as required by the City’s campaign laws.
- The San Diego and Imperial Counties Labor Council AFL-CIO paid a \$3,000 fine in connection with its failure to timely file a lobbyist quarterly disclosure report and its failure to disclose lobbying and campaign activities on quarterly disclosure reports.
- David Alvarez, a candidate for Mayor, paid a \$2,000 fine for distributing campaign literature that included “paid for by” disclosures that did not comply with the type size and contrasting color requirements.
- Sarah Boot, a candidate for City Council District 2, paid a \$1,000 fine for distributing campaign literature that did not include a “paid for by” disclosure.

Nine of the stipulations approved by the Commission during the past year involved the City's lobbying laws. The following lobbying firms and organization lobbyists paid fines ranging from \$100 to \$500 as a result of their failure to timely amend their registration forms or their failure to disclose all of the requisite information on their quarterly disclosure reports:

- AMSOLAR International, Inc.
- Higgs, Fletcher & Mack
- Lounsbery Ferguson Altona & Peak LLP
- M.W. Steele Group
- Rick Engineering Company
- San Diego Regional Chamber of Commerce
- San Diego Regional Economic Development Corp.

During 2014, the Commission levied a total of \$191,150 in administrative fines by way of the stipulations discussed above. All fines are paid to the City of San Diego's General Fund and are not credited to the Ethics Commission's operating budget.