



Ethics
Commission

ANNUAL REPORT
2019

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 Commission accepts complaints regarding alleged violations of laws within its jurisdiction and protects individuals from retaliation for reporting violations. The Commission may impose fines up to \$5,000 for each violation of local governmental ethics laws.

Persons who fell within the jurisdiction of the Commission in 2019 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 Commission is an independent City department that does not report to the Mayor or City Council. Instead, Commission staff reports directly to the Commissioners, who are appointed by the Mayor and City Council to serve four-year terms.

2019 COMMISSIONERS AND STAFF

Chair

Sid Voorakkara

Vice Chair

Alex Kreit

Commissioners

William Baber

Deborah Cochran (left office on November 14, 2019)

Thomas Hebrank (assumed office on July 11, 2019)

Fred Kosmo

Alex Kreit

David Potter

Caridad Sanchez (assumed office on December 19, 2019)

Staff

Stacey Fulhorst, Executive Director

Rosalba Gomez, Audit Program Manager

Stephen Ross, Education Program Manager

Kristina Gagné, Investigative Program Manager

Victoria Velasquez, Program Coordinator

General Counsel

Christina Cameron, Esq.

Devaney Pate Morris & Cameron LLP

EDUCATION AND OUTREACH

The Commission continued to make education and outreach top priorities during 2019. Specifically, the Commission made the following efforts to educate City Officials regarding the various provisions of the City's Ethics Ordinance:

- The staff conducted live training sessions on the Ethics Ordinance for the offices of the newly-elected Councilmembers for Districts 2, 4, and 8, and refresher training sessions for Council Districts 1 and 7.
- The staff conducted four live training sessions on the Ethics Ordinance for unclassified management employees of the City in January, April, July, and October.
- In January, the staff conducted a live training for Civic San Diego with special emphasis on issues related to the jurisdiction of this agency.
- In February, the staff conducted a live training for the Planning Commission with emphasis on land use issues related to the jurisdiction of this commission.
- In March, the staff conducted live trainings for the Commission on Arts & Culture and the Park and Recreation Board concerning the disclosure of economic interests.
- Approximately 330 City Officials (primarily City consultants and volunteer members of City boards and commissions) obtained training on the City's Ethics Ordinance via the Commission's online program.
- The staff responded to approximately 300 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 staff updated thirteen 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 political committees on the City's campaign laws:

- In March, June, and September, the Commission staff conducted live training sessions for City candidates, treasurers, and campaign staffers involved in the 2020 election cycle.
- The staff responded to more than 130 requests for informal assistance from City candidates and treasurers, as well as various political committees participating in City elections.
- Commission staff monitored changes to state laws concerning campaign advertising disclosures and updated the Commission's advertising charts to reflect these changes.
- Commission staff updated the Campaign Manuals for candidates and political committees for the 2020 election cycle.
- The staff updated six previously-issued Fact Sheets concerning various aspects of the City's campaign laws.

During 2019, the Commission made the following efforts to educate lobbying firms and organizations on the City's lobbying laws:

- Commission staff responded to approximately 65 requests for informal advice and assistance concerning the City's lobbying laws.
- Representatives from approximately 35 lobbying entities took advantage of the Commission's voluntary online training program that addresses key disclosure requirements associated with the filing of quarterly reports.
- The staff periodically updated a list of candidates and committees active in the 2018 and 2020 election cycles to assist lobbyists with the disclosure of campaign activities on their quarterly reports.
- The staff updated one previously-issued Fact Sheet to reflect changes to the City's lobbying laws concerning the disclosure of activity expenses.

Finally, the Commission's education and outreach efforts during 2019 included the following:

- In order to provide the public with information regarding the persons and entities largely funding the committees that support or oppose City candidates and measures, the Commission maintained a list on its website of each committee's \$10,000+ donors, the amount contributed, and occupation and employer information when applicable.
- 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 Commission continued to disseminate information to the public, the regulated community, City Officials, and the media, via the Commission's Twitter account and three "interested persons" e-mail lists: one for campaign finance issues, one for ethics issues, and one for lobbying issues.
- The Executive Director made presentations to groups inside and outside the City concerning the role of the Commission and the laws within its jurisdiction.

LEGISLATIVE PROPOSALS

On November 6, 2018, voters approved Measure L, which amended the City Charter to increase compensation and restrict other types of benefits for elected officials. One of the restrictions is a two-year post-employment lobbying prohibition for former elected officials, which necessitated a corresponding amendment to the one-year post-employment lobbying prohibition in the City's Ethics Ordinance. In addition, state law changes regarding post-employment lobbying activities conducted on behalf of another government agency by former high-level City Officials (e.g., elected officials and the City's Chief Operating Officer) necessitated corresponding changes to the City's Ethics Ordinance. In February of 2019, the City Council approved both updates to the City's post-employment lobbying provisions.

In July of 2019, the City Council approved updates recommended by the Ethics Commission to the City's lobbying laws concerning the disclosure of "activity expenses" by registered lobbying entities. (An "activity expense" is a payment by a lobbyist or lobbying entity made to a City Official or a member of a City Official's immediate family, and includes consulting fees, salaries, and other forms of compensation.) These two updates included the following:

- tailoring the law to ensure that the disclosure requirement is serving its intended purpose by providing the public with information concerning payments made to a City Official or member of a City Official's immediate family by lobbying entities that have lobbied the official's department, agency, or board within the past 12 months, or are expected to do so within the next 12 months; and
- changing the disclosure of employment-related activity expenses from specific dollar amounts to dollar ranges (similar to those in the Form 700 Statement of Economic Interests) in order to: (1) make it simpler for the filer because it is easier to calculate a range than an exact amount of compensation (which includes all types of employment benefits); and (2) afford some measure of privacy for the individuals receiving the compensation.

AUDIT PROGRAM

During 2019, the Commission's Audit Program Manager completed the audits of the remaining committees from the 2016 election cycles (selected at the September 2017 audit drawing):

- Jose Caballero for City Council District 7 2016
- Rafael Castellanos for City Attorney 2016
- Flores for City Council 2016
- Gomez for City Council 2016
- Harris for Mayor 2016
- Citizens Opposed to Hickey for City Attorney 2016, sponsored by International Brotherhood of Electrical Workers Local 569
- Bryan Pease for San Diego City Attorney 2016
- Sarah Saez for District 9 2016
- Lori Saldana for Mayor 2016
- Citizens for Fair & Honest Elections-No on Measure K, a coalition of individuals/orgs supportive of fiscally prudent elections, funded by Lincoln Club of San Diego County and the San Diego Chamber of Commerce PAC
- Citizens for the Responsible Management of Major Tourism and Entertainment Resources-Yes on D Support by East Village property owners w/major funding from Ballpark Village LLC & Cory Briggs/Briggs Law Corp
- No Downtown Stadium-Jobs and Streets First! No on C with major funding from the San Diego Lodging Industry Association PAC
- Protect San Diego's Neighborhoods, a coalition of neighborhood residents, community planners, taxpayers, and small businesses major funding by Donahue Schriber
- Rebuild San Diego-Yes on H sponsored by the San Diego Regional Chamber of Commerce

- San Diegans for Full Voter Participation, Yes on K and L, sponsored by Community and Voters Rights Organizations
- San Diegans for Jobs and Sustainable Communities sponsored & funded by Kilroy Realty, LP
- Save San Diego High School – Yes on Measure I

On September 12, 2019, the Commission conducted a random drawing of committees from the 2018 election cycle and selected the following candidate committees for audit:

- Neal Arthur for Council 2018
- Jordan Beane for City Council 2018
- Dr. Jen Campbell for City Council 2018
- Public Integrity League Opposed to Jen Campbell for City Council 2018, sponsored by The Lincoln Club of San Diego County
- Cate for Council 2018
- Independent Leadership Coalition Supporting Chris Cate for Council 2018, sponsored by and with major funding from the San Diego Regional Chamber of Commerce Political Action Committee and the Lincoln Club of San Diego County
- Tommy Hough for City Council 2018
- Antonio Martinez for City Council 2018
- Working Families for a Better San Diego, sponsored by Working Families Council, supporting Antonio Martinez for City Council 2018
- Monica Montgomery for City Council 2018
- We the People for Monica Montgomery D4 City Council 2018
- Vivian Moreno for City Council 2018
- Bryan Pease for City Council 2018
- Lorie Zapf for Council 2018

In addition, the following ballot measure committees were chosen at the random drawing:

- GOAL San Diego: Yes on E, No on G, sponsored by MLS SD Pursuit
- Public Land, Public Benefit, No on E, Yes on G, a coalition of San Diego taxpayers, community planners, local business, and education, park & environmental advocates
- San Diegans for the Common Good
- Stand for Jobs, Stop the Vacation Rental Ban. Supported by Share San Diego. Committee major funding from AirBnB, Expedia.
- Yes! For a Better San Diego - supported by a coalition of downtown tourism and lodging organizations, civic and community activists, organized labor, and homeless advocates. Sponsored by the San Diego Lodging Industry Association, the San Diego Regional Chamber of Commerce and the San Diego Imperial Counties Labor Council

During the latter part of 2019, the Audit Program Manager began field work associated with the audits of committees selected from the 2018 election cycle.

ENFORCEMENT – STATISTICS

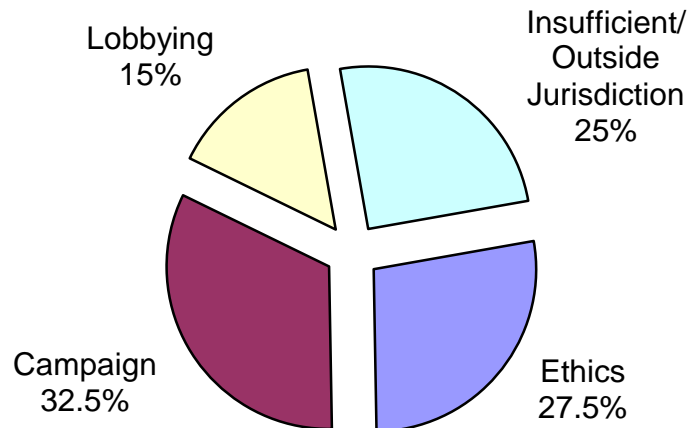
Number of Complaints

During 2019, the Commission processed a total of 40 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. Three of the complainants were anonymous.

Types of Complaints

Complaints processed by the Commission in 2019 concern alleged violations of law as follows:

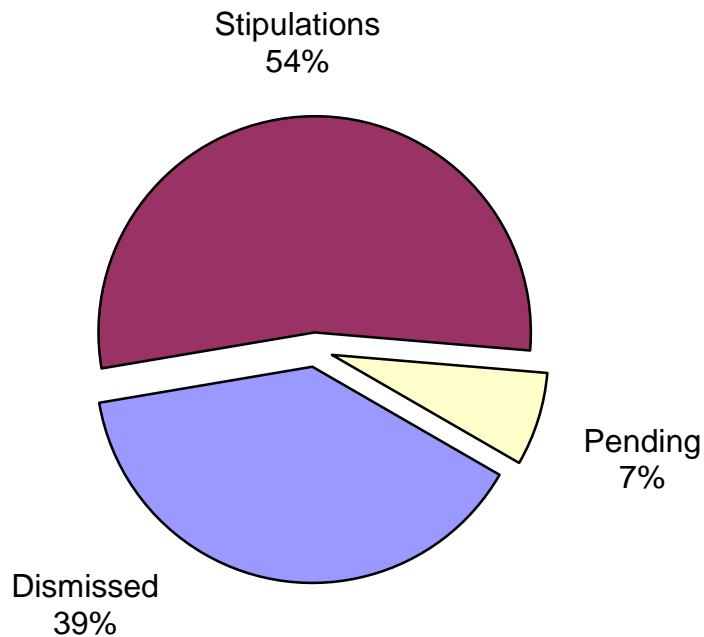
- 13 complaints alleged a violation of the Election Campaign Control Ordinance;
- 11 complaints alleged a violation of the Ethics Ordinance;
- 6 complaints alleged a violation of the Lobbying Ordinance; and
- 10 complaints contained insufficient information to support an allegation or alleged a violation outside of the Commission’s jurisdiction.



Investigations

Out of the 40 complaints processed by the Commission during 2019, 19 were approved for investigation. These 19 cases, together with 9 cases approved for investigation but not resolved in previous years, resulted in the following disposition during 2019:

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



ENFORCEMENT – STIPULATIONS

During 2019, the Commission entered into fifteen stipulated settlements. Six of these stipulations concerned violations of the City’s campaign laws:

- Patrick Batten, a 2020 candidate for City Council District 5, paid a \$500 fine for failing to include a “paid for by” disclosure on a campaign banner.
- Jennifer Campbell, a successful 2018 candidate for City Council District 2, paid a \$500 fine for distributing 1,500 yard signs with a “paid for by” disclosure in a type size that was less than half the required size.
- Ricardo Flores, a 2016 candidate for City Council District 9, agreed to pay a \$6,000 fine for failing to include a “paid for by” disclosure on two newspaper ads and conducting ten phone banks using volunteers who did not disclose that they were calling on behalf of the committee.
- Fayaz Nawabi, a 2018 candidate for City Council District 6, and his treasurer, Tazheen Nizam, paid a \$2,500 fine for failing to timely disclose contributions and expenditures on campaign statements.
- Christian Ramirez, a 2018 candidate for City Council District 8, paid a \$5,000 fine for failing to timely disclose expenditures and accrued expenses on campaign statements.
- Save San Diego High – Yes on Measure I, a committee formed to support a measure on the November 2016 ballot, agreed to pay a \$2,000 fine for failing to identify a major donor on two campaign advertisements.

Two of the stipulations approved by the Commission during 2019 involved violations of the City’s ethics laws:

- Mayor Kevin Faulconer agreed to pay a \$4,000 fine for failing to timely disclose payments totaling \$67,500 made at his request to One San Diego, a local nonprofit organization established in part to support the Mayor’s Office.

- Richard Eugene Matter, Jr., an unclassified managerial employee with the City’s Transportation and Stormwater Department, paid a \$500 fine for failing to timely disclose gifts from a reportable source, and for accepting gifts that exceeded the annual gift limit.

Seven of the stipulations approved by the Commission during the past year involved the City’s lobbying laws. They were all part of the Commission’s “streamlined” program for minor disclosure violations involving the failure to disclose campaign contributions and the failure to provide specific information regarding the municipal decisions that were the subject of lobbying efforts:

- Bartell & Associates (\$200 fine)
- California Strategies & Advocacy, LLC (\$200 fine)
- Madaffer Enterprises (\$500 fine)
- National Electrical Contractors Association (NECA) (\$100 fine)
- Rick Engineering Company (\$100 fine)
- Southwest Strategies, LLC (\$500 fine)
- Terra Vista Management, Inc. (\$500 fine)

During 2019, the Commission levied a total of \$23,100 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 Commission’s operating budget.

ENFORCEMENT – HEARINGS

In April of 2016, following an Administrative Hearing, the Commission issued an Administrative Enforcement Order that requires Advantage Towing Company and Ayman Arekat to pay a \$128,000 fine for laundering campaign contributions through company employees to three different mayoral candidates in the 2012 election cycle.

On July 25, 2016, Advantage Towing and Mr. Arekat filed a Petition for Writ of Mandate with the San Diego Superior Court, and on September 13, 2017, they served the City with the Petition. During 2018, the Commission prepared the extensive administrative record and on July 12, 2019, the Court heard the matter and denied the Petition. In particular, the Court found that the City's campaign laws are constitutional and that it was legally permissible for the Commission to hold both Mr. Arekat and Advantage Towing responsible for the violations. In response to a request from Advantage Towing and Mr. Arekat, the Court issued a Statement of Decision on October 15, 2019, explaining in detail the basis for the denial. On December 13, 2019, Advantage Towing and Mr. Arekat filed a Notice of Appeal; the Fourth District Court of Appeals should hear the matter in early 2020.