



Ethics
Commission

ANNUAL REPORT
2021

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 Commission's jurisdiction; conducting training sessions for the regulated community; and proposing reforms to governmental ethics laws.

Governmental ethics laws include the City's Ethics Ordinance, Election Campaign Control Ordinance, and 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 a local governmental ethics law.

Commission staff work daily with a regulated community on ethics, campaign, and lobbying matters both inside and outside City government. Persons who fell within the Commission's jurisdiction in 2021 included:

- The Mayor, Councilmembers, City Attorney, and their respective staffs
- The City's unclassified managerial employees, including employees of City agencies who file Statements of Economic Interests
- City candidates, political committees, and campaign treasurers
- Members of City boards and commissions who file Statements of Economic Interests
- Consultants who file Statements of Economic Interests
- Lobbyists, Lobbying Firms, Organization Lobbyists, and Expenditure Lobbyists, as defined in the Municipal Code

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

2021 COMMISSIONERS AND STAFF*

Chair

William Baber

Vice Chair

Caridad Sanchez

Commissioners

Paul Cooper (as of 11/16/21)

Thomas Hebrank

Fred Kosmo (until 11/16/21)

Dave Potter (until 11/16/21)

Jimmie Slack (as of 11/16/21)

Sid Voorakkara

Staff

Sharon Spivak, Executive Director

Rosalba Gomez, Audit Program Manager

Ryan O'Connor, Education Program Manager

Kristina Gagné, Investigative Program Manager

Victoria Velasquez, Program Coordinator

General Counsel

Christina Cameron, Esq.

Devaney Pate Morris & Cameron LLP

*The Commission's officers begin one-year terms at the July meeting. Dates that Commissioners joined or left the Ethics Commission in 2021 are noted above.

2021 SUMMARY

The Commission's former Executive Director, Stacey Fulhorst, and Education Program Manager, Stephen Ross, retired February 5, 2021. Their successors, Sharon Spivak and Ryan O'Connor, were hired in 2020, working in an "overlap" period of training and onboarding to ensure a smooth transition.

It is significant to note that all of the accomplishments detailed in this Report were handled by the Commission's five-member staff while they predominantly worked remotely. Commission staff followed City protocols regarding remote work during the COVID-19 pandemic.

EDUCATION AND OUTREACH PROGRAM

The Commission continued to prioritize education and outreach to the regulated community during 2021. Due to the pandemic, each of the live training sessions were co-taught by the Commission's Executive Director Sharon Spivak and Education Program Manager Ryan O'Connor virtually over Zoom.

Virtual classes proved to be a successful way to ensure members of the regulated community could attend needed classes. Commission Program Coordinator Victoria Velasquez ensured that all members of the regulated community required to attend training were registered and attended, ensuring compliance.

Ethics Laws – Education and Training Programs

During 2021, the Commission made the following efforts to educate City Officials regarding provisions of the City's Ethics Ordinance:

- Commission staff conducted 5 separate live training sessions on provisions of the Ethics Ordinance for each of the newly elected City Councilmembers and their new staffs: Council Districts 1, 3, 5, 7, and 9.
- Commission staff conducted 4 separate live training sessions on provisions of the Ethics Ordinance as a "refresher" course for each of the continuing City Councilmembers and their staffs: Council Districts 2, 4, 6, and 8.

- Commission staff conducted 4 live training sessions on the Ethics Ordinance for the City’s unclassified management employees in January, April, July, and October.
- In June 2021, Commission staff conducted a live training for the City’s Planning Commission, appearing at their monthly public meeting, with special emphasis on complex ethics issues related to the jurisdiction of this agency.
- A total of 356 additional City Officials (primarily City consultants and volunteer members of City boards and commissions) completed training on the City’s Ethics Ordinance through the Commission’s online training program.
- Commission staff responded to approximately 255 requests for informal advice from City Officials regarding compliance with the City’s Ethics Ordinance in 2021 (a 27% increase from the number of requests in 2020).
- Staff monitored changes to state ethics laws that impacted corresponding local laws and notified City Officials about these changes.
- The Education Program Manager updated 22 previously-issued Fact Sheets concerning various provisions of the City’s ethics laws. These Fact Sheets appear on the Commission’s website to assist the public in understanding ethics laws.
- The Education Program Manager and Executive Director tracked new state regulations involving behested payments (contributions made at the behest of an elected official), updated educational materials, and alerted the affected community via an e-mail blast when the new laws took effect.

Campaign Laws

Commission staff also conducted outreach and training to educate City candidates and political committees on the City’s campaign laws:

- In preparation for the 2022 campaign cycle, Commission staff reached out to all candidates and treasurers who filed papers to seek municipal office in 2022. Each candidate and staff member was invited to attend a training

session on the City's campaign laws. Commission staff taught this course in September 2021 and November 2021. This training provides all candidates – including grass roots candidates without professional campaign consultants – with basic, clear information on City campaign laws.

- Despite the fact 2021 was not an election year, Commission staff responded to more than 63 requests for informal assistance from City candidates and treasurers, as well as various political committees participating in City elections. Advice included issues related to campaign disclosure forms, which are made public on the City's website.
- Commission staff monitored changes to state laws concerning campaign advertising disclosures and updated the Commission's training materials and fact sheets to reflect these changes.

Lobbying Laws

During 2021, the Commission made the following efforts to educate lobbying firms and organizations about the City's lobbying laws:

- Commission staff responded to approximately 45 requests for informal advice and assistance requiring interpretation and analysis of the City's lobbying laws.
- Commission staff periodically updated lists of City officials to assist lobbyists with proper disclosures of their activities on their quarterly reports.

Additionally, the Commission's education and outreach efforts included the following:

- The Commission frequently updated its website 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 "interested persons" e-mail lists: one for campaign finance issues, one for ethics issues, and one for lobbying issues.

AUDIT PROGRAM

2020 Election Cycle

On September 9, 2021, the Commission’s Audit Program Manager, Rosalba Gomez, appeared with the City Clerk’s Office at City Hall to conduct the first-ever “virtual” random drawing of campaign committees selected for audit. This required drawing was held virtually due to the pandemic, but broadcast live over Zoom as part of the Ethics Commission’s monthly meeting.

The following 38 campaign committees from the 2020 election cycle were selected in the drawing to be audited by the Audit Program Manager. This work has already begun and will be conducted over a two-year cycle:

Candidate committees that raised over \$100,000

- Aaron Brennan for City Council 2020
- Barbara Bry for San Diego Mayor 2020
- Chris Olsen for City Council 2020
- Cory Briggs for City Attorney 2020
- Georgette Gomez for City Council 2020
- Joe LaCava for City Council 2020
- Kelvin Barrios for San Diego City Council 2020
- Leventhal for Council 2020
- Mara Elliott for City Attorney 2020
- Marni von Wilpert for City Council 2020
- Monty McIntrye for City Council 2020
- Moore for City Council 2020
- Neighbors for Housing Solutions Supporting Todd Gloria for San Diego Mayor 2020
- Noli Zosa for Council 2020
- Raul Campillo for City Council District 7 2020
- Sam Nejabat for City Council 2020
- San Diegans for Transparency & Accountability in support of Kelvin Barrios for City Council 2020, sponsored by Laborers International Union of North America Local 89
- San Diegans from Every Community in Support of Todd Gloria for Mayor 2020 sponsored by Laborers International Union of North America Local 89
- Sean Elo for City Council 2020

- Sherman for Mayor 2020
- Small Business Recovery Coalition Supporting Joe Leventhal for City Council 2020 sponsored by the San Diego Regional Chamber of Commerce
- Success San Diego in Support of Barbara Bry for Mayor 2020
- Todd Gloria for Mayor 2020
- Whitburn for City Council 2020

Ballot measure committees that raised \$100,000 or more

- San Diegans for Justice in Support of Measure B
- San Diegans for Midway Revitalization – Yes on E
- Yes on C! For a Better San Diego – Sponsored by the San Diego Regional Chamber of Commerce, San Diego & Imperial Counties Labor Council, AFL-CIO and the Manchester Grand Hyatt San Diego
- Yes on Measure A – Homes for San Diegans, Sponsored by a Coalition of Civic Nonprofits and Housing Providers

Candidate committees that raised \$50,000 to \$99,999

- Toni Duran for City Council
- Adrian Kwiatkowski for City Council 2020
- Issac Wang for City Council District 5 2020
- Scott Peters for Mayor 2020 – Exploratory
- Democrats for a More Affordable and Sustainable San Diego in Support of Chris Olsen for Council and Todd Gloria for Mayor 2020, Sponsored by YIMBY Democrats of San Diego County
- Committee Supporting the Recall of Jennifer Campbell

Ballot measure committees that raised \$50,000 to \$99,999

- Save Coastal Access – No on E

Candidate committees that raised \$15,000 to \$49,999

- Puentes for City Council 2020
- Kevin Beiser for San Diego City Council 2020 District 7
- Johnny Lee for City Council 2020

2018 Election Cycle

During 2021, the Audit Program Manager timely completed the audits of seven candidate and campaign committees from the 2018 cycle:

- Brian Pease for City Council 2018
- Jordan Beane for City Council 2018
- We the People for Monica Montgomery D4 City Council 2018
- Public Land, Public Benefit, No on E, Yes on G
- Yes! For a Better San Diego
- Stand for Jobs, Stop the Vacation Rental Ban
- San Diegans for the Common Good

The Commission's work plan contemplates that audits of the 2020 committees will be completed before the next random drawing. The Commission anticipates a September 2023 drawing to select those committees from the 2022 election cycle that will be audited by Commission staff.

ENFORCEMENT PROGRAM – STATISTICS

The Ethics Commission's enforcement program is led by Kristina Gagné, Investigative Program Manager. Commission staff's investigation and enforcement work is detailed here.

Complaints - Summary

During 2021, the Commission received a total of 100 formal and informal complaints and determined that the majority did not fall within the Commission's jurisdiction, as they did not state allegations regarding potential violations of the City's ethics, campaign, and lobbying laws. Complaints were submitted by way of written complaint forms, letters, memos, e-mails, and telephone calls.

Complaints authorized for investigation alleged the following violations of law:

- 4 complaints alleged a violation of the Election Campaign Control Ordinance (33.3%);
- 8 complaints alleged a violation of the Ethics Ordinance (66.6%); and
- 0 complaints alleged a violation of the Lobbying Ordinance (0%)

Investigations - Summary

The Ethics Commission authorized investigations into 12 complaints it received in 2021. These cases, together with cases approved for investigation but not resolved in previous years, resulted in the following disposition of 17 cases during 2021:

- 12 matters were ultimately dismissed by the Commission after considering the results of staff investigations, some of which included corrective actions taken by parties involved;
- 5 matters resulted in stipulated settlement agreements; and
- 2 matters were still pending as of December 31, 2021.

ENFORCEMENT PROGRAM – STIPULATIONS

During 2021, the Commission entered into five stipulated settlements, which concerned violations of the City’s ethics and campaign laws:

- Success San Diego in Support of Barbara Bry for Mayor 2020, and Gould and Orellana, LLC, its campaign treasurer, paid a \$7,000 fine for violating the Election Campaign Control Ordinance regarding the reporting of campaign contributions. The parties failed to timely report contributions of \$10,000 or more made by 12 campaign contributors and to timely file campaign statements. (Municipal Code sections 27.2970 and 27.2975.)
- Joe Leventhal, a candidate for the City Council District 5 seat, paid a \$250 fine after sending 37 emails to 18 City employees at their City work email addresses, including direct requests for contributions and a link to the candidate’s online donation page. The emails violated the prohibition on soliciting City employees for campaign contributions in the Election Campaign Control Ordinance. (Municipal Code section 27.2946.)
- Yes on Measure A – Homes for San Diegans, Sponsored by a Coalition of Civic Nonprofits and Housing Providers, paid a \$750 fine for violating the Election Campaign Control Ordinance regarding the reporting of campaign contributions. The committee failed to timely report contributions of \$10,000 or more made by 6 campaign contributors. (Municipal Code sections 27.2975.)
- Mara Elliott, KM Strategies, Amplify Campaigns, and River City Business Services paid a \$400 fine for violating the Election Campaign Control Ordinance related to City Attorney Elliott’s Legal Defense Fund (also called a Professional Expense Committee). The parties failed to timely file two required forms in which contributors to the LDF were required to disclose any pending matters they had before City Attorney Elliott. (Municipal Code section 27.2967.)
- Kelvin Barrios, a former unclassified City employee who worked as a Council Representative for the District 9 Councilmember and Council President, paid a \$5,000 fine for violating the City’s Ethics Ordinance when he worked for the City. As a City Official, Mr. Barrios violated the Ethics Ordinance by working for, and receiving compensation from, an outside

entity which involved (1) the consumption of time for which he was also receiving compensation from the City, and (2) a consumption of time that rendered the performance of his duties as a City Official less efficient. (Municipal Code section 27.3563.)

All fines are paid to the City of San Diego's General Fund and are not credited to the Commission's operating budget.

For further information about the Ethics Commission and its programs, please see the Commission's website at www.sandiego.gov/ethics.