



Ethics Commission

**ANNUAL REPORT
2022**

MISSION STATEMENT

To preserve public confidence in 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 within the Commission's jurisdiction; 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, as well as the state ethics laws they incorporate. The Commission investigates complaints regarding alleged violations of ethics laws and protects individuals from retaliation for reporting violations. The Commission may impose fines up to \$5,000 for each violation of local ethics laws.

Those who fall within the jurisdiction of the Ethics Commission are:

- Elected Officials: The Mayor, Councilmembers, City Attorney, and their respective unclassified staff members
- City Employees: Unclassified managerial employees, including employees of City agencies who file Statements of Economic Interests (Forms 700 or SEIs)
- Campaigns: City candidates, political committees, and campaign treasurers
- City Boards: Members of City boards and commissions who file Statements of Economic Interests
- City Consultants: Consultants who are designated to file Statements of Economic Interests
- Lobbyists: Registered Lobbyists, Lobbying Firms, Organization Lobbyists, and Expenditure Lobbyists

As an independent City department, the Commission does not report to the Mayor or City Council. Instead, the Commission's Executive Director reports directly to the seven-member, appointed Ethics Commission board. Commissioners are appointed to four-year terms by the Mayor; appointments are confirmed by the Council.

In 2022, the Commission had a staff of six employees: four attorneys, one auditor, and one program manager handling administration and training compliance.

2022 COMMISSIONERS AND STAFF

Chair

Caridad Sanchez

Vice Chair

Paul Cooper

Commissioners

William Baber
Thomas Hebrank
Jimmie Slack
Sid Voorakkara

Staff

Sharon Spivak, Executive Director
Rosalba Gomez, Audit Program Manager
Ryan O'Connor, Education Program Manager
Kristina Gagné, Investigative Program Manager
Megan Curran, Legislative Program Manager
Victoria Velasquez, Program Manager – Administration & Training

General Counsel

Christina Cameron
Devaney Pate Morris & Cameron LLP

EDUCATION PROGRAM

The Commission continued to make education, advice, and training of City officials its top priorities during 2022. Education Program Manager Ryan O'Connor heads the program, providing ongoing advice to all who seek guidance on the complex web of the City's ethics laws. In 2022, this work included analysis of government ethics laws to respond to more than **400 requests** from those in the regulated community.

This was a landmark year for the Education Program: For the first time in Commission history, the education and training team expanded to include three attorneys. Mr. O'Connor is assisted by Executive Director Sharon Spivak and the Commission's new Legislative Program Manager, Megan Curran, in conducting training sessions, providing advice to City officials, and ensuring the regulated community has the information it needs to understand complex ethics laws. The advice program is critical in assisting the regulated community to make decisions that comply with complex ethics laws.

The Commission's Program Manager for Administration and Training, Victoria Velasquez, oversees and manages the compliance of all who are required to attend Commission training courses. In this role, she also worked in 2022 to help expand the Commission's outreach to ensure that all in the regulated community who seek training are served by the office.

In 2022, the education staff also undertook and completed a project to modernize outdated "live" training materials to better serve the regulated community.

The Commission's education staff works in three distinct areas. This Report details accomplishments and metrics from 2022:

Ethics Ordinance

- Commission staff responded to approximately **222 requests** for informal technical advice to assist City officials in complying with the Ethics Ordinance and its incorporated state ethics laws.
- Staff conducted in-person training courses on the Ethics Ordinance for the Mayor's Office and the Council District 6 office, which included a newly elected Councilmember and new staff members. Staff ensured the new Council office was trained the same week they assumed office.
- Staff conducted four live training sessions on the Ethics Ordinance for hundreds of unclassified City employees who file Statements of Economic Interests (FPPC Form 700s). These two-hour sessions routinely have 80 to 100 participants and are taught in January, April, July, and October.

- In August, the staff conducted an ethics training session for the Historical Resources Board, with an emphasis on conflicts of interest and the appearance of a conflict in representing a client in front of the board.
- Approximately 500 additional City Officials (primarily City consultants and volunteer members of City boards and commissions) used the Commission's online training program to learn about the City's Ethics Ordinance and the legal requirements they face.
- Education staff also monitored the impacts of actions of the California Fair Political Practices Commission, including actions taken through meetings, advice letters, legal opinions, and pending legislation. Staff ensured the regulated community was aware of changes in the law, by updating website content and conducting outreach, along with the Legislative Program Manager.

Election Campaign Control Ordinance

This ordinance includes the City laws governing City candidates, political committees and campaign treasurers. In 2022:

- Commission staff responded to approximately **120** requests for informal assistance from City candidates and treasurers, as well as various political committees participating in City elections.
- As part of its outreach to everyone seeking to run for Municipal City offices, staff held two City candidate and treasurer trainings on the requirements of the ordinance, as well as applicable requirements in California's Political Reform Act and FPPC regulations.
- Commission staff monitored changes to state laws concerning campaign advertising disclosures and updated the Commission's advertising charts to reflect these changes.
- Staff updated eight previously issued Fact Sheets on the Commission's website to ensure the community was aware of updates.
- Staff also assisted with advice and as a partner with the City Clerk's Office to help facilitate e-filing of City campaign and ballot measure committee financial disclosures through FPPC Forms 410, 425, 450, 460, 462, 496, and 497.

Lobbying Ordinance

This ordinance includes the City's laws governing lobbyists, covering a range of activities from those who are registered City lobbyists to non-profit organizations that spend money to lobby City officials. In 2022:

- Commission staff responded to approximately **60** requests for informal advice and assistance concerning the City’s lobbying laws.
- Upon request, Commission staff conducted live training for an organization lobbyist and met with other lobbyists to answer questions related to their activities under the ordinance.
- Staff periodically updated a list of candidates and committees active in the 2020 election cycles to assist lobbyists to disclose required campaign activities on quarterly reports.
- Staff also worked with the City Clerk’s Office to assist with questions and ensure e-filing of financial disclosures by lobbying firms, organization lobbyists, and expenditure lobbyists, through Forms 601, 602, 603, 604, and 605.

Additional Disclosure and Outreach Activities

Education staff’s efforts to ensure outreach and proper disclosures in 2022 also included the following:

- \$10,000+ Donors: 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.
- Website materials: Staff frequently updated the Commission’s website (www.sandiego.gov/ethics) to provide the public with timely information regarding Commission meetings, legislative proposals, educational efforts, and enforcement activities.
- Outreach: Staff disseminated 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.

LEGISLATIVE PROGRAM

In September 2022, the Executive Director added a new position and welcomed Legislative Program Manager Megan Curran to the Commission staff.

Working with the Executive Director, the program manager has primary responsibility to oversee and implement the Commission's Legislative Program. This work includes tracking state laws, monitoring programs of similar commissions, and proposing, drafting, and updating the City's ethics, lobbying, and campaign laws. Additionally, the Legislative Program Manager tracks local, state, and federal court decisions as well as statutory and regulatory amendments relevant to the City's ethics laws.

The position also serves as an additional attorney staffing and supporting the Commission's technical advice program for the regulated community. The Legislative Program Manager supports the Education Program Manager and Executive Director in interpreting and advising on governmental ethics laws.

The Legislative Program Manager also works to ensure the community is updated about legislative changes through Commission press releases, the Commission's website, and communications through e-mail lists.

During the final quarter of 2022, this work included analysis and tracking of significant legislation known as California Senate Bill 1439, which took effect January 1, 2023. Under the new law, local elected officials are subject to a state law designed to prohibit "pay-to-play" politics in California. The bill, which amended Government Code section 84308, applies existing state laws to local government agencies, including city councils, for the first time. Significantly, it requires elected officials to recuse themselves from certain proceedings and prohibits them from receiving certain campaign contributions. As of the date of this report, Commission staff is continuing to monitor the potential impacts.

AUDIT PROGRAM

The Ethics Commission audits campaign committees as part of its core functions, with audits conducted by Audit Program Manager Rosalba Gomez.

Campaign committees are audited depending upon the total of all contributions (monetary and non-monetary) and loans the committee received. Committees are automatically audited if their level of financial activity is \$100,000 or more. Committees with lower levels of financial activity are subject to a random drawing, which selects a percentage of additional committees for audit: 75% of qualifying committees with financial activity between \$50,000 and \$99,000 are audited; 25% of qualifying committees with financial activity between \$15,000 and \$49,999 are audited.

On September 9, 2021, the Commission conducted a random drawing of committees from the 2020 election cycle for audit. In 2022, the Commission's Auditor completed audits of the following committees from that campaign cycle:

Todd Gloria for Mayor 2020
Mara Elliott for City Attorney 2020
Mara Elliott Legal Defense Fund
Whitburn for City Council 2020
Leventhal for Council 2020
Small Business Recovery Coalition Supporting Joe Leventhal for City Council 2020
San Diegans for Midway Revitalization – Yes on E
Marni von Wilpert for City Council 2020
Marni von Wilpert Legal Defense Fund

Significantly, the Todd Gloria for Mayor 2020 committee was the most voluminous audit in Ethics Commission history. The committee raised about \$2.2 million in contributions and had about \$2.3 million in expenditures.

As of the date of this report, one additional audit from the 2020 election cycle has been completed, eight audits are in progress, and others will be completed before September 2023.

Looking ahead, the random drawing to select committees for audit from the 2022 election cycle will be held in September 2023.

ENFORCEMENT PROGRAM

Kristina Gagné, Investigative Program Manager, leads the Ethics Commission's enforcement program. Commission staff's investigation and enforcement work is detailed in this public report to the extent possible. Due to confidentiality laws that protect the investigative process, Commission staff are limited in what they can include in this report.

Complaints – Summary and Statistics

In 2022, Commission staff processed 75 formal and informal complaints. Commission staff 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, or lobbying laws. Complaints were submitted through the Ethics Commission's online complaint submission portal and via email, telephone, and referral.

Informal complaints received - 58

Investigations of informal complaints authorized - 9

Informal complaints processed but dismissed before investigation - 49

Formal complaints received - 17

Investigations of formal complaints authorized - 2

Formal complaints processed but dismissed before investigation - 15

Complaints processed by the Commission in 2022 alleged the following violations of law:¹

- Seven complaints alleged a violation of the Election Campaign Control Ordinance;
- Nine complaints alleged a violation of the Ethics Ordinance;
- Three complaints alleged a violation of the Lobbying Ordinance; and
- 64 complaints contained insufficient information to support an allegation or alleged a violation outside of the Commission's jurisdiction.

Investigations – Summary and Statistics

Of the 75 complaints processed by the Commission during 2022, 11 were approved for investigation. These 11 cases, together with two cases approved for investigation but not resolved in previous years, resulted in the following dispositions during 2022:

¹ Some complaints alleged violations of more than one ordinance.

- Six matters were investigated by Commission staff, then ultimately dismissed by the Commission after considering the results of staff investigations. Some of the matters were resolved after the involved parties took mandatory corrective actions and Commission staff provided them with education on the relevant laws.
- One matter resulted in two stipulated settlement agreements.
- Six matters were still pending and under investigation as of December 31, 2022.

Enforcement - Stipulations

During 2022, the Commission entered into two stipulated settlements, both arising from one complaint concerning violations of the City's campaign laws:

- Tommy Hough, a candidate for San Diego City Council District 6 in the 2018 election cycle, paid a \$2,000 fine for failing to include the proper "paid for by" disclosure in three telephone banking scripts used by paid staff and for failing to maintain legally required documents.
- The San Diego County Democratic Party, a state general-purpose recipient committee, paid a \$500 fine for failing to maintain legally required records relating to campaign literature.

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

Review of Lobbyist Filings, SEIs and Major Donor Notifications

In addition to the enforcement efforts discussed above, Commission staff also reviews certain documents filed with the Ethics Commission or the City Clerk's Office. As the Investigative Program Manager identifies issues, she follows up with officials to ensure compliance with disclosure requirements. In 2022, this work included:

- Enforcement staff spot-checked a sampling of Statements of Economic Interests filed by City employees for missing and inaccurate data. In 2022, Commission staff reviewed at least 50 employee SEIs to assess compliance with the City's ethics laws.
- Enforcement staff reviewed all lobbyist registrations and quarterly reports. In 2022, staff reviewed the filings of approximately 170 lobbying firms and organizations. Reviews assess whether lobbyists have adequately disclosed legally required information. Commission staff conducts outreach to lobbyists to seek more robust disclosures, amendments, or to request disclosure of missing information.

- Enforcement staff reviewed all Major Donor Notifications from campaign committees to ensure timely filing.

For more information on the Ethics Commission's activities, please visit our website, www.sandiego.gov/ethics, or contact our office at ethicscommission@sandiego.gov or by phone at (619) 533-3476.