



ANNUAL REPORT
2016

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 2016 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.

2016 COMMISSIONERS AND STAFF

Chair

Clyde Fuller

Vice Chair

Deborah Cochran

Commissioners

William Baber

Alex Kreit

David Potter

Sid Voorakkara

Greg Zinser

Staff

Stacey Fulhorst, Executive Director

Rosalba Gomez, Audit Program Manager

Stephen Ross, Education Program Manager

Lauri Davis, Investigative 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 2016. 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 refresher training sessions on the Ethics Ordinance for the Office of the Mayor and Council District 7.
- The staff also conducted live training sessions on the Ethics Ordinance for the offices of the newly-elected Councilmembers for Districts 1, 3, and 9.
- The staff also conducted four live training sessions on the Ethics Ordinance for unclassified management employees of the City in January, April, July, and October.
- 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.
- In August, 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 November, the staff conducted a live training on conflict of interest laws for the Commission on Arts & Culture.
- Approximately 450 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 completed the transition of the online training program, as well as tracking and registration for the live training program, to the City's Success Factors learning management system. This project involved considerable time and effort to establish and configure customized training modules to meet the Commission's needs.
- The staff responded to approximately 270 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 one 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 January, the Commission staff conducted training sessions for City candidates and campaign staffers (two previous trainings for candidates in the 2016 election cycle took place during calendar year 2015).
- The staff responded to approximately 120 requests for informal assistance from City candidates and their staffs, as well as various political committees participating in City elections.
- In January, the staff prepared and disseminated a “Top 10” list for committees making independent expenditures in the 2016 election cycle to support or oppose City candidates and ballot measures.
- Commission staff updated the Campaign Manuals for candidates and political committees for the 2016 election cycle.
- The staff issued one new Fact Sheet and updated six previously-issued Fact Sheets concerning various provisions of the City’s campaign laws.

During 2016, the Commission made the following efforts to educate lobbying firms and organizations on the City’s lobbying laws:

- Commission staff responded to approximately 50 requests for informal advice and assistance concerning the City’s lobbying laws.
- The staff updated the Lobbying Manual, issued one new Fact Sheet concerning the application of the City’s lobbying laws to land use professionals, and also updated two previously-issued Fact Sheets concerning various provisions of the City’s lobbying laws.

- The staff prepared and periodically updated a list of candidates and committees active in the 2016 election cycle to assist lobbyists with the disclosure of campaign activities on their quarterly reports.

Finally, the Commission's education and outreach efforts during 2016 included the following:

- 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 staff periodically updated an interactive online tool on the Commission's website that pulled data from the City's online filing system for campaign disclosures and arranged 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.
- In April, the Commission hosted a forum on "Money in Politics" that included a keynote address by the Secretary of State and featured nationally-recognized campaign finance experts as panelists.
- The staff established a Commission Twitter account and disseminated tweets alerting followers to new laws, filing deadlines, etc.
- The Commission unveiled a new electronic complaint system in an effort to make the complaint-filing process more streamlined and efficient.
- Commission staff added an FAQ to the Commission's website explaining the laws within the Commission's jurisdiction.
- 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 2016, the Commission conducted a review of local campaign laws with a view toward identifying specific provisions that might benefit from harmonization with corresponding state laws and ensuring that the laws are serving their intended purpose. Following a public workshop, input from professional campaign treasurers, and deliberations at several Commission meetings, the Commission decided to recommend the following amendments to the City's Election Campaign Control Ordinance:

- eliminate the requirement to alphabetize contributors now that the City's electronic filing system enables users to search contributor names and download/sort contributor information;
- change the current requirement that candidates must pay their vendors within 180 days of receiving an invoice or goods/services to 180 days after the election to coincide with 180-day post-election fundraising time period and maintain the underlying purpose which is to ensure that unpaid debts do not become in-kind contributions;
- mirror state law by allowing candidates to deposit contributions before they obtain contributor information (address, occupation, employer) as long as the information is obtained within 60 days or by the time the relevant campaign statement is filed (whichever is earlier) to ensure that this information is available to the public in a timely manner;
- modify the pre-election fundraising time period from 12 months before the primary election to January 1 of odd-numbered years in order to address the unintended consequence of candidates rushing to amass funds before the June 30 reporting deadline;
- eliminate the requirement that contribution solicitations must include a warning regarding the prohibition against reimbursing contributions (i.e., campaign money laundering) because the law is difficult to explain in a short, concise manner, and the Commission will consider the extenuating circumstances the warning was meant to address;
- eliminate the third pre-election filing requirement for committees primarily formed to support/oppose City candidates/measures as they are not subject

to contribution limits and are already filing 24-hour disclosure reports for all contributions of \$1,000 or more;

- add a 48-hour reporting requirement for \$1,000+ nonmonetary contributions received during initiative and referendum signature gathering;
- update the identification disclosure requirements for mail and website campaign advertising to correspond to recent state law updates; and
- apply the identification disclosure requirements for campaign yard signs to all publicly displayed signs (produced/distributed in quantities of 200 or more) to increase consistency with state law.

These amendments were approved by the City Council on September 27, 2016, and will go into effect on January 1, 2017.

AUDIT PROGRAM

On September 10, 2015, the Ethics Commission conducted a random drawing of committees from the 2013-2014 election cycles and selected 22 candidate committees and 5 ballot measure committees for audit. In late 2015, the Commission's Audit Program Manager completed the audits of 3 candidate committees. During 2016, the Audit Program Manager completed the audits of 15 additional candidate committees from the 2013-2014 election cycles:

- David Alvarez for Mayor 2013
- Environmental Health and Justice Campaign Fund Working to Elect David Alvarez for Mayor 2014
- Reelect David Alvarez 2014 for City Council District 8
- Working Families for a Better San Diego to Support David Alvarez for Mayor 2013, Sponsored by the San Diego & Imperial Counties Labor Council, AFL-CIO
- Working Together for Neighborhood Fairness, in opposition to David Alvarez for Mayor 2014, Sponsored by the Lincoln Club of San Diego County
- Citizens for Fairness & Jobs Supporting Chris Cate for Council 2014
- San Diegans to Protect Jobs & the Economy, Supporting Kevin Faulconer for Mayor 2013
- Fletcher for Mayor 2013
- Restoring Trust in San Diego - A Committee to Support Nathan Fletcher for Mayor 2013
- Mitz Lee for City Council
- Brian "Barry" Pollard for City Council 2013
- San Diegans for Strong Neighborhoods in Support of Bruce Williams for City Council 2013
- Lorie Zapf for City Council 2014
- Neighbors United for a Better City Government Supporting Lorie Zapf for Council 2014 sponsored by the Lincoln Club of San Diego County

- San Diegans for Honesty and Integrity, a Committee to Defeat Pay-to-Play Candidate Lorie Zapf for Council 2014, Sponsored by Employee Organizations

Additionally, during the past year, the Audit Program Manager completed the audits of 2 ballot measure committees from the 2013-2014 election cycles:

- San Diego Small Business Coalition sponsored by the San Diego Regional Chamber of Commerce
- Stop the Jobs Killing Tax, a Coalition of Jobs Creators, Economic Development, Business and Real Estate Organizations Concerned about the San Diego Economy

The Commission anticipates completing the remaining audits from the 2013-2014 election cycles (4 candidate committees and 3 ballot measure committees) before September of 2017, at which time the Commission will conduct another random drawing to select committees from the 2016 election cycle for audit.

ENFORCEMENT – STATISTICS

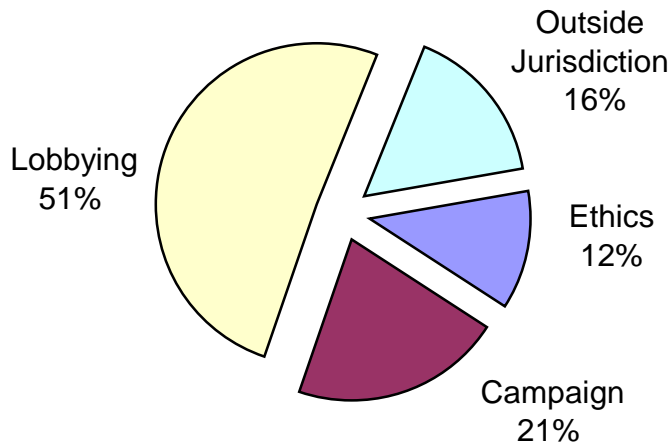
Number of Complaints

During 2016, the Ethics Commission processed a total of 41 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. None of the complainants were anonymous.

Types of Complaints

Complaints processed by the Ethics Commission in 2016 concern alleged violations of law as follows:

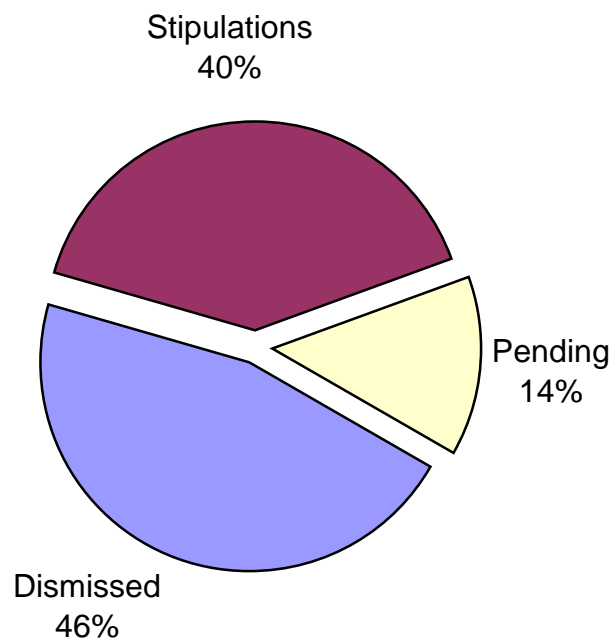
- 9 complaints alleged a violation of the Election Campaign Control Ordinance;
- 5 complaints alleged a violation of the Ethics Ordinance;
- 22 complaints alleged a violation of the Lobbying Ordinance; and
- 7 complaints alleged a violation outside of the Commission’s jurisdiction.



Investigations

Out of the 43 complaints processed by the Commission during 2016, 29 were approved for investigation. These 29 cases, together with 6 cases approved for investigation but not resolved in previous years, resulted in the following disposition during 2016:

- 16 matters were ultimately dismissed by the Commission after considering the results of staff investigations;
- 14 matters resulted in stipulated settlement agreements or administrative enforcement orders; and
- 5 matters are currently pending.



ENFORCEMENT – STIPULATIONS

During 2016, the Commission entered into 13 stipulated settlements. One of these stipulations concerned violations of the City’s campaign laws:

- San Diegans Against Crime Sponsored by the San Diego County Deputy District Attorney’s Association and Scott & Cronin paid a \$500 fine for failing to timely file a campaign statement disclosing an independent expenditure made to support a City candidate.

One of the stipulations approved by the Commission during 2016 involved violations of the City’s ethics laws:

- Douglas Austin agreed to pay a \$6,000 fine for failing to timely disclose sources of income received through his business entities on his annual Statement of Economic Interests and for participating in a government decision that involved his personal economic interests.

Eleven of the stipulations approved by the Commission during the past year involved the City’s lobbying laws. Two of these stipulations involved the failure to timely file lobbyist registration forms and/or quarterly disclosure reports:

- C.B. Urban Development paid a \$1,500 fine for failing to timely register as a lobbying firm and failing to timely file quarterly disclosure reports.
- Dadian & Associates agreed to pay a fine of \$500 for failing to timely file a quarterly disclosure report.

In addition, the following lobbying firms and organizations paid fines ranging from \$250 to \$1,000 for failing to disclose all of the contributions made by the lobbying entity’s owners, officers, and lobbyists:

- Allen Matkins Leck Gamble Mallory & Natsis, LLP
- Falcon Strategies, LLC
- Focuscom, Inc
- Hecht Solberg Robinson Goldberg & Bagley LLP
- H.G. Fenton Company

- The Law Office of Cynthia L. Eldred
- Procopio, Cory, Hargreaves & Savitch LLP
- Qualcomm, Inc.
- San Diego – Imperial Counties Labor Council, AFL-CIO

During 2016, the Commission levied a total of \$13,250 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.

ENFORCEMENT – HEARINGS

The Ethics Commission conducted one administrative hearing in 2016 involving allegations of campaign money laundering by Respondents Advantage Towing Company and Ayman Arekat. An Administrative Law Judge [ALJ] employed by the California Office of Administrative Hearings [OAH] presided over the hearing, which took place on February 22, 23, and 24, 2016.

Following the hearing, the ALJ issued a proposed decision that was considered by the Ethics Commission on April 14, 2016. After reviewing the evidence and the proposed decision, the Commission found that Respondents violated the City's campaign laws by using company employees to serve as "straw donors" to launder contributions from Advantage Towing to three different mayoral candidates in the 2012 election cycle. As a result, the Commission issued an Administrative Enforcement Order that requires Respondents to pay a fine in the amount of \$128,000, the largest in the Commission's history.

On July 25, 2016, Respondents filed a Petition for Writ of Mandate with the San Diego Superior Court. The court hearing on this matter is expected to take place in 2017.