

City of Sacramento  
**Ethics Commission Report**  
915 I Street Sacramento, CA 95814  
www.cityofsacramento.org

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**File ID:** 2025-01447

8/25/2025

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**Receive Independent Evaluator's No-Cause Report: Complaint Against Interim City Manager Leyne Milstein**

File ID: 2025-01447

**Location:** Citywide

**Recommendation:** Pass a **Motion:** 1) receiving the Independent Evaluator's No-Cause Report; and 2) either a) adopting the Evaluator's No-Cause Report and the findings therein and dismissing the Complaint and closing the file in this matter without further action or, b) in the alternative, finding sufficient cause exists to warrant an investigation and directing the Independent Evaluator to conduct an investigation of the underlying complaint, pursuant to Section 5.3 of the Sacramento Ethics Commission Procedures; and, if applicable, 3) a) referring the complaint to a department of the City of Sacramento, the California Fair Political Practices Commission (FPPC), or another governmental agency for more appropriate resolution of the allegations in the complaint or enforcement of the applicable provisions of law, b) and directing the City Clerk to send all relevant information about the complaint to the governmental agency to which the complaint has been referred.

**Contact:** Mindy Cuppy, City Clerk, (916) 808-5442, mcuppy@cityofsacramento.org, Office of the City Clerk

**Presenter:** Steven D. Miller, Partner, Hanson Bridgett LLP

**Attachments:**

- 1-Description/Analysis
- 2-Independent Evaluator's No-Cause Report
- 3-Sacramento Ethics Commission Procedures
- 4-Sacramento Ethics Commission Complaint Workflow

**Description/Analysis**

**Issue Detail:** The Sacramento City Council established the Sacramento Ethics Commission (Commission) to review and consider complaints against elected and appointed City officials and to ensure that those officials are conforming their conduct to the City's laws and policies. The Commission's organization, powers, and duties are set forth in chapter 2.112 of the Sacramento City Code.

Chapter 2.112 requires, among other things, that the Commission adopt (a) rules and procedures for the conduct of its business, (b) regulations and procedures for investigations and hearings it conducts, and (c) a policy setting forth its standards for imposing penalties and exercising enforcement discretion.

To implement these requirements, the Commission adopted the Sacramento Ethics Commission Procedures (Procedures) on September 23, 2024, which are intended to establish fair and transparent standards for investigating and determining matters before the Commission, thereby ensuring the fair, just, and timely resolution of complaints presented to the Commission with the end of promoting fairness, openness, honesty, and integrity in City government and City elections.

On July 21, 2025, a complaint against Interim City Manager Leyne Milstein was received by the City Clerk. Pursuant to Section 5 of Procedures, the complaint was referred to the Independent Evaluator (Evaluator) on July 22, 2025, to conduct a Preliminary Evaluation of the allegations, pursuant to Section 5(B) of Procedures. The Evaluator has completed their preliminary evaluation and has submitted the attached No-Cause Report, pursuant to Section 5.2(C) of the Procedures.

“The Commission may adopt the no-cause report and dismiss the complaint. Alternatively, if the Commission decides that, contrary to the no-cause report, sufficient cause exists to warrant an investigation, the Commission may direct the Evaluator to conduct an investigation.” (Procedures, § 5.2(C)(3).)

Additionally, “[t]he Commission may refer the complaint to a City department or to the FPPC or another governmental agency that may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law. If the Commission so determines, it will direct the City Clerk or City Attorney to send a copy of all relevant information to the department, the FPPC, or the agency along with the referral.” (Procedures, § 5.2(C)(4).)

**Policy Considerations:** Not applicable.

**Economic Impacts:** Not applicable.

**Environmental Considerations:** Not applicable.

**Sustainability:** Not applicable.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** Sacramento City Code Section 2.112 and Section 5 of the Sacramento Ethics Commission Procedures.

**Financial Considerations:** The cost to the City for the Independent Evaluator to conduct a Preliminary Evaluation of this complaint is \$2,250.

**Local Business Enterprise (LBE):** Not applicable.

**TO: Sacramento Ethics Commission**

**FROM: Hanson Bridgett LLP**

**DATE: August 8, 2025**

**Re: Complaint Before the City of Sacramento Ethics Commission**

**Respondent:** Leyne Milstein, Interim City Manager

**Nature of Complaint:** Alleged Misrepresentation

**Complaint Filed:** Filed July 21, 2025

**Complainant:** Karla Black

## **I. EXECUTIVE SUMMARY**

A complaint was filed on July 21, 2025 alleging that Interim City Manager Leyne Milstein engaged in “misrepresentation of official votes [that] undermine[d] public trust and raise[d] serious ethical and procedural concerns about transparency and due process in policymaking.”<sup>1</sup> (See “Complaint,” Exhibit A.) Under the Commission's rules, “[t]he Evaluator shall complete a preliminary evaluation to determine whether sufficient cause exists to conduct a full investigation.” (Sacramento Ethics Commission Procedures section 5.2 (B).) Sufficient cause does not exist, and the Evaluator may not proceed with an investigation, if “[t]he facts alleged, if proven, would not violate any provision of the Ethics Law.” (Id)

As discussed below, we have determined that the Complaint does not set forth allegations sufficient to warrant an investigation. We therefore recommend that the Commission dismiss the Complaint.

The Respondent was notified of the allegations and presented with a complete copy of the Complaint and the Commission's Procedures on July 22, 2025. (Exhibit B.)

## **II. PRELIMINARY EVALUATION AS TO CAUSE FOR INVESTIGATION**

The Complaint alleges that:

city staff—specifically Kirk Skierski and Kevin Colin—presented a policy that materially mischaracterized the [Planning] Commission’s decision. Their presentation falsely claimed that the Commission supported reducing or eliminating protections for sensitive sites. This directly contradicts the official record and the legal clarifications provided at the March 13 meeting.

(Exhibit A)

The Complaint does not allege a violation of any specific provision within the Ethics Commission’s jurisdiction. Rather, the Complaint generally suggests that the Respondent, the Interim City Manager, should be held responsible for the actions and presentations of City

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<sup>1</sup> On July 22, 2025, the Complainant also sent a letter to the City Council, making the same allegations as those in the Complaint. (See Exhibit C)

staffers and that “[t]he misrepresentation of official votes undermines public trust and raises serious ethical and procedural concerns about transparency and due process in policymaking.”

The Commission has jurisdiction only over specified provisions of the City Charter, the City Municipal Code, and the Council Rules of Procedure. (Municipal Code Section 2.112.030(A).) Those rules, referred to in the Commission's Procedures as the Ethics Law, are as follows:

- Section 35 of the Sacramento City Charter ("Limitation on future employment");
- Chapter 1.20 ("Code of Fair Campaign Practices");
- Chapter 2.13 ("Campaign Contribution Limitations") and chapter 2.14 ("Campaign Spending Limits and Public Campaign Financing"), if the city has not contracted with the Fair Political Practices Commission for enforcement of those chapters;
- Chapter 2.15 ("Lobbyist Registration and Reporting Code");
- Chapter 2.16 ("Conflict of Interest");
- Chapter 4.02 ("Code of Ethics")
- Chapter 4.04 ("Sunshine Ordinance"); and
- Chapter 3 ("Conduct of Members") and Rule 6.E ("Closed Sessions") of the Council Rules of Procedure.

In order to meet the sufficiency standard required for an investigation, the Complaint must allege facts that, if proven, would violate at least one of the above Ethics Laws. Put another way, if no Ethics Law is violated even if the facts alleged were true, then the Evaluator may not conduct an investigation but must instead prepare a "no cause report." (Sacramento Ethics Commission Procedures Section 5.2 (C)) The Evaluator considers this threshold question based only on the Complaint itself—without considering any extrinsic evidence or conducting any investigation outside of reading the Complaint. (Id. at Section 5.2 (B).)

We reviewed the Ethics Laws and conclude that none of them are implicated by the Complaint's facts. Without linking alleged misrepresentation to a specific conflict of interest or mis-use of public resources, the Ethics Commission's jurisdiction does not extend to complaints that City staff misled the City Council or the Planning Commission. Accordingly, we conclude that the Complaint does not allege facts that, even if proven, would violate the Ethics Law.

### **III. CONCLUSION AND RECOMMENDATION**

Based on the foregoing, we find no cause to conduct an investigation into the Complaint as we conclude that the Complaint fails to allege facts sufficient to demonstrate a potential violation of the Ethics Law. Accordingly, we recommend that the Commission:

- a. Adopt the Evaluator's opinion as set forth above and approve the recommendation against conducting an investigation of the Complaint.
- b. Dismiss the Complaint, and close the file in this matter without further action.

Respectfully submitted,



Steven D. Miller

# EXHIBIT A

**From:** [karla black](#)  
**To:** [Government Ethics and Compliance](#); [Susana Alcala Wood](#); [Michael Benner](#); [Kirk T Skierski](#); [Kevin Colin](#); [Leyne Milstein](#)  
**Cc:** [clerk](#)  
**Subject:** Formal Ethics Complaint - Leyne Millstein  
**Date:** Monday, July 21, 2025 3:52:13 PM  
**Attachments:** [Formal Ethics Complaint CityManager Leyne Millstein July2025.docx](#)

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Dear Sacramento Ethics Commission,

Please find attached a formal ethics complaint regarding the misrepresentation of the March 13, 2025 Planning and Design Commission vote on cannabis zoning.

Since city staff members Kirk Skierski and Kevin Colin fall outside the jurisdiction of the Ethics Commission, and cannot be held directly accountable under Sacramento City Code § 2.112.030, we are directing this complaint toward City Manager Leyne Millstein, who is responsible for overseeing staff conduct and public presentations.

We believe the City Manager must be held accountable for the misrepresentation of a formally recorded vote, which misled both the Law and Legislative Committee and the public, and undermined public trust in the policymaking process.

We respectfully request this matter be reviewed and addressed by the Ethics Commission.

Sincerely,

Karla

July 21, 2025

To: Sacramento Ethics Commission

Formal Ethics Complaint Against City Manager Leyne Millstein – Misrepresentation of Planning Commission Vote & Public Safety Concerns Regarding Cannabis Zoning

Dear Members of the Sacramento Ethics Commission,

I am filing this formal ethics complaint against City Manager Leyne Millstein in her capacity as the chief executive responsible for the conduct and oversight of city staff, including their representations to City Council and the public.

This complaint arises from the misrepresentation that followed the Planning and Design Commission's March 13, 2025 vote on cannabis zoning policy. At that meeting, the Commission voted to preserve the current Conditional Use Permit (CUP) requirements and to maintain the existing sensitive use buffer zones surrounding cannabis dispensaries and cultivation sites (status quo). This vote was confirmed multiple times on the record by Deputy City Attorney Kourtney Burdick.

However, at the April 8 Law and Legislative Committee meeting, city staff—specifically Kirk Skierski and Kevin Colin—presented a policy that materially mischaracterized the Commission's decision. Their presentation falsely claimed that the Commission supported reducing or eliminating protections for sensitive sites. This directly contradicts the official record and the legal clarifications provided at the March 13 meeting.

As City Manager, Leyne Millstein is ultimately accountable for the actions and presentations of city staff. The misrepresentation of official votes undermines public trust and raises serious ethical and procedural concerns about transparency and due process in policymaking.

It is especially troubling given that the Planning and Design Commission holds the greatest level of expertise and authority in the city when it comes to reviewing, approving, and denying cannabis licenses. Their recommendations are grounded in deep institutional knowledge and a commitment to balancing industry access with public safety. Overriding or misrepresenting their formal vote not only disrespects that expertise, but also places neighborhoods and youth at risk.

Additionally, I urge you to consider the gravity of the product being discussed. Cannabis is a highly addictive, intoxicating, cancer-causing product, with substantial street value. Dispensaries operate in a manner akin to financial institutions—storing large quantities of cash and valuable product, and per city mandate, protected by armed security personnel. The implication that such operations can be sited next to rehabilitation centers, youth programs, daycares, churches, residential or mixed-use areas, parks, or other unlicensed sensitive uses without appropriate zoning protections is reckless and endangers public health and safety.



The city's actions—or inactions—signal a disregard for the public welfare, especially the wellbeing of children, vulnerable populations, and those seeking recovery. Remember Diamond Rehab. It is your responsibility to uphold ethical standards, ensure accurate representation of Commission decisions, and prioritize community safety.

I respectfully request the Ethics Commission to:

1. Investigate the conduct of City Manager Leyne Millstein in relation to the misrepresentation of the March 13 vote.
2. Recommend appropriate corrective action to ensure accountability and accurate future representations by city staff.
3. Reinstate the original Planning Commission recommendation to maintain current buffer zones and CUP requirements (status quo).
4. Recognize and regulate cannabis businesses in alignment with the serious risks their operations pose to neighborhoods, similar to the precautions taken for banks.

Please review the following public meeting records:

- March 13 Planning Commission Meeting (status quo vote confirmed):

[https://sacramento.granicus.com/player/clip/6336?view\\_id=34&redirect=true](https://sacramento.granicus.com/player/clip/6336?view_id=34&redirect=true)

- April 8 Law & Legislative Committee Meeting (staff misrepresentation):

[https://sacramento.granicus.com/player/clip/6363?view\\_id=25&redirect=true](https://sacramento.granicus.com/player/clip/6363?view_id=25&redirect=true)

Sincerely,  
Karla

# **EXHIBIT B**

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**From:** Steven D. Miller <SMiller@hansonbridgett.com>  
**Sent:** Tuesday, July 22, 2025 1:46 PM  
**To:** lmilstein@cityofsacramento.org  
**Cc:** Steven D. Miller  
**Subject:** Sacramento Ethics Commission  
**Attachments:** 2025-010\_Black (Milstein) Complaint.pdf; Ethics-Commission-Procedures\_FINAL\_02-22-21.pdf

Dear Ms. Milstein,

We are the Evaluator/Investigator for the City of Sacramento Ethics Commission, engaged pursuant to Chapter 2.112 of the City's Municipal Code. If desired, Mindy Cuppy can verify our bona fides. We have been engaged to review, investigate, and advise regarding a Complaint filed against you by Karla Black. Pursuant to the Ethics Commission's procedures, we write to provide you a copy of the Complaint, as well as a copy of the Ethics Commission's Procedures. Pursuant to those procedures, we are conducting a preliminary evaluation of the Complaint. No action from you is required at this time. We will be contacting you again in the coming weeks to let you know of next steps and to schedule an interview, if deemed necessary. Of course, we are happy to talk to you and/or your representative at any time, so feel free to reach out in the meantime.

We would appreciate confirmation that you have received this email. Thanks.

Steven Miller

**Steven D. Miller**  
**Partner**



**Hanson Bridgett LLP**  
SMiller@hansonbridgett.com  
Direct: (415) 995-5831 | Mobile: (415) 298-3928

This communication, including any attachments, is confidential and may be protected by privilege. If you are not the intended recipient, any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or email, and permanently delete all copies, electronic or other, you may have. The foregoing applies even if this notice is embedded in a message that is forwarded or attached.

**From:** [karla black](#)  
**To:** [Government Ethics and Compliance](#); [Susana Alcala Wood](#); [Michael Benner](#); [Kirk T Skierski](#); [Kevin Colin](#); [Leyne Milstein](#)  
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Additionally, I urge you to consider the gravity of the product being discussed. Cannabis is a highly addictive, intoxicating, cancer-causing product, with substantial street value. Dispensaries operate in a manner akin to financial institutions—storing large quantities of cash and valuable product, and per city mandate, protected by armed security personnel. The implication that such operations can be sited next to rehabilitation centers, youth programs, daycares, churches, residential or mixed-use areas, parks, or other unlicensed sensitive uses without appropriate zoning protections is reckless and endangers public health and safety.

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Sincerely,  
Karla



# Sacramento Ethics Commission

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## Procedures

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*Effective February 22, 2021*



The Sacramento City Council established the Sacramento Ethics Commission to review and consider complaints against elected and appointed City officials and to ensure that those officials are conforming their conduct to the City's laws and policies. The Commission's organization, powers, and duties are set forth in chapter 2.112 of the Sacramento City Code. Chapter 2.112 requires, among other things, that the Commission adopt (a) rules and procedures for the conduct of its business, (b) regulations and procedures for investigations and hearings it conducts, and (c) a policy setting forth its standards for imposing penalties and exercising enforcement discretion. To implement these requirements, the Commission has adopted the procedures set out below (collectively, these "**Procedures**"), which are intended to establish fair and transparent standards for investigating and determining matters before the Commission, thereby ensuring the fair, just, and timely resolution of complaints presented to the Commission with the end of promoting fairness, openness, honesty, and integrity in City government and City elections.

## **I. Definitions.**

"Brown Act" means the Ralph M. Brown Act, codified as California Government Code section 54950 et seq.

"City" means the City of Sacramento.

"City Attorney" means the Sacramento City Attorney and the City Attorney's designee.

"City Charter" means the City of Sacramento Charter.

"City Clerk" means the Sacramento City Clerk and the City Clerk's designee.

"City Code" means the Sacramento City Code.

"City Staff" means the City officers and employees who support the Commission, including the City Clerk and the City Attorney and their respective assistants and deputies.

"Commission" means the Sacramento Ethics Commission.

"Commissioner" means a member of the Commission.

"Complainant" means a person who files a complaint with the Commission in accordance with these Procedures.

"Confidential Materials" means (a) information and documents that federal or state law prohibits the Commission or the City from disclosing to the public and (b) each complaint that is filed in accordance with these Procedures plus all related investigatory materials until the complaint is disposed of in accordance with these Procedures. "Confidential Materials" does not include information and documents generally available to the public or, except as provided by section 4.1 below, previously disclosed to members of the public.

"Day" means calendar day unless otherwise stated.



“Ethics Law” means those provisions of the City Charter, the City Code, or the Council Rules of Procedure listed in City Code section 2.112.030.A.

“Evaluator’s Report” means the report described in section 5(B) below.

“FPPC” means the California Fair Political Practices Commission.

“Hearing” means a hearing before the Commission, conducted in accordance with these Procedures, to consider a complaint filed with the Commission.

“Include” and its variants are terms of enlargement rather than of limitation. For example, “includes” means “includes but not limited to,” and “including” means “including but not limited to.”

“Respondent” means a person alleged in a complaint to have violated the Ethics Law.

“Sunshine Ordinance” means the Sacramento Sunshine Ordinance, codified as City Code chapter 4.04.

**2. Commission Structure and Support.** The Commission’s structure is set forth in City Code chapter 2.112, as supplemented by the following:

2.1. *Chairperson and Vice Chairperson.* The Commission annually elects a Chairperson and a Vice Chairperson. (City Code § 2.112.070.)

(A) The Chairperson (1) presides over all Commission meetings; (2) forms committees and appoints Commissioners to committees as appropriate; (3) may consult with the City Clerk and the City Attorney regarding the Commission’s business; (4) may consult with the City Attorney and the Evaluator on procedural matters but shall not otherwise discuss active complaints with either of them; and (5) is the Commission’s spokesperson for communicating with the City Council, the public, and the media.

(B) The Vice Chairperson performs the Chairperson’s duties when the Chairperson is unable to do so or is absent.

2.2. *The City Attorney’s Role.* The City Attorney advises the Commission on legal matters such as interpretation of the Ethics Law or of relevant state or federal law. The City Attorney does not participate in investigations, but the Chairperson, the City Clerk, and the Evaluator may consult with the City Attorney about procedure or about the interpretation of the Ethics Law or other relevant state or federal law so long as they do not seek advice about how the law applies to the facts that are the subject of a pending complaint.

- 2.3. *The City Clerk's Role.* The City Clerk supports the Commission's work and is responsible for, among other things, establishing and accomplishing the Commission's priorities in consultation with the Chairperson and consistent with policy direction by the Commission, scheduling meetings and Hearings and providing notice of meetings and Hearings as required by law, and keeping records of meetings and Hearings (e.g., video recordings, written minutes). The City Clerk may make procedural determinations including scheduling of Hearings, extensions of time, and presentation of witnesses.
- 2.4. *The Independent Evaluator's Role.* The Independent Evaluator is the neutral and independent party retained by the City on the Commission's behalf to review and investigate complaints and to give recommendations to the Commission regarding them.
- 2.5. *Media inquiries.* Except for routine administrative matters within their individual areas of responsibility, the City Clerk, City Attorney, and the Evaluator shall refer all media inquiries to the Chairperson or, if the Chairperson is unavailable, to the Vice Chairperson.

### **3. Commission Meetings.**

- 3.1. *Time and Place.* The Commission shall establish a regular-meeting schedule for itself, with at least two regular meetings each year; the Commission may also call and hold special meetings in accordance with the Brown Act. (City Code § 2.112.080.) The City Clerk shall post the regular-meeting schedule on the Commission's website and provide notice of each regular meeting as required by the Brown Act and the Sunshine Ordinance. Regular meetings will be held at Sacramento City Hall, 915 I Street, Sacramento, California.
- 3.2. *Parliamentary Procedures.* The Commission shall conduct its business in compliance with the Brown Act and the Sunshine Ordinance and, to the extent practicable, shall conduct its meetings in accordance with *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century*. Hearings must be conducted in accordance with these Procedures.

### **4. Confidentiality.**

- 4.1. Confidential Materials must not be disclosed to any person, except that the Evaluator and City Staff may disclose Confidential Materials to the extent needed for the investigation of a pending complaint so long as disclosure does not violate federal or state law.
- 4.2. At least 10 days before any Hearing to consider the Evaluator's Report, the complaint and the Evaluator's Report must be made publicly available as required by the Brown Act, the Sunshine Ordinance, or other applicable law, with all Confidential Materials redacted.

- 4.3. The City Clerk, the Evaluator, the Commissioners, and City Staff shall not make public statements about pending complaints before the Hearing, except as follows: if a pending complaint or information concerning a pending complaint is released to the public before the Hearing, the City Clerk may acknowledge receipt of the complaint and issue a statement that (A) the complaint represents unsubstantiated allegations pending the results of an investigation and Hearing and (B) might or might not fall within the Commission's jurisdiction.
- 4.4. Confidential Materials must not be used, directly or indirectly, for any purpose other than the Commission's official business, and the Commissioners shall take reasonable steps to protect and safeguard Confidential Materials.
- (A) Upon discovering an unauthorized disclosure or misuse (potential or actual) of Confidential Materials, the Evaluator, a Commissioner, or a member of City Staff shall immediately notify the City Clerk.
  - (B) Upon receiving a request, subpoena, or court order for disclosure of Confidential Materials, the Evaluator, a Commissioner, or a member of City Staff shall notify the City Clerk before disclosing the Confidential Materials.
- 4.4. A Commissioner remains bound by this section 4 after leaving office.

## **5. Complaints.**

### **5.1. *Complaint Intake.***

- (A) Any person may file a complaint alleging violations of the Ethics Law.
  - (1) A complaint should be on the form prepared by the City Clerk, which is available on the City Clerk's website, although the City Clerk shall accept a complaint that is not filed on the form if the complaint includes the same information required by the form.
  - (2) A complaint must provide as much detail as possible, including, if known, each provision of the Ethics Law alleged to have been violated, the facts constituting each alleged violation, the name and address of each respondent, and the name and address of each potential witness.
  - (3) A complaint must also identify the complainant unless the complaint alleges misconduct by the complainant's supervisor or employer.

(4) A complaint must be filed with the City Clerk as follows:

<i>By U.S. Mail:</i>	Sacramento City Clerk 915 I Street New City Hall, Fifth Floor Sacramento, California 95814
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<i>By personal delivery during business hours:</i>	Sacramento City Clerk 915 I Street New City Hall, Fifth Floor Sacramento, California
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<i>By E-Mail:</i>	<a href="mailto:ethics@cityofsacramento.org">ethics@cityofsacramento.org</a>
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(5) The City Clerk shall maintain a complaint log and shall enter in the log the date and time each complaint is filed.

(B) Within 14 days after a complaint is filed, the City Clerk shall complete an initial review of the complaint; and, based on the initial review, do one of the following:

- (1) Refer the complaint to the Evaluator for a preliminary evaluation in accordance section 5.2 and notify the Commission of the referral.
- (2) Refer the complaint to another City department or to the FPPC or another governmental agency with jurisdiction over the subject matter of the complaint if the City Clerk determines that the department, the FPPC, or the agency may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law and notify the complainant of the referral.
- (3) Dismiss the complaint for lack of jurisdiction and notify the complainant of the dismissal. A complaint is outside the Commission's jurisdiction if (a) it alleges violations that occurred more than three years before it was filed, or, for violations subject to a different limitations period, it was filed after the limitations period expired; (b) it alleges facts that are not subject to any provision of the Ethics Law; (c) the respondent is not a person listed in City Code section 2.112.030.B; or (d) the respondent is a Commissioner.

(C) Upon complying with section 5.1(B), the City Clerk shall enter in the complaint log the action taken after the initial review. In addition, at the Commission's next regular meeting, the City Clerk shall notify the Commission of the action taken after the initial review but shall not identify the complainant and the respondent or respondents or indicate the substance of the complaint.

## 5.2. *The Evaluator's Preliminary Evaluation of a Complaint.*

- (A) Upon receiving a complaint from the City Clerk, the Evaluator shall promptly provide the respondent with a complete copy of the complaint and a copy of these Procedures.
- (B) Within 30 days after receiving the complaint, the Evaluator shall complete a preliminary evaluation to determine whether sufficient cause exists to conduct a full investigation. The Evaluator shall limit the preliminary evaluation to the allegations in the complaint and shall not consider extrinsic evidence. Sufficient cause does not exist, and the Evaluator shall not conduct a full investigation, if any of the following applies:
  - (1) The complaint does not allege specific facts demonstrating a potential violation.
  - (2) The facts alleged, if proven, would not violate any provision of the Ethics Law.
  - (3) Substantially similar allegations involving the same facts as those alleged in a previous complaint have already been addressed in a prior investigation or were otherwise decided on the merits by a court or by the FPPC or another governmental agency with jurisdiction.
- (C) If, based on the preliminary evaluation, the Evaluator determines that sufficient cause to warrant a full investigation of a complaint exists, then the Evaluator and the Commission shall proceed in accordance with sections 5.3 and 5.4. If, however, the Evaluator determines that sufficient cause does not exist, then the Evaluator and the Commission shall proceed as follows:
  - (1) The Evaluator shall prepare a no-cause report explaining why sufficient cause does not exist and recommending that the Commission not hear the matter. The no-cause report may also recommend that the Commission refer the complaint to the FPPC or to another governmental agency if the Evaluator determines that the FPPC or the agency may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law.
  - (2) The Evaluator shall file the no-cause report with the City Clerk within 45 days after the Evaluator receives the complaint. The City Clerk shall place the matter on the agenda of the Commission's next available regular meeting.
  - (3) The Commission may adopt the no-cause report and dismiss the complaint. Alternatively, if the Commission decides that, contrary to the no-cause report, sufficient cause exists to warrant an investigation, the Commission may direct the Evaluator to conduct an investigation.

- (4) The Commission may refer the complaint to a City department or to the FPPC or another governmental agency that may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law. If the Commission so determines, it will direct the City Clerk or City Attorney to send a copy of all relevant information to the department, the FPPC, or the agency along with the referral.

### 5.3. *Conduct of Investigation by the Evaluator.*

- (A) The Evaluator shall conduct an investigation of the allegations in a complaint when the Evaluator determines that sufficient cause exists or when the Commission directs the Evaluator to conduct an investigation. The investigation must include an interview with each respondent unless the respondent refuses to cooperate. The Evaluator may, in the Evaluator's sole discretion, also interview the complainant and other witnesses and may review documents and other evidence.
- (B) Although scheduling is difficult to predict in advance, timeliness is important to the Commission so that its goals of transparency and responsiveness to the community may be furthered. To that end, the Evaluator shall complete the investigation as promptly as possible under the circumstances and, unless an extension is granted in accordance with section 5.3(C), shall, within 60 days after receiving the complaint, submit to the City Clerk, with a copy to the City Attorney, a written report that is addressed to the Commission includes the following (the "**Evaluator's Report**"):
  - (1) A narrative summary of the evidence gathered through the investigation, including any exculpatory and mitigating evidence. The Evaluator may consider any relevant evidence, including hearsay evidence, and may include in the Evaluator's Report facts bearing on the weight given to the evidence considered, such as the Evaluator's determination of witness credibility.
  - (2) For each provision of Ethics Law that is alleged to be violated, a determination that the respondent or respondents did or did not violate the provision, with supporting evidence.
  - (3) At the Evaluator's discretion, a recommendation of action the Commission should take or a recommendation that the Evaluator conduct further investigation and report back to the Commission.
  - (4) At the Evaluator's discretion, a recommendation that the Commission refer the complaint to the FPPC or another governmental agency if the Evaluator believes that the FPPC or agency may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of the Ethics Law or any other law.

- (C) The Evaluator may request an extension of time by filing a written request with the City Clerk, specifying the extension requested and the reasons for the request. The City Clerk, in consultation with the Chairperson and the City Attorney, may grant the request upon the Evaluator's showing of good cause. The City Clerk's decision on a request must be in writing. If the request is granted, the decision must specify the additional time that has been granted, and the Evaluator shall provide the City Clerk with a progress report on the status of the investigation every 30 days or as otherwise set forth in the decision. If the request is denied, the Evaluator shall submit to the City Clerk, within three days after the decision, a written summary of the evidence gathered through the investigation up to that point.
- (D) If the Evaluator discovers facts during an investigation that indicate possible additional violations by named respondent or respondents or possible violations by one or more persons or entities who are not named as a respondent, then the Evaluator shall notify the City Clerk of this discovery and consult with the City Clerk on how to conduct a fair and thorough investigation of the newly discovered facts that provides adequate due process.
  - (1) The City Clerk may either file an amended complaint against the new or existing respondent or respondents using the complaint form established for such purpose or may schedule a Hearing to consider whether the City Clerk should file an amended complaint.
  - (2) If the City Clerk files an amended complaint, the Evaluator shall notify each new respondent as well as the complainant and each original respondents of the new allegations. The Evaluator shall also provide all respondents with copies of the amended complaint and these Procedures.
- (E) Individual Commissioners shall not conduct independent investigations of complaints or discuss pending complaints with anyone except during a Hearing. But the Chairperson may discuss procedural matters with the Evaluator, the City Attorney, or the City Clerk.

#### 5.4. *Commission Hearings.*

- (A) Upon receiving the Evaluator's Report, the City Clerk will advise the Chairperson and the City Attorney and will set a Hearing at the earliest practicable date.
- (B) At least 10 days before the Hearing, the City Clerk shall notify the complainant and each respondent of the date and time of the Hearing.
- (C) At least 10 days before the Hearing, the City Clerk shall deliver the Evaluator's Report to the Commission, the complainant, each respondent, and all interested parties who have requested a copy.

- (D) The Evaluator's Report must be made available to the public in accordance with the Brown Act and the Sunshine Ordinance.
- (E) Each respondent may submit a written response to the Evaluator's Report. The response may contain legal arguments, a summary of evidence, and any mitigating or exculpatory information. A respondent who chooses to submit a response must deliver it to the City Clerk at least 72 hours before the time of the Hearing, and the Commission may but need not consider a response that is not timely submitted. The City Clerk shall distribute any responses received to the Commission and the Evaluator as soon as is practicable and shall make the responses available to the public in accordance with the Brown Act, the Sunshine Ordinance, or other applicable law, with all Confidential Materials redacted.
- (F) If anyone other than a respondent submits a brief or any written argument to the Commission before the Hearing, the City Clerk shall provide, as soon as practicable, a copy of the brief or written argument to each respondent, the Commission, and the Evaluator. The City Clerk shall also make the brief or written argument available to the public in accordance with the Brown Act, the Sunshine Ordinance, or other applicable law, with all Confidential Materials redacted.
- (G) The Hearing must be open to the public, but witnesses may be excluded at the Commission's discretion with the concurrence of the City Attorney.
- (H) The City Clerk shall record the Hearing.
- (I) Each respondent may personally appear at the Hearing or be represented by counsel or any other person.
- (J) The complainant must be treated like any other witness who provides evidence.
- (K) The California Evidence Code does not apply to the Hearing, and the Commission may consider any relevant evidence, including hearsay.
- (L) All testimony presented to the Commission must be under oath or affirmation.
- (M) Commissioners may ask questions of the complainant, each respondent, the witnesses, and the Evaluator when recognized by the Chairperson. If, however, a Commissioner is the complainant, then that Commissioner shall not participate in any way in the Hearing, including deliberations about, or a vote on, the complaint or any matter concerning the complaint.
- (N) The Commission may ask the City Council to issue a subpoena compelling witnesses to appear at the Hearing and provide testimony or a subpoena duces tecum compelling witnesses to produce documents.



### 5.5. *Commission Action.*

- (A) At the conclusion of a Hearing, the Commission may take one or more of the following actions:
  - (1) Pass a motion directing the Evaluator to conduct further investigation and report back to the Commission.
  - (2) Adopt a resolution finding that sufficient evidence exists to establish that a violation occurred and including one or more of the actions authorized by section 5.6(A). This finding must be based on a preponderance of the evidence from the entire record of the proceedings.
  - (3) Adopt resolution finding that sufficient evidence does not exist to establish that a violation occurred and ordering that the complaint be dismissed.
  - (4) Pass a motion referring the complaint to the FPPC or to another governmental agency that may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law and directing the City Clerk or City Attorney to send a copy of all relevant information to the FPPC or the agency along with the referral.
- (B) The votes of at least three Commissioners are required to find under section 5.5(A)(2) that a violation occurred, and each Commissioner voting on the finding shall certify on the record that the Commissioner (1) heard the testimony at the Hearing (either in person or by listening to a recording) or read the transcript of the testimony; and (2) reviewed and considered all the evidence in the record.
- (C) The City Clerk shall provide a copy of any resolution adopted under section 5.5(A)(2) or 5.5(A)(3) to the complainant and each respondent and shall post a copy of the resolution on the City's website.
- (D) The Commission's action under section 5.5(A)(2) or 5.5(A)(3) is a final administrative determination on the complaint that is subject to judicial review in accordance with City Code section 1.24.110(A) and California Code of Civil Procedure sections 1094.5 and 1094.6.

### 5.6. *Remedies.*

- (A) If the Commission adopts a resolution under section 5.5(A)(2), thereby finding that a violation occurred, then the Commission shall include in the resolution one or more of the following:
  - (1) A finding that mitigating circumstances exist and that no further action is warranted.
  - (2) A reprimand of the responsible respondent or respondents.

- (3) An order that the responsible respondent or respondents take corrective action by a specific date.
  - (4) An order issuing a warning letter that sets conditions for the potential imposition of penalties depending on the future conduct of the responsible respondent or respondents.
  - (5) An order imposing an administrative penalty in accordance with City Code section 2.112.030.A.2.
- (B) The Commission shall not impose an administrative penalty on a respondent if clear and convincing evidence establishes that all of the following occurred before the violation:
  - (1) The respondent requested and obtained a written opinion from the City Attorney or the FPPC regarding the propriety of the actions constituting the violation.
  - (2) The respondent, in requesting the opinion, truthfully disclosed all the relevant and material facts.
  - (3) The respondent committed the violation in good-faith reliance upon the written opinion of the City Attorney or the FPPC.
- (C) The votes of at least three Commissioners are required to impose an administrative penalty under section 5.6(A)(5), and each Commissioner voting to impose any penalty shall certify on the record that the Commissioner (1) heard (either in person or by listening to a recording) or read the transcript of the testimony; and (2) reviewed and considered all the evidence in the record.
- (D) In determining whether administrative penalties should be imposed and the amount of the penalties, the Commission shall consider all the relevant facts. The following list of relevant facts is neither exhaustive nor mandatory, and the Commission may assign greater or lesser importance to each fact as the Commission considers appropriate under the circumstances:
  - (1) The severity of the violation.
  - (2) The presence or absence of any intention to conceal, deceive, or mislead.
  - (3) Whether the violation was deliberate, negligent or inadvertent.
  - (4) Whether the violation was an isolated incident or pervasive enough to indicate a pattern of disregard.
  - (5) Whether the respondent has a record of violations.
  - (6) The respondent's experience and sophistication.

- (7) Whether the respondent had, or should have had, knowledge of the provision of the Ethics Law that was violated.
- (8) The extent to which the respondent cooperated with the investigation.
- (9) The extent to which, when given notice of the complaint, the respondent took corrective action to cure the violation.

*5.7. Payment and Collection of the Administrative Penalty.*

- (A) A respondent upon whom an administrative penalty has been imposed shall pay the penalty within 25 days after receiving a copy of the resolution adopted under section 5.5(A)(2).
- (B) An administrative penalty not paid within 25 days is delinquent and, beginning on the 26th day after the respondent receives a copy of the resolution adopted under section 5.5(A)(2), will accrue interest at the same annual rate that applies to any civil judgment.
- (C) The City may file and prosecute a civil action in superior court to collect a delinquent administrative penalty and will be entitled to recover reasonable attorneys' fees and all costs associated with collection of the penalty, including but not limited to the cost of City Staff time to collect the penalty and costs set forth in California Code of Civil Procedure section 1033.5. The City may also take such actions as are authorized for enforcement of money judgments under the Enforcement of Judgments Law, California Code of Civil Procedure section 680.010 et seq.



# **Sacramento Ethics Commission**

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## **Procedures**

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*Effective September 23, 2024*



The Sacramento City Council established the Sacramento Ethics Commission to review and consider complaints against elected and appointed City officials and to ensure that those officials are conforming their conduct to the City's laws and policies. The Commission's organization, powers, and duties are set forth in chapter 2.112 of the Sacramento City Code. Chapter 2.112 requires, among other things, that the Commission adopt (a) rules and procedures for the conduct of its business, (b) regulations and procedures for investigations and hearings it conducts, and (c) a policy setting forth its standards for imposing penalties and exercising enforcement discretion. To implement these requirements, the Commission has adopted the procedures set out below (collectively, these "**Procedures**"), which are intended to establish fair and transparent standards for investigating and determining matters before the Commission, thereby ensuring the fair, just, and timely resolution of complaints presented to the Commission with the end of promoting fairness, openness, honesty, and integrity in City government and City elections.

## **I. Definitions.**

"Brown Act" means the Ralph M. Brown Act, codified as California Government Code section 54950 et seq.

"City" means the City of Sacramento.

"City Attorney" means the Sacramento City Attorney and the Sacramento City Attorney's designee.

"City Charter" means the City of Sacramento Charter.

"City Clerk" means the Sacramento City Clerk and the Sacramento City Clerk's designee.

"City Code" means the Sacramento City Code.

"City Staff" means the City officers and employees who support the Commission, including the City Clerk and the City Attorney and their respective assistants and deputies.

"Commission" means the Sacramento Ethics Commission.

"Commissioner" means a member of the Sacramento Ethics Commission.

"Complainant" means a person who files a complaint with the Commission in accordance with these Procedures.

"Confidential Materials" means (a) information and documents that federal, or state law prohibits the Commission or the City from disclosing to the public and (b) each complaint that is filed in accordance with these Procedures plus all related investigatory materials until the complaint is disposed of in accordance with these Procedures. "Confidential Materials" does not include information and documents generally available to the public or, except as provided by section 4.1 below, previously disclosed to members of the public.

"Day" means calendar day unless otherwise stated.



“Ethics Law” means those provisions of the City Charter, the City Code, or the Council Rules of Procedure listed in City Code section 2.112.030.A.

“Independent Evaluator’s Report” means the report described in section 5(B) below.

“FPPC” means the California Fair Political Practices Commission.

“Hearing” means a hearing before the Commission, conducted in accordance with these Procedures, to consider a complaint filed with the Commission.

“Include” and its variants are terms of enlargement rather than of limitation. For example, “includes” means “includes but not limited to,” and “including” means “including but not limited to.”

“Independent Evaluator” means the neutral and independent party retained by the City on the Commission’s behalf to review and investigate complaints and to give recommendations to the Commission regarding them.

“Respondent” means a person alleged in a complaint to have violated the Ethics Law.

“Sunshine Ordinance” means the Sacramento Sunshine Ordinance, codified as City Code chapter 4.04.

**2. Commission Structure and Support.** The Commission’s structure is set forth in City Code chapter 2.112, as supplemented by the following:

2.1. *Chairperson and Vice Chairperson.* The Commission annually elects a Chairperson and a Vice Chairperson. (City Code § 2.112.070.)

(A) The Chairperson (1) presides over all Commission meetings; (2) forms committees and appoints Commissioners to committees as appropriate; (3) may consult with the City Clerk and the City Attorney regarding the Commission’s business; (4) may consult with the City Attorney and the Independent Evaluator on procedural matters but shall not otherwise discuss active complaints with either of them; and (5) is the Commission’s spokesperson for communicating with the City Council, the public, and the media.

(B) The Vice Chairperson performs the Chairperson’s duties when the Chairperson is unable to do so or is absent.

2.2. *The City Attorney’s Role.* The City Attorney advises the Commission on legal matters such as interpretation of the Ethics Law or of relevant state or federal law. The City Attorney does not participate in investigations, but the Chairperson, the City Clerk, and the Independent Evaluator may consult with the City Attorney about procedure or about the interpretation of the Ethics Law or other relevant state or federal law so long as they do not seek advice about how the law applies to the facts that are the subject of a pending complaint.

2.3. *The City Clerk's Role.* The City Clerk supports the Commission's work and is responsible for, among other things, (1) establishing and accomplishing the Commission's priorities in consultation with the Chairperson and consistent with policy direction by the Commission, (2) scheduling meetings and Hearings and providing notice of meetings and Hearings as required by law, (3) and keeping records of meetings and Hearings (e.g., video recordings, written minutes). The City Clerk may make procedural determinations including scheduling of Hearings, extensions of time, and presentation of witnesses.

2.4. *The Independent Evaluator's Role.* The Independent Evaluator is the neutral and independent party retained by the City on the Commission's behalf to review and investigate complaints and to give recommendations to the Commission regarding them.

(A) If, at any time during the review or investigation of a complaint, the retained Independent Evaluator determines the existence or potential existence of a disqualifying conflict of interest involving themselves and the subject of the complaint, any Complainant, or any Respondent, the Independent Evaluator must immediately disclose the disqualifying conflict of interest or potential disqualifying conflict of interest to the City Clerk and the City Attorney. The Independent Evaluator will recuse themselves from further participation in the processing of the investigation if the conflict of interest is found by the City Clerk and City Attorney to be disqualifying. The City Clerk must inform the Chairperson of the recusal. The City Clerk must retain an alternate Independent Evaluator to conduct a preliminary investigation in accordance with section 5.2. The Alternate Independent Evaluator may request an extension of time in accordance with section 5.3(C) if they are unable to complete a review and/or investigation based on the original timeframes established in accordance with these Procedures.

2.5. *Media inquiries.* Except for routine administrative matters within their individual areas of responsibility, the City Clerk, City Attorney, and the Independent Evaluator shall refer all media inquiries to the Chairperson or, if the Chairperson is unavailable, to the Vice Chairperson.

### **3. Commission Meetings.**

3.1. *Time and Place.* The Commission shall establish a regular meeting schedule for itself, with at least two regular meetings scheduled each year; the Commission may also call and hold special meetings in accordance with the Brown Act. (City Code § 2.112.080.) The City Council adopts the commission's calendar prior to the beginning of each calendar year or as needed. The City Clerk shall post the regular meeting schedule on the Commission's website and provide notice of each regular meeting as required by the Brown Act and the Sunshine Ordinance. Regular meetings will be held at Sacramento City Hall, 915 I Street, Sacramento, California.

- 3.2. *Parliamentary Procedures.* The Commission shall conduct its business in compliance with the Brown Act and the Sunshine Ordinance and, to the extent practicable, shall conduct its meetings in accordance with *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century*. Hearings must be conducted in accordance with these Procedures.

#### **4. Confidentiality.**

- 4.1. Confidential Materials must not be disclosed to any person, except that the Independent Evaluator and City Staff may disclose Confidential Materials to the extent needed for the investigation of a pending complaint so long as disclosure does not violate federal or state law.
- 4.2. At least 10 days before any Hearing to consider the Independent Evaluator's Report, the complaint and the Independent Evaluator's Report must be made publicly available as required by the Brown Act, the Sunshine Ordinance, or other applicable law, with all Confidential Materials redacted.
- 4.3. The City Clerk, the Independent Evaluator, the Commissioners, and City Staff shall not make public statements about pending complaints before the Hearing, except as follows: if a pending complaint or information concerning a pending complaint is released to the public before the Hearing, the City Clerk may acknowledge receipt of the complaint and issue a statement that (A) the complaint represents unsubstantiated allegations pending the results of an investigation and Hearing and (B) might or might not fall within the Commission's jurisdiction.
- 4.4. Confidential Materials must not be used, directly or indirectly, for any purpose other than the Commission's official business, and the Commissioners shall take reasonable steps to protect and safeguard Confidential Materials.
- (A) Upon discovering an unauthorized disclosure or misuse (potential or actual) of Confidential Materials, the Independent Evaluator, a Commissioner, or a member of City Staff shall immediately notify the City Clerk.
  - (B) Upon receiving a request, subpoena, or court order for disclosure of Confidential Materials, the Independent Evaluator, a Commissioner, or a member of City Staff shall notify the City Clerk and wait for direction before disclosing the Confidential Materials.
- 4.4. A Commissioner remains bound by this section 4 after leaving office.



## 5. Complaints.

### 5.1. *Complaint Intake.*

- (A) Any person may file a complaint alleging violations of the Ethics Law.
  - (1) A complaint should be on the form prepared by the City Clerk, which is available on the City Clerk's website, although the City Clerk shall accept a complaint that is not filed on the form if the complaint includes enough information to allow the City Clerk to conduct the initial review required in Section 5.1(B).
  - (2) A complaint must provide as much detail as possible, including, if known, each provision of the Ethics Law alleged to have been violated, the facts constituting each alleged violation, the name and address of each respondent, and the name and address of each potential witness.
  - (3) A complaint should identify the Complainant, although the City Clerk Shall accept an anonymous complaint if the complainant includes enough information to allow the City Clerk to conduct the initial review required in Section 2.1(B).
    - (a) When a complaint alleges misconduct by the City Clerk, the following shall apply:
      - (i) The City Clerk shall delegate to the City Clerk's designee all further participation in the processing of the complaint and any report related to the complaint.
      - (ii) The City Clerk shall recuse themselves from further participation in the processing of the complaint and any report related to the complaint.
      - (iii) The City Clerk and the City Clerk's designee must refuse any attempt to divulge and confirm the identity of an anonymous Complainant.

(4) A complaint should be filed with the City Clerk as follows:

<i>By U.S. Mail:</i>	Sacramento City Clerk 915 I Street New City Hall, Fifth Floor Sacramento, California 95814
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<i>By personal delivery during business hours:</i>	Sacramento City Clerk 915 I Street New City Hall, Fifth Floor Sacramento, California
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<i>By E-Mail:</i>	<a href="mailto:ethics@cityofsacramento.org">ethics@cityofsacramento.org</a>
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(a) The City Clerk shall accept complaints received through other City services and communication channels, including the City's Whistleblower Hotline Program.

(5) The City Clerk shall maintain a complaint log and shall enter in the log the date and time each complaint is filed.

(B) Within 14 days after a complaint is filed, the City Clerk shall complete an initial review of the complaint; and, based on the initial review, do one of the following:

- (1) Refer the complaint to the Independent Evaluator for a preliminary evaluation in accordance with section 5.2 and notify the Commission of the referral.
- (2) Refer the complaint to another City department or to the FPPC or another governmental agency with jurisdiction over the subject matter of the complaint if the City Clerk determines that the department, the FPPC, or the agency may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law and notify the complainant of the referral.

- (3) Dismiss the complaint for lack of jurisdiction and notify the Complainant of the dismissal and refer the complaint to the relevant agency, if known. A complaint is outside the Commission's jurisdiction if (a) it alleges violations that occurred more than three years before it was filed, or, for violations subject to a different limitations period, it was filed after the limitations period expired; (b) it alleges facts that are not subject to any provision of the Ethics Law; or (c) the respondent is not a person listed in City Code section 2.112.030.B.
- (C) Upon complying with section 5.1(B), the City Clerk shall enter in the complaint log the action taken after the initial review. In addition, at the Commission's next regular meeting, the City Clerk shall notify the Commission of the action taken after the initial review but shall not identify the Complainant and the Respondent(s).

5.2. *The Independent Evaluator's Preliminary Evaluation of a Complaint.*

- (A) Upon receiving a complaint from the City Clerk, the Independent Evaluator shall promptly provide the Respondent with a complete copy of the complaint and a copy of these Procedures.
- (B) Within 30 days after receiving the complaint, the Independent Evaluator shall complete a preliminary evaluation to determine whether sufficient cause exists to conduct a full investigation. The Independent Evaluator shall limit the preliminary evaluation to the allegations in the complaint and shall not consider extrinsic evidence. Sufficient cause does not exist, and the Independent Evaluator shall not conduct a full investigation, if any of the following applies:
  - (1) The complaint does not allege specific facts demonstrating a potential violation.
  - (2) The facts alleged, if proven, would not violate any provision of the Ethics Law.
  - (3) Substantially similar allegations involving the same facts as those alleged in a previous complaint have already been addressed in a prior investigation or were otherwise decided on the merits by a court or by the FPPC or another governmental agency with jurisdiction.
- (C) If, based on the preliminary evaluation, the Independent Evaluator determines that sufficient cause to warrant a full investigation of a complaint exists, then the Independent Evaluator and the Commission shall proceed in accordance with sections 5.3 and 5.4. If, however, the Independent Evaluator determines that sufficient cause does not exist, then the Evaluator and the Commission shall proceed as follows:

- (1) The Independent Evaluator shall prepare a no-cause report explaining why sufficient cause does not exist and recommending that the Commission not hear the matter. The no-cause report may also recommend that the Commission refer the complaint to the FPPC or to another governmental agency if the Independent Evaluator determines that the FPPC or the agency may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law.
- (2) The Independent Evaluator shall file the no-cause report with the City Clerk within 45 days after the Independent Evaluator receives the complaint. The City Clerk shall place the matter on the agenda of the Commission's next available regular meeting.
- (3) The Commission may adopt the no-cause report and dismiss the complaint. Alternatively, if the Commission decides that contrary to the no-cause report, sufficient cause exists to warrant an investigation, the Commission may direct the Independent Evaluator to conduct an investigation.
- (4) The Commission may refer the complaint to a city department or to the FPPC or another governmental agency that may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law. If the Commission so determines, it will direct the City Clerk or City Attorney to send a copy of all relevant information to the department, the FPPC, or the agency along with the referral.

### 5.3. *Conduct of Investigation by the Independent Evaluator.*

- (A) The Independent Evaluator shall conduct an investigation of the allegations in a complaint when the Independent Evaluator determines that sufficient cause exists or when the Commission directs the Independent Evaluator to conduct an investigation. The investigation must include an interview with each Respondent unless the Respondent refuses to cooperate. The Independent Evaluator may, in the Independent Evaluator's sole discretion, also interview the Complainant and other witnesses and may review documents and other evidence.
- (B) Although scheduling is difficult to predict in advance, timeliness is important to the Commission so that its goals of transparency and responsiveness to the community may be furthered. To that end, the Independent Evaluator shall complete the investigation as promptly as possible under the circumstances and, unless an extension is granted in accordance with section 5.3(C), shall, within 60 days after receiving the complaint, submit to the City Clerk, with a copy to the City Attorney, a written report that is addressed to the Commission includes the following (the "**Independent Evaluator's Report**"):

- (1) A narrative summary of the evidence gathered through the investigation, including any exculpatory and mitigating evidence. The Independent Evaluator may consider any relevant evidence, including hearsay evidence, and may include in the Independent Evaluator's Report facts bearing on the weight given to the evidence considered, such as the Independent Evaluator's determination of witness credibility.
  - (2) For each provision of Ethics Law that is alleged to be violated, a determination that the Respondent or Respondents did or did not violate the provision, with supporting evidence.
  - (3) At the Independent Evaluator's discretion, a recommendation of action the Commission should take or a recommendation that the Independent Evaluator conduct further investigation and report back to the Commission.
  - (4) At the Independent Evaluator's discretion, a recommendation that the Commission refer the complaint to the FPPC or another governmental agency if the Independent Evaluator believes that the FPPC or agency may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of the Ethics Law or any other law.
- (C) The Independent Evaluator may request an extension of time by filing a written request with the City Clerk, specifying the extension requested and the reasons for the request. The City Clerk, in consultation with the Chairperson and the City Attorney, may grant the request upon the Independent Evaluator's showing of good cause. The City Clerk's decision on a request must be in writing. If the request is granted, the decision must specify the additional time that has been granted, and the Independent Evaluator shall provide the City Clerk with a progress report on the status of the investigation every 30 days or as otherwise set forth in the decision. If the request is denied, the Independent Evaluator shall submit to the City Clerk, within three days after the decision, a written summary of the evidence gathered through the investigation up to that point.
- (D) If the Independent Evaluator discovers facts during an investigation that indicate possible additional violations by named Respondent or Respondents or possible violations by one or more persons or entities who are not named as a Respondent, then the Independent Evaluator shall notify the City Clerk of this discovery and consult with the City Clerk on how to conduct a fair and thorough investigation of the newly discovered facts that provides adequate due process.
- (I) The City Clerk may either file an amended complaint against the new or existing Respondent or Respondents using the complaint form established for such purpose or may schedule a Hearing to consider whether the City Clerk should file an amended complaint.

- (2) If the City Clerk files an amended Complaint, the Independent Evaluator shall notify each new Respondent as well as the Complainant and each original respondent(s) of the new allegations. The Independent Evaluator shall also provide all Respondents with copies of the amended complaint and these Procedures.
- (E) Individual Commissioners shall not conduct independent investigations of complaints or discuss pending complaints with anyone except during a Hearing. But the Chairperson may discuss procedural matters with the Independent Evaluator, the City Attorney, or the City Clerk.

#### 5.4. *Commission Hearings.*

- (A) Upon receiving the Independent Evaluator's Report, the City Clerk will advise the Chairperson and the City Attorney and will set a Hearing at the earliest practicable date.
- (B) At least 10 days before the Hearing, the City Clerk shall notify the Complainant and each Respondent of the date and time of the Hearing.
- (C) At least 10 days before the Hearing, the City Clerk shall deliver the Independent Evaluator's Report to the Commission, the Complainant, each Respondent, and all interested parties who have requested a copy.
- (D) The Independent Evaluator's Report must be made available to the public in accordance with the Brown Act and the Sunshine Ordinance.
- (E) Each Respondent may submit a written response to the Independent Evaluator's Report. The response may contain legal arguments, a summary of evidence, and any mitigating or exculpatory information. A Respondent who chooses to submit a response must deliver it to the City Clerk at least 72 hours before the time of the Hearing, and the Commission may but need not consider a response that is not timely submitted. The City Clerk shall distribute any responses received to the Commission and the Independent Evaluator as soon as is practicable and shall make the responses available to the public in accordance with the Brown Act, the Sunshine Ordinance, or other applicable law, with all Confidential Materials redacted.
- (F) If anyone other than a Respondent submits a brief or any written argument to the Commission before the Hearing, the City Clerk shall provide, as soon as practicable, a copy of the brief or written argument to each Respondent, the Commission, and the Independent Evaluator. The City Clerk shall also make the brief or written argument available to the public in accordance with the Brown Act, the Sunshine Ordinance, or other applicable law, with all Confidential Materials redacted.

- (G) If a Commissioner is the Complainant or Respondent that Commissioner shall not participate in any way in the Hearing, including deliberations about, or a vote on, the complaint or any matter concerning the complaint.
- (H) The Hearing must be open to the public, but witnesses, except the Complainant, may be excluded at the Commission's discretion with the concurrence of the City Attorney.
- (I) The City Clerk shall record the Hearing.
- (J) Each Respondent may personally appear at the Hearing or be represented by counsel or any other person.
- (K) The Complainant must be treated like any other witness who provides evidence.
- (L) The Respondent and Complainant will have sufficient time to present to the commission.
- (M) The California Evidence Code does not apply to the Hearing, and the Commission may consider any relevant evidence, including hearsay.
- (N) All testimony presented to the Commission must be under oath or affirmation.
- (O) Commissioners may ask questions of the Complainant, each Respondent, the witnesses, and the Independent Evaluator when recognized by the Chairperson.
- (P) The Commission may ask the City Council to issue a subpoena compelling witnesses to appear at the Hearing and provide testimony or a subpoena duces tecum compelling witnesses to produce documents.
- (Q) No later than 10 days following the conclusion of a Hearing, the City Clerk shall notify the complainant, if possible, and each respondent of any action taken by the Commission.

#### 5.5. *Commission Action.*

- (A) At the conclusion of a Hearing, the Commission may take one or more of the following actions:
  - (1) Pass a motion directing the Independent Evaluator to conduct further investigation and report back to the Commission.
  - (2) Adopt a resolution finding that sufficient evidence exists to establish that a violation occurred and including one or more of the actions authorized by section 5.6(A). This finding must be based on a preponderance of the evidence from the entire record of the proceedings.

- (3) Adopt resolution finding that sufficient evidence does not exist to establish that a violation occurred and ordering that the complaint be dismissed.
  - (4) Pass a motion referring the complaint to the FPPC or to another governmental agency that may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law and directing the City Clerk or City Attorney to send a copy of all relevant information to the FPPC or the agency along with the referral.
- (B) The votes of at least three Commissioners are required to find under section 5.5(A)(2) that a violation occurred, and each Commissioner voting on the finding shall certify on the record that the Commissioner (1) heard the testimony at the Hearing (either in person or by listening to a recording) or read the transcript of the testimony; and (2) reviewed and considered all the evidence in the record.
  - (C) The City Clerk shall provide a copy of any resolution adopted under section 5.5(A)(2) or 5.5(A)(3) to the Complainant and each Respondent and shall post a copy of the resolution on the City's website.
  - (D) The Commission's action under section 5.5(A)(2) or 5.5(A)(3) is a final administrative determination on the complaint that is subject to judicial review in accordance with City Code section 1.24.110(A) and California Code of Civil Procedure sections 1094.5 and 1094.6.

#### 5.6. Remedies.

- (A) If the Commission adopts a resolution under section 5.5(A)(2), thereby finding that a violation occurred, then the Commission shall include in the resolution one or more of the following:
  - (1) A finding that mitigating circumstances exist and that no further action is warranted.
  - (2) A reprimand of the responsible Respondent or Respondents.
  - (3) An order that the responsible Respondent or Respondents take corrective action by a specific date.
  - (4) An order issuing a warning letter that sets conditions for the potential imposition of penalties depending on the future conduct of the responsible Respondent or Respondents.
  - (5) An order imposing an administrative penalty in accordance with City Code section 2.112.030.A.2.



- (B) The Commission shall not impose an administrative penalty on a Respondent if clear and convincing evidence establishes that all of the following occurred before the violation:
  - (1) The Respondent requested and obtained a written opinion from the City Attorney or the FPPC regarding the propriety of the actions constituting the violation.
  - (2) The Respondent, in requesting the opinion, truthfully disclosed all the relevant and material facts.
  - (3) The Respondent committed the violation in good-faith reliance upon the written opinion of the City Attorney or the FPPC.
- (C) The votes of at least three Commissioners are required to impose an administrative penalty under section 5.6(A)(5), and each Commissioner voting to impose any penalty shall certify on the record that the Commissioner (1) heard (either in person or by listening to a recording) or read the transcript of the testimony; and (2) reviewed and considered all the evidence in the record.
- (D) In determining whether administrative penalties should be imposed and the amount of the penalties, the Commission shall consider all the relevant facts. The following list of relevant facts is neither exhaustive nor mandatory, and the Commission may assign greater or lesser importance to each fact as the Commission considers appropriate under the circumstances:
  - (1) The severity of the violation.
  - (2) The presence or absence of any intention to conceal, deceive, or mislead.
  - (3) Whether the violation was deliberate, negligent or inadvertent.
  - (4) Whether the violation was an isolated incident or pervasive enough to indicate a pattern of disregard.
  - (5) Whether the Respondent has a record of violations.
  - (6) The Respondent's experience and sophistication.
  - (7) Whether the Respondent had, or should have had, knowledge of the provision of the Ethics Law that was violated.
  - (8) The extent to which the Respondent cooperated with the investigation.
  - (9) The extent to which, when given notice of the Complaint, the Respondent took corrective action to cure the violation.

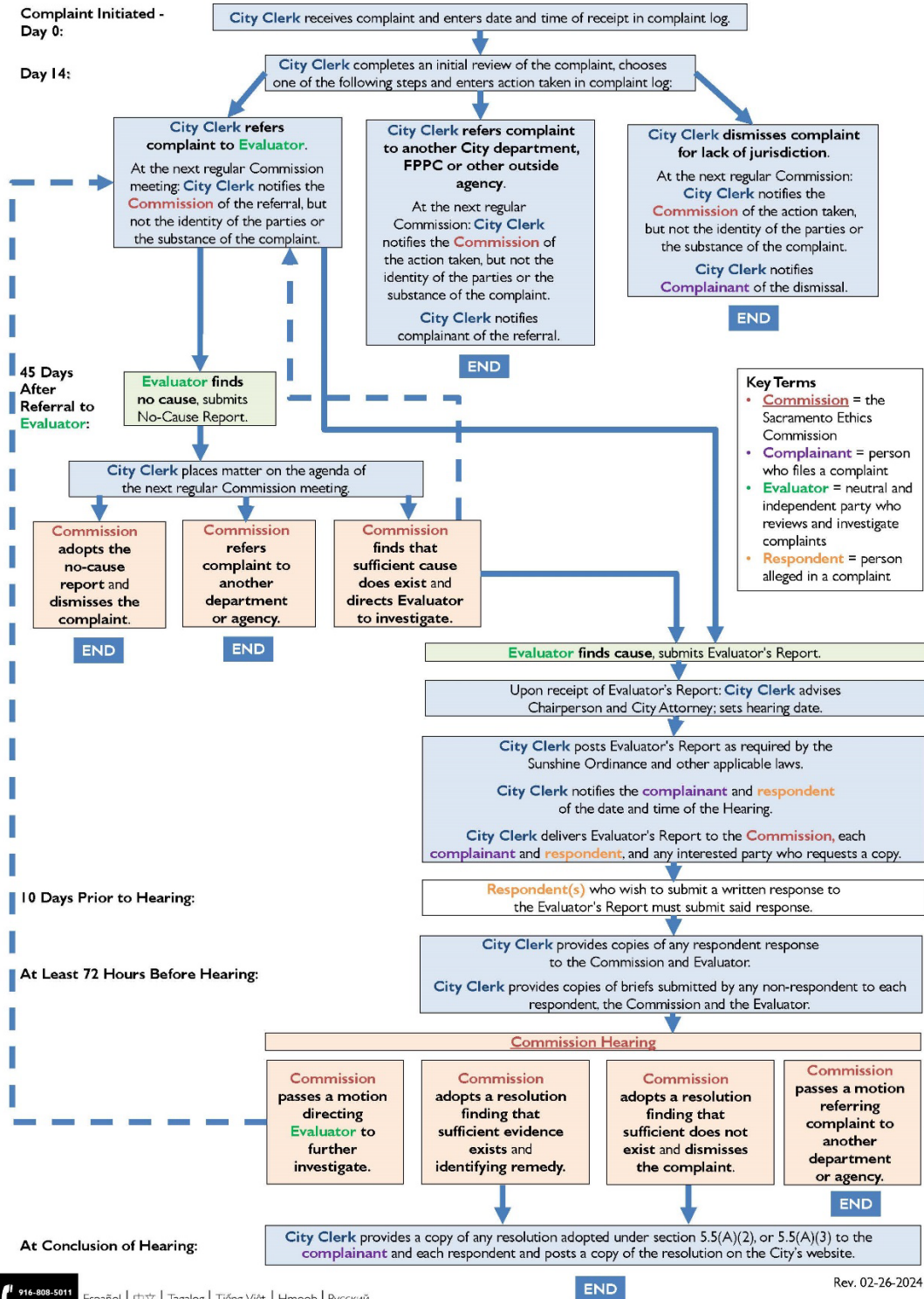
*5.7. Payment and Collection of the Administrative Penalty.*

- (A) A Respondent upon whom an administrative penalty has been imposed shall pay the penalty within 25 days after receiving a copy of the resolution adopted under section 5.5(A)(2).
- (B) An administrative penalty not paid within 25 days is delinquent and, beginning on the 26th day after the Respondent receives a copy of the resolution adopted under section 5.5(A)(2), will accrue interest at the same annual rate that applies to any civil judgment.
- (C) The City may file and prosecute a civil action in superior court to collect a delinquent administrative penalty and will be entitled to recover reasonable attorneys' fees and all costs associated with collection of the penalty, including but not limited to the cost of City Staff time to collect the penalty and costs set forth in California Code of Civil Procedure section 1033.5. The City may also take such actions as are authorized for enforcement of money judgments under the Enforcement of Judgments Law, California Code of Civil Procedure section 680.010 et seq.

Revision History:

- September 23, 2024
- September 26, 2022
- February 22, 2021

## SACRAMENTO ETHICS COMMISSION COMPLAINT WORKFLOW



916-808-5011  
916-264-5011

Español | 中文 | Tagalog | Tiếng Việt | Hmoob | Русский

Rev. 02-26-2024

Sacramento Ethics Commission Procedures can be found here: <https://www.cityofsacramento.gov/clerk/good-governance-and-compliance/filing-an-ethics-complaint>

SACRAMENTO ETHICS COMMISSION COMPLAINT WORKFLOW

Complaint Initiated -  
Day 0:

City Clerk receives complaint and enters date and time of receipt in complaint log.

Day 14:

City Clerk completes an initial review of the complaint, chooses one of the following steps and enters action taken in complaint log:

City Clerk refers complaint to Evaluator.

At the next regular Commission meeting: City Clerk notifies the Commission of the referral, but not the identity of the parties or the substance of the complaint.

City Clerk refers complaint to another City department, FPPC or other outside agency.

At the next regular Commission: City Clerk notifies the Commission of the action taken, but not the identity of the parties or the substance of the complaint.

City Clerk notifies complainant of the referral.

City Clerk dismisses complaint for lack of jurisdiction.

At the next regular Commission: City Clerk notifies the Commission of the action taken, but not the identity of the parties or the substance of the complaint.

City Clerk notifies Complainant of the dismissal.

END

45 Days After Referral to Evaluator:

Evaluator finds no cause, submits No-Cause Report.

City Clerk places matter on the agenda of the next regular Commission meeting.

Commission adopts the no-cause report and dismisses the complaint.

END

Commission refers complaint to another department or agency.

END

Commission finds that sufficient cause does exist and directs Evaluator to investigate.

Evaluator finds cause, submits Evaluator's Report.

Upon receipt of Evaluator's Report: City Clerk advises Chairperson and City Attorney; sets hearing date.

City Clerk posts Evaluator's Report as required by the Sunshine Ordinance and other applicable laws.

City Clerk notifies the complainant and respondent of the date and time of the Hearing.

City Clerk delivers Evaluator's Report to the Commission, each complainant and respondent, and any interested party who requests a copy.

Respondent(s) who wish to submit a written response to the Evaluator's Report must submit said response.

City Clerk provides copies of any respondent response to the Commission and Evaluator.

City Clerk provides copies of briefs submitted by any non-respondent to each respondent, the Commission and the Evaluator.

Commission Hearing

Commission passes a motion directing Evaluator to further investigate.

Commission adopts a resolution finding that sufficient evidence exists and identifying remedy.

Commission adopts a resolution finding that sufficient does not exist and dismisses the complaint.

Commission passes a motion referring complaint to another department or agency.

END

At Conclusion of Hearing:

City Clerk provides a copy of any resolution adopted under section 5.5(A)(2), or 5.5(A)(3) to the complainant and each respondent and posts a copy of the resolution on the City's website.

END

Key Terms

- **Commission** = the Sacramento Ethics Commission
- **Complainant** = person who files a complaint
- **Evaluator** = neutral and independent party who reviews and investigate complaints
- **Respondent** = person alleged in a complaint