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San Francisco Ethics Commission

Annual Report July 1, 2012 - June 30, 2013

The Ethics Commission is pleased to present this report on the activities, progress, and accomplishments of its **eighteenth** year of operation to the Mayor, Board of Supervisors, and citizens of San Francisco.

Beverly Hayon
Chairperson

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

Email: ethics.commission@sfgov.org
Web site: www.sfethics.org
Telephone: 415/252-3100
Fax: 415/252-3112

**SAN FRANCISCO ETHICS COMMISSION
ANNUAL REPORT FY 2012-2013**

The Ethics Commission serves the citizens of San Francisco, City employees, elected and appointed officials, and candidates for public office by enforcing the City's governmental ethics laws, providing education about their provisions, and serving as a repository for information.

The Commission acts as filing officer for campaign finance disclosure statements; audits statements for compliance with state and local laws; administers City laws regulating lobbyists and campaign consultants; investigates complaints alleging ethics law violations; serves as the filing officer for financial disclosure statements required from City officials; raises public awareness of ethics laws; researches and proposes ethics-related legislative changes; and provides ethics advice to candidates, office-holders, public officials, City and County employees and the general public.

The Commission is pledged to a high standard of excellence in government accountability, and to that end has worked not only to implement the law, but also to amend existing law or create new law that will further the principle of the voters' right to know and to ensure integrity in government decision-making and in the campaigns of those who wish to govern.

HIGHLIGHTS OF THE EIGHTEENTH YEAR

The Commission delivered a diverse array of work products and services to the citizens of San Francisco, managing to meet its mandates during a year of budget cutbacks and other resource limitations:

- *In fulfilling its mandate under Charter section 15.105, the Ethics Commission this year held a hearing spanning eight meetings (three of which occurred in the new fiscal year beginning July 2012) related to the written charges of official misconduct filed by Mayor Ed Lee against Sheriff Ross Mirkarimi. The Commission addressed, among other things, procedural and evidentiary issues, the parties' briefs, objections to evidence and witnesses, sworn declarations, direct testimony and questions raised on and responses to cross-examination, and the parties' agreed-upon factual stipulations. At its meeting on August 16, after receiving public comment, the Commission voted to recommend to the Board of Supervisors that it sustain Counts 4 and 5 of the Amended Charges of Official Misconduct based upon Sheriff Mirkarimi's conduct that occurred on December 31, 2011 and his subsequent conviction for false imprisonment.*
- *In July 2011, the Commission approved amendments to section 1.144 of the Campaign Finance Reform Ordinance (CFRO) to address the U.S. Supreme Court's decision in Arizona Free Enterprise Club's Freedom Club PAC, et al. v. Bennett. These amendments were introduced by Supervisors Farrell and Elsbernd at the Board of Supervisors. On September 27, 2011, the Board voted 7-3 to support the amendments. Because eight votes were needed for passage, the Board rescinded the vote. On October 4, the Board*

voted 6-5 in favor of the amendments. However, because eight votes were needed for passage, the amendments failed.

- *At its January 23, 2012 meeting, the Commission approved by 4-0 vote new amendments to the CFRO. On January 24, 2012, Supervisors Kim, Campos, Mar and Avalos introduced these amendments as File No. 111082. The legislation amended the CFRO to establish new qualification requirements for candidates seeking public funds, set the amount of public funds that may be disbursed, delay the disbursement date of public funds, change the matching funds formula, and continue with adjustable individual expenditure ceilings that start at \$250,000 for a candidate for the Board of Supervisors and \$1,750,000 for a candidate for Mayor.*
- *At its special meeting on March 9, 2012, the Ethics Commission approved amendments to File No. 111082, legislation to amend the CFRO to establish new qualification requirements for candidates seeking public funds, set the amount of public funds that may be disbursed, delay the disbursement date of public funds, change the matching funds formula, continue with adjustable individual expenditure ceilings that start at \$250,000 for a candidate for the Board of Supervisors and \$1,475,000 for a candidate for Mayor, and cap the Election Campaign Fund at \$7 million. The legislation was subsequently approved by the Board of Supervisors.*
- *At its September 12 meeting, the Commission approved amendments to Ethics Commission Enforcement Regulations VIA and XIV.C to permit the Commission to calendar proposed dismissals or settlements of enforcement matters based on the request of one, rather than two, Commissioners. These amendments were forwarded to the Board of Supervisors and took effect on November 11, 2011.*
- *During the year, the Commission considered provisions in the Statements of Incompatible Activities (SIA) for the General Services Agency (GSA), the Department of Human Resources (DHR) and the San Francisco Public Library (SFPL). The Commission approved changes to the SIAs of the DHR, which asked that its SIA be amended so that it better aligns with the department's confidentiality policy; and the SFPL, which asked that certain provisions be narrowed so that they not unduly restrict employees from engaging in activities that actually inure to the benefit of the employees as well as advance the mission of the SFPL.*
- *For the first time, the City began televising Ethics Commission meetings on SFGovTV. The Commission had to undergo some financial and scheduling challenges to make this happen, but was able to meet them and all Commission meetings are broadcast live when they occur. The City also airs "reruns" of Commission meetings, and all of them are available on demand at the SFGovTV web site. <http://www.sfgovtv.org/> The Commission approved changes to its Bylaws to provide that beginning in January 2012, the Commission's regular meetings will be held on the fourth Monday of each month at 5:30 p.m. in Room 400 City Hall, and that such meetings shall be televised, except for portions of meetings that are held in closed session or otherwise required to be confidential.*

- *Draft amendments to the Campaign Consultant Ordinance, which were approved by the Ethics Commission in December 2010 and January 2011, were placed by the Board of Supervisors on the ballot as Proposition F in the November 8, 2011 election. The proposed amendments, which were not approved, would have:*
 - *adopted an electronic filing system for reporting by campaign consultants;*
 - *required consultants to disclose information on a monthly basis;*
 - *changed the economic threshold for qualification as a campaign consultant;*
 - *modified the registration fees;*
 - *eliminated the client fees; and*
 - *enabled the Board of Supervisors to amend the Ordinance under certain circumstances.*

- *The Commission considered waiver requests from the post-employment restrictions under the Government Ethics Ordinance (GEO). It approved a request by former Deputy City Attorney Thomas Long for waivers from the post-employment bans against representing a non-City party before a court or administrative agency on matters in which he represented the City and against communicating with his former City department for one year with the intent to influence a governmental decision. The Commission adopted staff's recommendations supporting the waiver for appearances before a court or administrative agency and limiting the waiver of the one-year ban to Mr. Long's communications on behalf of his then-current employer, The Utility Reform Network ("TURN").*

- *The Commission also granted requests for waivers from two post-employment restrictions to Tiffany Bohee, Interim Director of the Redevelopment Agency of the City and County of San Francisco ("SFRA"), which permit Ms. Bohee, a former employee of the Office of Economic and Workforce Development ("OWED"), to continue to work on a pending legislative packet to fund redevelopment activities in San Francisco and to communicate with her former department on behalf of the SFRA.*

- *The Commission considered a request for a waiver from the one-year post-employment restriction that applies to legislative aides of the Board of Supervisors under sections 3.234(a)(2) and 3.234(b)(1) of the GEO. After receiving testimony from Robert Selna, a former legislative aide to former Supervisor Ross Mirkarimi, and members of the public, the Commission did not take a vote on Mr. Selna's request.*

- *One of the Commission's duties is to educate members of the public about local laws governing campaign contributions. This year, staff drafted and the Commission, by a 5-0 vote at its meeting on June 24, 2013, adopted a comprehensive Contributor Guide to Local Laws Governing Campaign Contributions. The Guide summarizes the local laws applicable to campaign contributions, including contribution limits, who may make contributions to committees, and which contributors and committees are required to report their activities.*

- On March 21, 2012, Mayor Ed Lee suspended Sheriff Ross Mirkarimi from the Office of Sheriff and submitted written charges of official misconduct seeking his removal from office, pursuant to section 15.105 of the City Charter. This matter presented the second time that the Ethics Commission heard charges under section 15.105 and the first time that the Commission provided a recommendation to the Board of Supervisors. The Ethics Commission met regarding these charges on the following dates: April 23, 2012; May 29, 2012; June 19, 2012; June 28, 2012; June 29, 2012; July 18, 2012; July 19, 2012; August 16, 2012; and September 11, 2012. Among other things, the Ethics Commission heard from counsel for both parties regarding procedural issues; set a schedule for the submission of declarations, objections, requests for subpoenas, and other matters; made rulings regarding the admissibility of documentary evidence submitted by the parties; heard live testimony of witnesses the parties wished to cross-examine; received public comment; and considered closing arguments, deliberated and made Findings of Fact and Recommendation to the Board of Supervisors. On September 18, 2012, the Ethics Commission delivered its Findings of Fact and Recommendation to the Board of Supervisors, along with the full record relating to the charges of Official Misconduct. On October 9, 2012, the Board of Supervisors did not sustain the charges of Official Misconduct.
- On July 23, 2012, by a vote of 4-0, the Commission approved amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.112, to require that all campaign statements submitted to the Ethics Commission be filed electronically. The changes became effective with the first semi-annual report due July 31, 2013.
- On July 23, 2012, by a vote of 4-0, the Commission also approved amendments to regulations for section 1.126 of the CFRO. The amendments clarify the scope of section 1.126, including the application of the section to local officials seeking election to state office, and address other technical changes.
- On November 26, 2012, by a pair of 5-0 votes, the Commission approved amendments to the CFRO to impose disclosure requirements on “draft committees” that support the qualification and/or election of an identifiable person for City elective office.
- At the same meeting on November 26, 2012, the Commission approved, by a series of 5-0 votes, separate regulations governing the handling of Sunshine Ordinance-related complaints. The Commission then removed references to the Sunshine Ordinance from the Regulations for Investigations and Enforcement Proceedings, as Sunshine Ordinance matters will now be handled under their own set of regulations.
- In open session on February 25 and June 24, 2013, the Commission considered and resolved several matters submitted under the Commission’s new regulations that govern the handling of alleged violations of the Sunshine Ordinance.
- At its April 22, 2013 meeting, by a vote of 3-0, the Commission adopted regulations to require each signer of an electronic campaign finance report to file a completed Signature Verification Form with the Commission in order to provide authenticity to the electronic signature.

- On April 22, 2013, the Commission, by a 3-0 vote, granted a waiver to Jonathan Pearlman from the ban on compensated advocacy under San Francisco Campaign and Governmental Conduct Code section 3.224. Mr. Pearlman is a licensed architect who occupies Seat 3, the architectural historian seat, on the Historic Preservation Commission.
- On May 30, 2013, by a vote of 4-0, the Commission granted a waiver to Alan Martinez from the one-year post-employment ban under San Francisco Campaign and Governmental Conduct Code section 3/234(a)(2). Mr. Martinez is a licensed architect solo practitioner who formerly served on the Historic Preservation Commission (HPC). The waiver allows him to contact the Planning Department or Planning Commission—but not the HPC—on behalf of his clients regarding their architectural plans.
- On June 5, 2012, the Budget Analyst issued a report comparing the laws of the City and County of San Francisco and the City of Los Angeles. The report examined four areas of policy and enforcement: campaign financing, enforcement and education, lobbying, and transparency. On December 4 and 10, 2012, and again on February 27, 2013, staff held interested persons meetings to obtain feedback on the policy options listed by the Budget Analyst. The Commission considered the content of this report, a staff memoranda and public input at the May 2013 meeting; the reports and feedback are available on the Commission’s website.
- In August 2012, the Commission released a new campaign finance dashboard web site for the November 6, 2012 election. The dashboard summarized campaign finance activity using easy-to-read charts, maps, and graphs including candidate and ballot measure committee activity, public financing, and third-party spending. (See below for more information.)
- On June 11, 2013, Ethics Commission staff met with staff members from the Fair Political Practices Commission, the Los Angeles Ethics Commission, San Diego Ethics Commission and Oakland Ethics Commission. Throughout the day-long meeting in Sacramento, staff from the different agencies learned and exchanged ideas about the FPPC’s new gift reporting app, upcoming and recent legislative and regulatory developments, enforcement matters and education programs. It was a very fruitful gathering.
- The odd-numbered districts for the Board of Supervisors and four seats each for the Board of Education and Community College Board were voted on in the November 6, 2012 election. Twenty-six candidates for the Board of Supervisors, eleven candidates for the Board of Education and ten candidates for the Community College Board qualified for the ballot.
- At its meeting on May 30, 2013, by a vote of 4-0, the Commission approved regulations to require persons who file the Form 700 Statement of Economic Interests with the Ethics Commission to file them in electronic format beginning in January 2014.

MANDATES AND ACCOMPLISHMENTS OF THE COMMISSION

Campaign Finance Reform Ordinance

During the year, the Commission approved amendments to the Campaign Finance Reform Ordinance (“CFRO”) related to the public financing program for candidates to the Board of Supervisors and the office of the Mayor. In particular, the amendments sought to address issues raised by the U.S. Supreme Court’s June 27, 2011 decision in Arizona Free Enterprise Club’s Freedom Club PAC, et al. v. Bennett, which held that Arizona’s matching public funds program “substantially burdens protected political speech without serving a compelling state interest and therefore violates the First Amendment.” Staff worked with Supervisor Kim and others to craft the amendments, which address not only the situation created by the Bennett decision but also concerns that were raised at Interested Persons meetings that candidates must do more to show viability before receiving public funds and that public funds should be disbursed beginning on a date later than February of the election year. The amendments establish new qualification requirements for candidates, set the amount of public funds that may be disbursed, delay the disbursement date of public funds, change the qualifying and matching funds formula, and continue with an adjustable individual expenditure ceiling. After consideration by the Board of Supervisors, the Commission approved three additional amendments that (1) lower the cap on the Election Campaign Fund from \$13.5 million to \$7 million, (2) make a conforming change in the provision addressing when the Executive Director must notify the Commission and the Board of Supervisors about the amount of funds available in the Election Campaign Fund and when the Executive Director may request a supplemental appropriation, and (3) leave the current Individual Expenditure Ceiling for publicly-financed Mayoral Candidates at the current level of \$1.475 million. These proposals all passed at the Board of Supervisors.

The Commission also approved amendments to the CFRO to delay certification of candidates for the Board of Supervisors who seek public funds for the November 2012 election until the Redistricting Task Force completed the new district boundaries on or around April 15. This provision also passed at the Board.

Finally, the Commission approved a number of substantive and technical amendments to the CFRO which were based on input from Interested Persons meetings. These amendments would have, among other things, set forth and consolidated disclaimer and disclosure requirements for communications that are paid for by third parties and that concern candidates for City elective office; establish the content and form of disclaimer statements on third party communications and require that disclaimers appear in 14-point font on written communications; establish a standard timing requirement for all disclosure reports to be filed by candidates and third parties who distribute communications regarding candidates for City elective office; excluded certain compliance costs from the determination of whether to lift the Voluntary Expenditure Ceiling or adjust the Individual Expenditure Ceiling; preserve the \$500 per person contribution limit to candidates, but adding language to require the Commission to adjust annually the limit according to changes in the Consumer Price Index from a February 2012 base, provided that the Commission ratifies any changes; deleted the overall limit on contributions that a person may make to all candidate committees; deleted the requirement that a candidate seeking public funds must have filed a statement that he or she intends to participate in the public financing program;

and deleted a requirement that applicants for public financing agree (i) not to pay any campaign vendors or contractors in return for a contribution and (ii) not to make more than 50 total payments to a vendor or contractor that has made a contribution to the candidate. Unfortunately, these amendments did not pass at the Board.

During the year, the Commission, in considering the matter of the Progress for All Committee and Support Drafting Ed Lee for Mayor 2011 Committee, committees formed to urge Interim Mayor Ed Lee to run for Mayor, determined that Interim Mayor Lee was not a candidate within the meaning of the Political Reform Act by virtue of his appointed office. The Commission also held that persons who worked on or volunteered on the committees are not necessarily prohibited from working or volunteering on the Mayor Lee candidate committee. However, should facts surface that coordination occurred between Mayor Lee and such committees, such allegations will be investigated under the Commission's enforcement regulations. The Commission instructed staff to develop legislation or regulations to provide guidance in this area.

At its meeting on July 23, 2012, the Commission by a 4-0 vote approved amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.112 to require that all campaign statements submitted to the Ethics Commission be filed electronically. The amendments were made possible when the State Legislature passed AB 2452, which permits local government agencies to require local candidates and committees to file campaign disclosure reports electronically, thereby eliminating the need for paper filings. Passage of AB 2452 was due in part to staff's efforts to support electronic filing and to dispense with paper requirements. The amendments took effect with the campaign finance reports that were due July 31, 2013. The amendments include the following changes:

- Committees that are required to file electronic campaign finance statements will no longer be required to file duplicate paper copies;
- Committees will be required to file electronic statements if they receive contributions or make expenditures that total \$1,000 or more in a calendar year;
- County Central Committee candidate controlled committees and primarily formed committees will be required to file electronically; and
- Any committee not required to file electronic statements may voluntarily opt to file electronic statements.

At the same July 23, 2012 meeting, the Commission also approved, by 4-0, amendments to regulations related to section 1.126 of the CFRO. The amended regulations, which took effect on September 21, 2012, clarify that "an individual holding City elective office" in CFRO section 1.126(b)(1)(A) includes any committee controlled by that individual formed to support that individual's election to a local or state elective office; and that "a committee controlled by such individual or candidate" in CFRO section 1.126(b)(1)(C) includes any committee controlled by the individual or candidate formed either to support or oppose a candidate for local or state elective office or to support or oppose a local or state ballot measure. The amended regulations also address other technical changes.

At its November 26, 2012 meeting, the Commission, by a series of 5-0 votes, approved amendments to the CFRO to regulate “Draft Committees.” A “draft committee” is defined as any person, group of persons, or entity that receives at least \$1,000 in contributions or makes at least \$1,000 in expenditures to support the qualification or election of an identifiable person who has not declared as a candidate. Under the amendments, such committees will be subject to reporting requirements. The language that describes “identifiable person” in the proposal generally tracks language that defines “candidate” under state law. Under the legislation, a committee that receives contributions or makes expenditures to support the election of *an identifiable person who has not yet qualified as a candidate* will have the same filing obligations as a primarily formed committee that receives contributions or makes expenditures to support a declared candidate. The “draft committee” must register as a committee and file reports disclosing contributions and expenditures during set time periods, just like other primarily formed committees that support candidates. The Commission continues to seek a sponsor for the legislation at the Board of Supervisors.

On April 22, 2013, the Commission voted 3-0 to approve regulations to require signers of electronic campaign finance reports to file a completed Signature Verification Form with the Commission in order to file their reports electronically.

Public Financing

For the November 8, 2011 election nine candidates for Mayor qualified to receive public funding. A total of \$11,094,247 in the Election Campaign Fund was available for disbursement. On the 59th day before the election the Executive Director was required to calculate the Per Candidate Available Disbursement Limit. Prior to this date, eligible candidates could receive up to \$900,000 each. The Per Candidate Available Disbursement Limit was determined to be \$1,232,694. However, at the time that the Commission notified Mayoral candidates of the Per Candidate Available Disbursement Limit, the Commission also informed candidates of pending legislation that would have capped the disbursements at \$900,000 per candidate in response to the Supreme Court’s June 27, 2011 decision in Arizona Free Enterprise Club’s Freedom Club PAC, et al. v. Bennett.

The nine eligible candidates received a total of \$4,696,390 in public funds, an average of \$521,821 per candidate. Because the individual expenditure ceiling was raised for every publicly-financed candidate and the Per Candidate Available Disbursement Limit was greater than \$900,000, candidates were eligible to receive more than \$900,000 based on the amount of matching contributions raised; none of the nine publicly-financed candidates received more than \$900,000. The highest amount disbursed to any candidate was \$720,690.

Candidate spending in the election totaled \$11,360,605 and third party spending totaled \$2,569,035. The highest level to which the Ethics Commission raised a candidate’s Individual Expenditure Ceiling was \$2,675,000.

In spring 2012, the Board of Supervisors approved changes to the public financing program in response to the decision in Arizona Free Enterprise Club’s Freedom Club PAC, et al. v. Bennett. The changes also involved raising the qualification threshold for Supervisorial candidates from \$5,000 to \$10,000 and raising the individual expenditure ceiling for qualified Supervisorial candidates from \$143,000 to \$250,000. For the November 6, 2012 election, the Commission

disbursed, in FY 11-12, a total of \$20,000 to one eligible candidate. The other participating candidates applied for and received public funding in the following fiscal year, FY 12-13.

The Commission conducted several trainings and provided other outreach on the supervisorial and mayoral programs.

For the November 6, 2012 election, 12 candidates for the Board of Supervisors qualified to receive public funding. A total of \$5,613,030 in the Election Campaign Fund was available for disbursement. Eligible candidates were able to receive up to a maximum amount of \$155,000 in public funds (or up to \$152,500 for an incumbent). Unlike the public financing programs of 2008, 2010, and 2011, the 2012 public financing program did not provide a mechanism for candidates to receive additional public funding beyond the \$155,000 cap (\$152,500 for incumbents).

The 12 eligible candidates received a total of \$1,228,097 in public funds, an average of \$102,341 per candidate. Two candidates received the maximum amount possible. The highest amount disbursed to any candidate was \$155,000 and the lowest amount disbursed was \$34,540.

Candidate spending in the election totaled \$2,987,290 and third party spending totaled \$1,507,057. The highest level to which the Ethics Commission raised a candidate's Individual Expenditure Ceiling was \$970,000.

In spring 2012, the Board of Supervisors approved changes to the public financing program in response to the decision in *Arizona Free Enterprise Club's Freedom Club PAC, et al. v. Bennett*. The changes also involved raising the qualification threshold for Supervisorial candidates from \$5,000 to \$10,000 in contributions and raising the individual expenditure ceiling for qualified Supervisorial candidates from \$143,000 to \$250,000.

The Commission conducted several trainings and provided other outreach on the supervisorial program.

Audit Program

The Commission serves as the filing officer of campaign statements that are filed by San Francisco candidates and other committees that support or oppose local ballot measures or candidates. The Commission conducts audits of committees that are selected under a random selection process and mandatory audits of publicly funded candidates.

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Statement of Economic Interests (SEI), Sunshine Ordinance Declaration, and Certificate of Ethics Training

In the last two years, the Commission, with the help of a great team of volunteer interns, scanned and archived SEI files from 1975 to 2006. Although the Commission is only required to keep SEIs for 7 years, staff felt it was important to retain the SEI records for historical value. Having scanned archives of SEIs that go back to 1975 allows the public to view SEI filings from 1975 to 2006 in the public area from a computer station verses waiting for staff to search through boxes. Filings from 2007 to 2012 can be viewed on the Ethics Commission website.

The 570 Statements of Economic Interests, 418 Sunshine Ordinance Declarations, and 321 Certificates of Ethics Training filed with the Ethics Commission this year are available on the Commission's website. The reduction of numbers compared to last year is a result of the SEI SFEDS being restructured and organized by filer verses by position.

For example, if a commissioner served on more than one commission, the former system was organized in a way that staff was required to open multiple accounts for each position and data enter the SEI filings in multiple times. With the new structure, a filer has an account and staff can add multiple positions. This means that in this year, staff spent a substantial amount of time to comb through the data to make sure that each commissioner account was accurately transferred over and reflected all the filer's positions. Due to this technical, quality control, and clean-up work, staff's normal process of notification was not as rigorous; however, staff believes that its efforts will result in improved filer compliance in the long run.

Due to the exciting potential changes on the horizon for the SEI Program, staff focused on preparing the e-filing system to go paperless. Currently the California Senate is discussing an expedited bill to allow local jurisdictions to require e-filing for SEIs. So far, most of the various voting groups have unanimously chosen in favor of allowing local jurisdictions to go paperless. The status of this bill number 2062 can be tracked at <http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml>

By reviewing and updating 1,163 filer accounts and uploading filings as needed, staff is doing what it can to ensure that the very likely transition to paperless filings will go smoothly. If local jurisdictions are allowed to go paperless, this means that in 2013, instead of spending months to enter the approximately 1,500 SEI-related forms the Commission receives each year, the Commission will be able to focus its limited staff resources on tracking and notifying filers. Focusing staff efforts on educating commissioners and addressing issues with filers as soon as possible will result in better compliance.

Staff continues to process manually the Statements of Economic Interests (SEIs), Sunshine Ordinance Declarations, and Certificates of Ethics Training that are filed at the Commission. The 575 Statements of Economic Interests, 535 Sunshine Ordinance Declarations, and 416 Certificates of Ethics Training filed with the Commission this year are available on the Commission's website.

Staff experienced increased success this year in reducing the number of non-filers. Due to the large number of filers who filed late in the past, then requested late fee waivers based on non-medical related reasons, staff issued a warning in this year's SEI Filing Officer Memo that the Commission would not consider late fee waivers for filers whose commission or board

secretaries did not attend the Commission's filing officer trainings. Last year, a total of 150 SEI filers were deemed to have filed late; this year, the total was reduced to 48 late filers. In addition, staff notified 82 filers who filed their SEIs but failed to file their respective Certificate of Ethics Training or Sunshine Ordinance Declaration Forms. Thus far, the Commission has received 24 out of 31 delinquent Certificate of Ethics Training Forms, and 15 out of 25 delinquent Sunshine Ordinance Declaration Forms. In past years, these statements would not have been filed.

On September 24, 2012 Assembly Bill No. 2062 was approved by the Governor, permitting local agencies to develop and implement a system for the electronic filing of SEIs, in accordance with regulations adopted by the Fair Political Practices Commission (FPPC). As prescribed under the law, the Commission worked with Netfile, one of two systems already certified by the FPPC for use in other jurisdictions, and submitted a proposal describing an e-filing system for SEIs filed with the Commission to the FPPC for certification. The Commission's e-filing system has been certified. Thus, beginning on January 1, 2014, all department heads, elected officials and appointed members of decision-making boards and commissions will be required to file their annual, assuming office and leaving office SEIs electronically with the Commission.

On the heels of the previous work done to insure a smooth transition into e-filing, staff has been updating information within the Commission's electronic filing system to insure that all SEI filers will have the ability to file their statements electronically. This work includes updating filers' email addresses in the system. Each filer will be required to have an email address on file with the Commission before he or she can file; staff is now contacting filers to inform them of the new requirement.

When e-filing becomes a reality, staff will no longer have to spend months to scan and upload manually to our website the SEIs. In the past, due to staffing constraints, staff was limited in its ability to track and notify filers. Staff will continue to refine the way it administers the program, to insure that filers are held to the standards set forth in the law.

Lobbyist Registration and Reporting

Lobbyists are required by ordinance to register with the City and file monthly reports about any activity intended to influence local legislative or administrative action. The Commission reviews lobbyist statements to ensure that they are accurate and complete.

The electronic filing process has enabled more timely filings and greater public access to individual lobbyist disclosure statements. The electronic database enables the public to conduct customized searches rather than tedious manual paper searches. Staff has worked with the filing system provider to streamline the system and continues to listen to feedback from the public and registered lobbyists to ensure that they are able to access the system with greater ease.

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The electronic filing process has enabled more timely filings and greater public access to individual lobbyist disclosure statements. The electronic database enables the public to conduct customized searches rather than tedious manual paper searches. The electronic database has reduced the number of public records requests regarding lobbyist records as all records and lobbyist information are readily available through the online system and searchable. Staff has worked with the filing system provider to streamline the system and continues to listen to feedback from the public and registered lobbyists to ensure that they are able to access the system with greater ease.

At the end of the fiscal year, 86 individual lobbyists were registered with the Commission, reporting \$6,223,644 in promised payments. Total revenues collected by the Commission amounted to \$49,175, including \$48,575 in lobbyist registration fees and \$600 in late fines.

Campaign Consultant Registration and Reporting

The Campaign Consultant Ordinance, passed in 1997, requires any individual or entity that earns \$1,000 or more in a calendar year in exchange for providing campaign consultant services to register with the Ethics Commission and file quarterly disclosure statements. The Campaign Consultant Ordinance is the result of a voter referendum and therefore is not subject to changes without additional voter approval. A ballot measure with proposed amendments to the Ordinance was not passed by the voters during the November 2011 election.

Campaign consultants are required to report names of clients, services provided for those clients, payments promised or received, political contributions, gifts made to local officials, and other information. Staff prepares a summary of the quarterly reports and posts the summary on the Commission's website. Staff continues to ensure that all consultants required to be registered with the Commission file their registration forms and pay their registration fees.

During the 2011-2012 fiscal year, there was an average of 44 consultants registered with the Commission and over \$5.1 million in payments reported as promised or received. In addition, during the campaign for the November 2011 election, the Commission had the highest number of registered consultants that it has had since 2003.

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Campaign consultants are required to report names of clients, services provided for those clients, payments promised or received, political contributions, gifts made to local officials, and other information. Beginning with the first quarter of 2013, the Commission no longer issues quarterly report summaries of campaign consultant activity. Instead, information regarding all activity has been and will continue to be provided via the Campaign Consultant Activity Dashboard on the Commission's website and made available for download through the City's data.sfgov.org open

data system. Staff continues to ensure that all consultants who are required to be registered with the Commission file their registration forms and pay their registration fees.

During the 2012-2013 fiscal year, 43 filers registered as consultants with the Commission. As of June 30, 2013, 21 remain active. Consultants reported receiving approximately \$2.5 million in payments from relevant clients. Of the 21 currently active registered filers, 13 have active clients. So far, only five clients are campaigning for candidates or measures on the ballot for the November 2013 election.

Investigations and Enforcement

The Ethics Commission has the authority to investigate complaints that allege violations of certain state and local laws that relate to campaign finance, conflicts of interests, lobbyists, campaign consultants, and governmental ethics. In addition, the Whistleblower Ordinance directs the Commission to investigate charges of retaliation directed against complainants. During the 2011-2012 fiscal year, staff resolved 18 cases. This number does not include the myriad of other cases that come before staff but that were determined not to be within the jurisdiction of the Commission.

The Ethics Commission has the authority to investigate complaints that allege violations of certain state and local laws that related to campaign finance, conflicts of interest, lobbying, campaign consultants, and governmental ethics. During the 2012-2013 fiscal year, 146 pending and/or new complaints were under review by Ethics Commission Enforcement staff. 115 complaints were resolved during the fiscal year; 87 of these complaints were determined not to be within the jurisdiction of the Commission and/or not to warrant further action. Throughout the year, the Executive Director's Reports submitted to the Commission at each of its regular meetings show the number of complaints that have warranted further action.

Chapter IV of the San Francisco Campaign & Governmental Conduct Code requires the Commission to investigate complaints filed with the Commission under section 4.105(b) alleging improper government activity, and complaints filed by City officers or employees or former City officers or employees alleging retaliation as defined in section 4.115(a).

“*Improper government activity*” by a City officer or employee includes the following:

- Violating local campaign finance, lobbying, conflicts of interests or governmental ethics laws, regulations or rules;
- Violating the California Penal Code by misusing City resources;
- Creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or
- Abusing his or her City position to advance a private interest.

Section 4.115(a) defines “retaliation” as the “termination, demotion, suspension, or other similar adverse employment action” taken against any City officer or employee for having in good faith participated in any of the following protected activities:

- Filing a complaint with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the Complainant's department, alleging that a City officer or employee engaged in *improper governmental activity*;
- Filing a complaint with the Controller's Whistleblower Program; or
- Cooperating with an investigation of a complaint conducted under the Ordinance.

Section 4.130 requires the Commission to provide an annual report to the Board of Supervisors, reporting the following information: (1) number of complaints received; (2) the type of conduct complained about; (3) the number of referrals to the Civil Service Commission, other City departments, or other government agencies; (4) the number of investigations the Ethics Commission conducted; (5) findings or recommendations on policies or practices resulting from the Ethics Commission's investigations; (6) the number of disciplinary actions taken by the City as a result of complaints made to the Ethics Commission; and (7) the number and amount of administrative penalties imposed by the Ethics Commission as a result of complaints made to the Commission. Pursuant to section 4.130, the Commission reports the following regarding complaints filed under Chapter IV during the 2012-2013 fiscal year: (1) 19 complaints received; (2) ten complaints alleged improper governmental activity; nine complaints alleged retaliation; (3) six complaints were referred to the Civil Service Commission, other City departments, or other government agencies; (4) zero; (5) none; (6) unknown; and (7) zero and \$0.

Enforcement Regulations

Staff is currently reviewing and preparing updates of its enforcement regulations regarding complaints alleging violations of the Sunshine Ordinance. The Ethics Commission held a joint meeting with the members of the Compliance & Amendments Committee of the Sunshine Ordinance Task Force on April 13, 2012. The Commission will likely consider these amendments before the end of 2012.

The Commission approved amendments to Ethics Commission Enforcement Regulations sections VI.A and XIV.C to permit the Commission to calendar proposed dismissals or settlements of enforcement matters based on the request of one, rather than two, Commissioners.

During the year, staff proposed separate enforcement regulations for handling violations of the Sunshine Ordinance. After discussion during various meetings, the Commission approved new enforcement regulations during its regular meeting on November 26, 2012. These regulations went into effect on January 25, 2013. Thus far, the Commission has held seven hearings using these new regulations.

Education and Outreach

Staff provided or participated in 36 trainings or meetings related to matters within the jurisdiction of the Ethics Commission. Of the 36 trainings provided, 25 were in-person trainings or meetings and 11 were web training videos.

This fiscal year, the Educator/Outreach Coordinator continued to take on additional tasks of administering the Statements of Economic Interests and Sunshine Ordinance filings, which

placed great demands on her time. Additionally beginning in June, the Educator/Outreach Coordinator began to administer the Commission's Internship Program. Because many of the trainings are made available on the web, she was able to focus her attention on training volunteers to assist in projects like the SEI archival project, and begin the process of writing educational manuals for volunteer interns and cross training for staff.

In addition, the Educator/Outreach Coordinator has worked with interns to generate projects and creative ways of educating various groups about the laws that the Commission regulates. One intern suggested incorporating positive psychology techniques in training City employees on Conflicts of Interest Rules, another suggested designing a mock trial for high school students to learn how to be engaged in local government. The Coordinator has created a prototype of an interactive board game covering governmental ethics and incompatible activities rules for City employees. Due to limited staffing, these fresh ideas cannot immediately be implemented, but these are projects that interns will be working on over the years to help foster interest and educate the Commission's various audiences.

During the year, staff provided or participated in 27 trainings or meetings related to matters within the jurisdiction of the Ethics Commission.

Presently, the Commission is without an educator/outreach coordinator. When the Commission is able to fill the position, staff anticipates that there will be a focus on training City officers and employees on the City's conflict of interest rules, in addition to training related to the electronic filing of SEIs.

Advice and Opinions

The Commission is charged with interpreting and applying the conflict laws under its jurisdiction, requiring that it consider requests for waivers, which it routinely does, and that it issue formal and informal written advice on matters requiring interpretation.

Commission staff is available each workday to answer public inquiries about San Francisco ethics laws. During the course of the year, the number of inquiries runs into the hundreds.

During the year, the Commission issued three informal advice letters, two related to section 1.126 of the Campaign and Governmental Conduct Code and one on whether a political organization may serve as an intermediary for campaign contributions. The Commission's advice letters are posted on its website.

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Electronic Advances

The Commission continued to look for opportunities to improve its electronic services and increase efficiency with a limited technology budget. Commission staff worked with the Mayor's office and Assemblyman Tom Ammiano to pass Assembly Bill (AB) 2452. The bill permits local filing officers to require electronic filing of state campaign finance forms and eliminate the paper filing requirement. AB 2452 will go into effect January 1, 2013.

In January, Commission staff worked with Netfile, the Commission's electronic filing system vendor, to release an application programming interface (API) for software programmers to access the Commission's lobbyist database. In April, Commission staff worked with the Department of Technology to synchronize the Commission's electronic lobbyist and campaign finance reports with the City's new data.sfgov.org web site. The web site allows the public to build interactive graphs and maps of the Commission's data using on-line tools and publish the information on other web sites. The graphs and maps automatically update when lobbyists and committees file new disclosure reports. In addition, the system has an API to access both the campaign finance and lobbyist data. The Commission's data on data.sfgov.org is also interoperable with similar data web sites set up in cities throughout the country.

The Commission's web site remained a popular resource. During the Commission's official misconduct hearings, Commission staff made all records submitted by attorneys available to the public on the Commission's web site.

- *Users visited the web site 62,819 times during the year, an eight percent increase over FY 10-11; and*
- *There were 188,184 "pageviews" of the web site, a twenty-four percent increase over FY 10-11.*

During FY 12-13 the Commission significantly improved electronic data access and migrated additional paper forms to electronic format. In July, the Commission approved amendments to Section 1.112 of the Campaign and Governmental Conduct Code requiring all campaign committees to file electronic statements and to eliminate the paper filing requirement. The amendments were made possible because of the Commission's work on Assembly Bill 2452 during FY 11-12. In August 2012, the Commission released a new campaign finance dashboard web site for the November 6, 2012 election. The dashboard summarized campaign finance activity using easy-to-read charts, maps, and graphs including candidate and ballot measure committee activity, public financing, and third-party spending. The data updated daily with the latest information from both the Commission's electronic filing system and Commission staff's data analysis. In addition, users of the dashboard could download all of the original data used to build each chart, map or graph. The dashboard quickly became one of the most accessed parts of the Commission's web site. The dashboard was featured in a case study called "Set it and Forget it" Saves San Francisco Time, written by Socrata, the company that built some of the technology used by Commission staff to create the dashboards.

- In December, the Commission released a new version of its campaign finance electronic filing application through its contract with Netfile. The new version added many frequently

requested features including single sign-on for treasurers with multiple committees, revisions to data entry for Form 460 schedules D and G, and an easier process for filing amendments.

- Staff worked with other cities and Netfile to develop a method for committee officers to sign electronic statements. In May, the Commission passed new regulations requiring committee officers that file electronic statements to complete Signature Verification Cards to authenticate their electronic signature on campaign finance statements. The new regulations and signature verification process went into effect in June.
- In May, the Commission also passed regulations requiring elected officials, department heads, and members of decision-making boards and commission to file the Statement of Economic Interests (Form 700) with the Ethics Commission in electronic format. Commission staff expects to complete the transition to electronic filing by January 1, 2014.
- The Commission’s web site remained a popular resource with significant traffic during the first half of the fiscal year. Traffic considerably decreased after the Commission’s official misconduct hearings and November 6, 2012 election concluded.
- Users visited the web site 53,617 times during the year, a 15 percent decrease over FY 11-12; and
- There were 169,406 “pageviews” of the web site, an 11 percent decrease over FY 11-12.

AFFILIATIONS

The Commission is a member of the Council on Governmental Ethics Laws (COGEL) but due to budget limitations no longer attends the annual convention.

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BUDGET

The Commission's annual approved budget totals are below. Please note that recent years indicate “non-grant funding.” Non-grant funding is the actual operating budget of the Commission. The remaining funding for each of those years are deposits into the Election Campaign Fund and are used exclusively for payments to publicly-financed candidates for Board of Supervisors and for Mayor.

FY 94 – 95	157,000
FY 95 - 96	261,000
FY 96 - 97	313,274
FY 97 - 98	394,184
FY 98 - 99	475,646
FY 99 - 00	610,931
FY 00 - 01	727,787
FY 01 - 02	877,740
FY 02 - 03	1,156,295
FY 03 - 04	909,518
FY 04 - 05	1,052,389

FY 05 - 06 1,382,441
 FY 06 - 07 8,416,109* (1,711,835 non-grant funding)
 FY 07 - 08 3,592,078 (2,261,877 non-grant funding)
 FY 08 - 09 5,453,874 (2,241,818 non-grant funding)
 FY 09 - 10 6,011,566 (2,283,368 non-grant funding)
 FY 10 - 11 4,177,819 (2,201,325 non-grant funding)**
 FY 11 - 12 8,348,537 (2,259,979 non-grant funding)***
 FY 12 - 13 4,155,547 (2,256,239 non-grant funding)

*Includes 6,704,274 front-loaded funding for Mayoral Election Campaign Fund

**Agencies Citywide absorbed across-the-board budget cuts.

***Includes annual deposit of \$2,009,451 for the Election Campaign Fund (ECF) plus a repayment of \$4,079,107 borrowed in previous years

MEMBERSHIP AND ADMINISTRATION

Commission membership was as follows:

<u>Commissioner</u>	<u>Appointed By</u>	<u>Dates of Service</u>
Jamienne S. Studley	City Attorney	1-2007 to 2-2008 2-2008 to 2-2014
Dorothy S. Liu Brett Andrews	Board of Supervisors	4-2011 to 4-2013 6-2013 to 2-2017
Beverly Hayon	Mayor	1-2011 to 2-2012 2-2012 to 2-2018
Paul Renne	District Attorney	2-2012 to 2-2013 2-2013 to 2-2019
Benedict Y. Hur	Assessor-Recorder	3-2010 to 2-2016

Commissioner Beverly Hayon was elected to serve as Chair at the April 1, 2013 meeting and Commissioner Paul Renne was elected to serve as Vice-Chair.

The Ethics Commission had a staff of 17, supported by interns throughout the year. Staff included Executive Director John St. Croix; Deputy Executive Director Mabel Ng; Assistant Deputy Director Shaista Shaikh; Auditors Angeles Huang, Amy Li, Alex Lewis-Koskinen and Cathy Davey; Office Manager Jen Taloa; Campaign Finance Officer Jarrod Flores; Fines Collection Officer Ernestine Braxton; Campaign Finance Assistants Teresa Shew and Lawrence Shum; Assistant Investigators Garrett Chatfield and Catherine Argumedo; IT Officer Steven Massey; Education and Outreach Coordinator Judy Chang (resigned in November 2012) and Special Projects Assistant Johnny Hosey. During the fiscal year, the Commission was fortunate to have had the services of several interns: Robert Lopez, a student at USF; Alana Taloa, a

student at Kimball High School; Athalie Tom, a student at SFSU; Danielle Sarayan, a student at USF; Amanda Tan, a student at UC Berkeley; Randy Russell, a student at SFSU; and Nan Li, a student at Palo Alto High School.

FUTURE INITIATIVES

The Commission will continue to fulfill its mandated duties in the forthcoming years, with a particular focus on achieving the following priority objectives:

- *The Commission will provide an on-line self-registration web site for lobbyists to expedite lobbyist registration, payment of fees, and the establishment of electronic filing accounts.*
- *In accordance with the passage of AB 2452 by the California State Legislature, the Commission will consider amendments to section 1.112 of the Campaign Finance Reform Ordinance (CFRO) to require that all campaign statements submitted to the Ethics Commission be filed electronically. Passage of this legislation will require local candidates and committees to file campaign disclosure reports electronically, thereby eliminating the need for paper filings.*
- *The Commission will transition its server to a virtual environment hosted at the City's new data center as part of the City's server consolidation project.*
- *The Commission will provide interactive summary graphs and tables on its web site for the November 6, 2012 election. The web site will provide summaries of spending by race, public finance disbursements, expenditure ceilings, and third-party spending.*
- *The Commission plans to continue its consideration of regulations to set out the process of handling complaints related to the Sunshine Ordinance and referrals from the Sunshine Ordinance Task Force, which has been ongoing since August 2010.*
- *The Commission will address recommendations raised in the City's Budget and Legislative Analyst June 5, 2012 report to Supervisor Campos, which compared the City's ethics laws, policies and enforcement with those of the City of Los Angeles.*
- *The Commission will also seek to clarify the scope of section 1.126 of the CFRO; namely, that the ban on contributions applies to local officials seeking election to state office. This change will be consistent with informal advice given by Commission staff.*
- *Staff anticipates proposing legislation to amend the CFRO to require a committee promoting an individual as a candidate to the voters to file reports and disclose its activities with the Commission as a primarily formed committee.*
- *Staff anticipates proposing regulations to clarify CFRO section 1.122 related to the use of campaign funds by candidates for City elective office.*
- *The Commission will likely consider regulations to establish an electronic filing system for campaign consultants.*

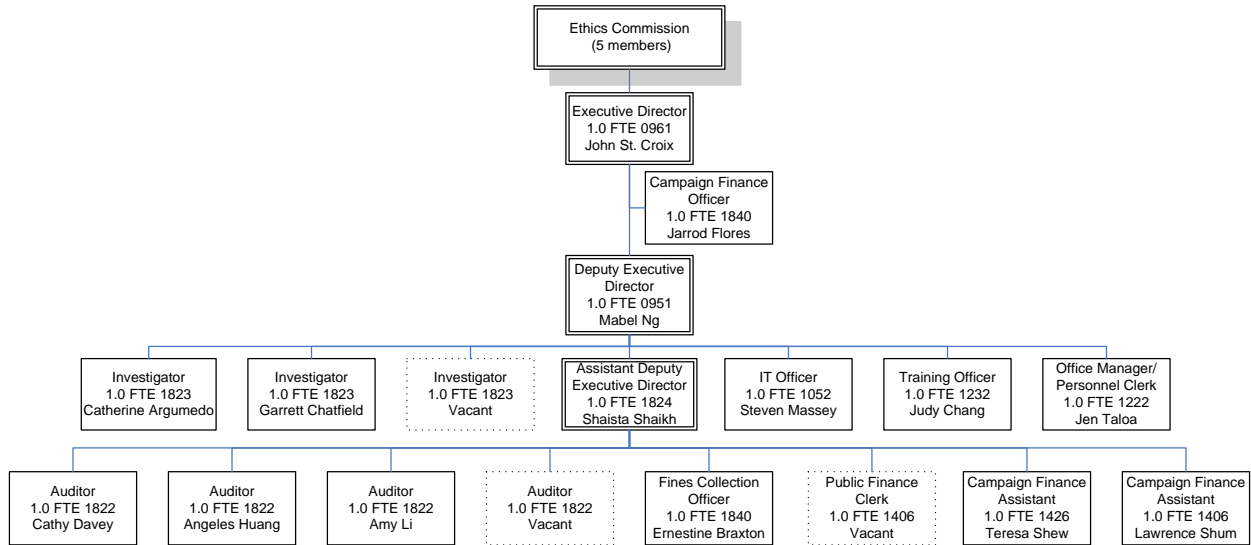
- The Commission will work with filers to implement the electronic filing of the Form 700 Statement of Economic Interests (SEI).
- The Commission will provide expanded training on local and state ethics rules that govern City officers and employees.
- The Commission may propose regulations or amendments to the Campaign Consultant Ordinance to require that filings be submitted electronically by campaign consultants.
- The Commission will continue its efforts to implement electronic filing only for all disclosure forms and declarations submitted to the Commission.

Respectfully Submitted,

John St. Croix, Executive Director

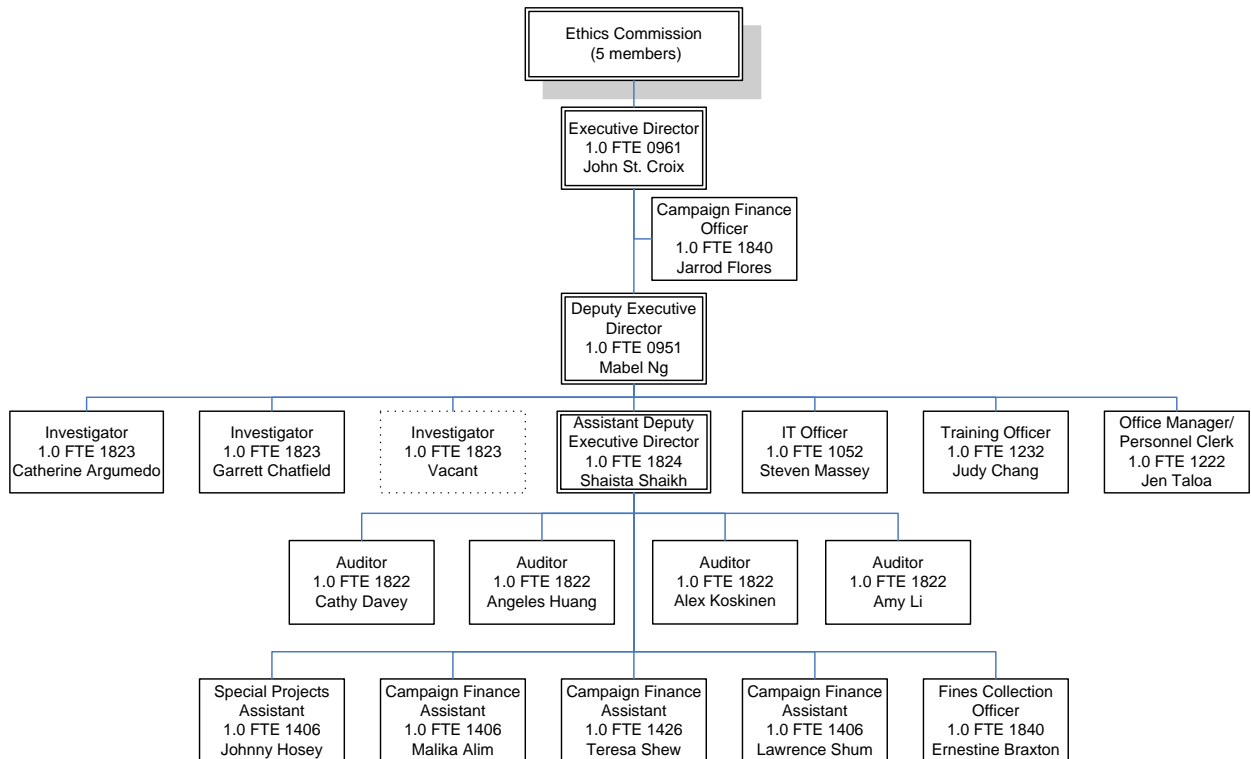
San Francisco Ethics Commission

FY 11-12
(18 Positions)



San Francisco Ethics Commission

FY 12-13
(19 Positions)



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