



# ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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JOHN ST. CROIX  
EXECUTIVE DIRECTOR

**Date:** August 4, 2010

**To:** Members, Ethics Commission

**From:** John St. Croix, Executive Director

**Re:** Annual Report

A handwritten signature in black ink, appearing to be "John St. Croix", written over a horizontal line.

A copy of the draft annual report is attached. Language in *italics* is new for this year. Language that is underlined is from last year's report and is to be deleted.

Please let me know if you have any questions.



**DRAFT**

# **San Francisco Ethics Commission**

**Annual Report  
July 1, 2009 - June 30, 2010**

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

Jamienne S. Studley  
Chairperson

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## **SAN FRANCISCO ETHICS COMMISSION ANNUAL REPORT FY 2009-2010**

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 FIFTEENTH 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:*

- Enforced reporting requirements for political committees, campaign consultants, lobbyists, and City officials;
- Conducted compliance audits *of candidate and ballot measure* committees;
- Continued the constant review of the Campaign Finance Reform Ordinance, making recommendations to the Board of Supervisors on changes to strengthen, clarify, and update campaign finance law. Drafted and adopted regulations to implement such changes;
- Implemented a host of improvements to the Lobbyist Ordinance that were adopted in the previous reporting year;
- Acted to extend its electronic filing partnership with Netfile for another three years;
- Conducted on-going sessions of its educational program on conflicts of interest, incompatible activities, candidate and treasurer information, campaign finance, public finance, on-line filing, lobbying, and other issues under its jurisdiction surpassing the record number of sessions reached in the previous year. Initiated a new on-line training program so that classes and training will be available in many areas for Ethics Commission clients to use at their convenience;
- *Conducted a review of the 36 Advance Written Determinations provided under the rules of Statements of Incompatible Activities for the prior reporting year;*

- Provided informal written or oral advice and responded to requests for formal written advice letters;
- *Added improvements to the* Launched a new web site at [www.sfethics.org](http://www.sfethics.org) and greatly expanded continued to extend the nature and number of documents available on-line;
- Facilitated interested persons meetings for the general public to provide input on issues under consideration by the Commission;
- Conducted hearings on requests for waivers from conflict of interest laws;
- Considered and adopted or provided comment on legislative changes recommended by the Board of Supervisors;
- Responded to hundreds of citizen inquiries; and
- Conducted an in-depth policy analysis and followed through with a number of policy updates and changes. Set the following policy priorities for the Commission and staff:
  1. Education and Technology
  2. Campaign Finance Laws
  3. Communications with the Public
  4. Enforcement
  5. Conflicts of Interest
  6. Lobbyist and Campaign Consultant Ordinances.
  1. *Education and Communication with the General Public*
  2. *Enforcement*
  3. *Campaign Finance*
  4. *Conflicts of Interest*
  5. *Campaign Consultant Ordinance*

## **MANDATES AND ACCOMPLISHMENTS OF THE COMMISSION**

The Commission's work covers ever-growing responsibilities, demanding consistent innovation in this extended period of budget shortfalls that impact funding and personnel. The Commission uses a five-year planning format to anticipate growth of staff and the dual needs for the Commission to better meet its currently existing mandates and to expand its abilities to regulate campaign finance activities and conflict-of-interest laws. The five-year plan is personnel-based and is adjusted yearly in consideration of budgetary influences, the creation of new laws and regulations under the Commission's jurisdiction, and housekeeping issues related to equipment, software and office space. In the long-term, the Commission estimates that it will require more than 30 staff members to provide top-quality service. The Commission remains committed to a sensible growth structure towards this goal.

### Campaign Finance Regulation and Reporting

The Commission enforces the City's Campaign Finance Reform Ordinance (CFRO), *San Francisco Campaign and Governmental Conduct Code section 1.100 et seq.*, which sets voluntary ceilings on campaign expenditures by candidates and imposes mandatory limits on contributions to candidates.

The Commission regularly reviews the operation of the CFRO, as well as the other City ordinances under its jurisdiction, enacts enabling regulations, and proposes substantive and operational changes. It also advises on amendments proposed by the Board of Supervisors. *For the third time in five years, the Commission conducted an extensive review of the Ordinance.*

*Under this review, the Commission adopted the following changes, in addition to a number of minor and technical changes:*

1. **Definitions:** Amended section 1.104 related to the definitions of candidate, candidate committee, City elective office, controlled committee, election, general purpose committee, independent expenditure, itemized disclosure statement, mass mailing, matching contribution, measure, member communication, qualifying contribution, surplus funds, total supportive funds, trust account limit, unexpended public funds, and withdrawal. In general, the amendments conformed CFRO's definitions to the state law definitions for identical or similar terms.
2. **Trust Accounts and Contingency Accounts:** Amended section 1.108 to eliminate the requirement that the candidate committee provide the Ethics Commission with its bank account number. State law already requires candidate committees to provide that information on a statement of organization (FPPC Form 410). The amendments also clarified that elected officeholders may not open a separate bank account for the purpose of making officeholder expenses, and that a candidate committee may only deposit funds in a Campaign Contingency Account if the amount of funds in the Campaign Contribution Trust Account has reached the Trust Account Limit.
3. **Electronic Filing:** Amended section 1.112 to differentiate between campaign finance statements required by state versus local law. Statements required by state law must be filed electronically and in paper; certain statements required by local law must only be filed electronically. The amendments also incorporated state law definitions of what constitutes a "local" committee. The amendments further authorized the Ethics Commission to require additional committees, beyond those currently set forth in the ordinance, to file electronically.
4. **Reporting During Signature Gathering:** Amended section 1.113 to provide that each committee supporting or opposing local initiative, recall or referendum petitions must disclose its activity at uniform times each month during the signature-gathering period.
5. **Use of Campaign Funds:** Amended section 1.122(b) to clarify that local candidate committees are prohibited from making contributions to support or oppose state propositions. The amendments also provided that withdrawn, defeated, or departed candidates may use campaign funds to pay debts and other costs associated with closing a committee.
6. **Voluntary Expenditure Ceilings:** Amended section 1.128 to provide that only candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, School Board, and City College Board may accept a VEC. The Voter Information Pamphlet no longer lists

*candidates who have accepted a VEC; the Ethics Commission instead maintains a website that lists those candidates. Candidates for the Board of Supervisors and Mayor may no longer accept VECs. If they participate in the public financing program, those candidates must accept IECs.*

7. ***Amount of Voluntary Expenditure Ceilings:*** Amended section 1.130 to adjust the VECs for inflation. The VEC for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, and Treasurer will increase to \$243,000. The VEC for School Board and City College Board will increase to \$104,000.
8. ***Lifting of Voluntary Expenditure Ceilings:*** Amended section 1.134 to provide that if a candidate who has accepted the VEC actually spends more than the VEC – thus violating section 1.128 – the Ethics Commission will lift the VEC for competing candidates.
9. ***Pre-election Statements:*** Amended section 1.135 to provide that in even-numbered years, the schedule for the filing of pre-election statements is the same as the schedule established for such filings by the Fair Political Practices Commission. For odd-numbered years, committees continue to be subject to the current schedule set forth in CFRO.
10. ***Amount of Individual Expenditure Ceilings:*** Amended section 1.140 to adjust the IECs for inflation. The IEC for supervisorial candidates increased to \$143,000, and the IEC for mayoral candidates increased to \$1,475,000.
11. ***Disbursement of Public Financing Funds:*** Amended section 1.144 to provide that the Controller must disburse public funds within one business day only within the last fifteen days of an election, rather than the last sixty. The amendments also clarified that a candidate may not simultaneously submit multiple claims for public funds.
12. ***Audits:*** Amended section 1.150(a) to confirm that the Executive Director may initiate additional audits irrespective of whether the committees received public funds.
13. ***Supplemental Reporting in Publicly Financed Races:*** Amended section 1.152 to clarify that the thresholds for third-party reporting operate on a per-candidate basis. The amendments also broadened the scope of supplemental reporting to include all communications that clearly identify a candidate, rather than relying on the third party's determination of whether the communications support or oppose a candidate.
14. ***Mass Mailings:*** Amended section 1.161 to provide that a committee is not subject to the mass mailing filing requirements if it is already filing disclosures regarding the same communication under another CFRO provision.
15. ***Electioneering Communications:*** Amended section 1.161.5 to provide that a committee is not subject to the electioneering communication filing requirements if it is already filing disclosures regarding the same communication under another CFRO provision. The amendments also eliminated an exception to the definition of "electioneering communication" to provide that committees' "expenditures" may be electioneering

*communications.*

- 16. **Statute of Limitations:** Amended section 1.168(c)(3) to provide that the statute of limitations for administrative action by the Ethics Commission is four years. The amendment conforms the limitations period for CFRO violations to the limitations periods governing other ordinances within the Ethics Commission's jurisdiction.*
- 17. **Maintaining Records:** Added section 1.109, which provides that local committees must maintain records – for audit purposes – according to the standards set forth in state law. Section 1.109 also provides that committees must provide those records upon request by the Ethics Commission.*
- 18. **Subpoena authority:** Added section 1.171, which provides that the Ethics Commission – including its Executive Director – may issue subpoenas in furtherance of its duties under the Charter, including, but not limited to, audits.*
- 19. **Renumbering and Reorganizing CFRO Provisions:** Re-numbered section 1.134.5, addressing when and how the Ethics Commission adjusts IECs, as section 1.143. The new section 1.143 also incorporated inflation-adjusted IECs for mayoral and supervisorial candidates. The legislation also re-numbered section 1.158, authorizing the Ethics Commission to adopt implementing regulations, as section 1.175. The legislation also deleted section 1.160, which explicitly states that nothing in CFRO is intended to limit a candidate's fines or penalties imposed in other administrative or judicial proceedings. The amendments replicate the same language in section 1.170(g).*
- 20. **Transfer of Contributions:** Clarified that a candidate committee would not violate the committee's trust account limit if it transfers excess contributions to the candidate's campaign contingency trust account within two business days of depositing those contributions.*

Under the Charter, the Commission serves as filing officer for five categories of local candidates and committees:

1. Candidates seeking election to local office and their controlled committees,
2. Committees formed or existing primarily to support or oppose candidates seeking election to local office,
3. Committees formed or existing primarily to support or oppose qualification or passage of a ballot measure being voted on only in San Francisco,
4. County general-purpose committees active only in San Francisco, and
5. Candidates and candidate committees for county central committee office.

As filing officer, the Commission promotes compliance by candidates and committees and maintains records of reports filed. It audits campaign statements and imposes penalties for failure to adhere to filing deadlines and reporting requirements. It also distributes the fine policy to all filers and imposes fines for late statements.

Regular semi-annual filings for active committees took place on July 31, 2009 and January 31, 2010. The November 2008 election occasioned the additional filing of pre-election reports on October 5 and October 23. Quarterly filing deadlines occurred on October 31, 2009 and April 30, 2010 for committees primarily formed to support or oppose a ballot measure(s) not yet voted upon. The Commission reminded committees of the deadlines, sent out notices to delinquent filers, and posted reports on its web site, [www.sfethics.org](http://www.sfethics.org).

Staff *continued* has endeavored to send out more advance notices than previous years through mail, email and phone calls in order to reduce the number of late filings.

### Public Financing

San Francisco's public financing program for candidates for the Board of Supervisors was adopted through a ballot measure (Proposition O) in November 2000. The Commission administered the public financing program in elections for candidates for the Board of Supervisors in 2002, 2004, 2006 and 2008. *The Commission also began administration of the program for the November 2010 election; in addition, staff answered questions related to the public financing program for Mayor that will occur* Campaigns are already gearing up for the Supervisorial races in 2010 and the Mayoral Race in 2011. Readers who wish to know more information about the public financing program are encouraged to read the reports on the Commission web site at:

<http://www.sfethics.org/ethics/2009/05/campaign-finance.html>

The Commission also spent time deliberating whether the qualifying documents and contributions of a particular candidate for Supervisor met the minimal requirements to gain approval for public financing. In addition, during the November 2008 election, staff spent considerable time tracking expenditures in order to adjust the individual expenditure ceilings governing publicly financed supervisorial candidates. This was the first time that the revised public financing system was implemented utilizing individual expenditure ceilings. Staff *continued to also* provided extensive outreach and education on the program and its requirements.

During the period covered by this report, the Commission and the Board of Supervisors approved some changes to alter the public financing programs. In particular, the changes modified the calculation governing when a publicly financed candidate may access additional public funds.

Following the 2008 elections, the Commission published a questionnaire for and received public comment from candidates and their staff members regarding their participation in the program.

### Campaign Finance Reform Ordinance

As mentioned above, the Commission implemented several new provisions of the public financing program for candidates for the Board of Supervisors for the first time in the November 2008 election. These provisions required staff to track on a daily basis the independent expenditures, electioneering communications or member communications that clearly identify



any candidate for the Board of Supervisors in order to make adjustments to the individual expenditure ceilings of publicly financed candidates. Subsequent to the election, Commission staff began crafting several proposed amendments to the CFRO that the Commission considered in late summer 2009.

The Commission also adopted regulations to implement Proposition H, approved by the voters in June 2008, which made changes to section 1.126 of the CFRO regulating the receipt of contributions by City elective officers from contractors with the City, the School Board and the Community College District.

### Audit Program

The California Political Reform Act of 1974 and the City's CFRO require officeholders and candidates as well as campaign committees that support or oppose ballot measures or candidates to file finance statements disclosing campaign contributions and expenditures made in connection with a campaign.

The Commission serves as filing officer for statements required to be filed locally. The statements cover disclosure of monetary and non-monetary contributions including loans and enforceable promises, expenditures, unpaid bills and miscellaneous increases to cash. Filers must also keep detailed records of receipts and expenditures of \$25 or more.

The Commission audits the statements for compliance. Its process is outlined in an audit manual available to the public. Filers are selected for audit by random drawing at Commission meetings, or are targeted based on preliminary staff reviews. In addition, all publicly financed candidates are audited. In 2008-2009, staff completed audits of committees selected for audit from the year 2007 audit pool and commenced audits of supervisorial candidates who received public funds in the November 2008 election.

### Sunshine Ordinance Declarations

The San Francisco Sunshine Ordinance requires department heads and commissioners who are required to file Statements of Economic Interests ("SEIs") with the Ethics Commission to sign an annual declaration stating under penalty of perjury that they have read the Sunshine Ordinance and have attended, or will attend, an annual training on the Sunshine Ordinance. The training program is and remains available on the City Attorney's web site and can be accessed from the Commission's web site.

The adoption of the Netfile system enabled the Commission to provide for on-line filing of SEIs. In addition, the Commission has scanned the SEIs so that they are available for view on the Commission's website.

The Commission also held a joint meeting with the Sunshine Ordinance Task Force to discuss issues of mutual concern, including ways to communicate better and the particular treatment of referrals from the Sunshine Ordinance Task Force to the Ethics Commission. Staff has proposed opening up part of the enforcement process when considering SOTF referrals. This proposal is

pending before the Commission. Staff is also considering other ideas to follow-up on this particular meeting and is expected to produce recommendations in calendar 2009.

### Lobbyist Registration and Reporting

Lobbyists are required by ordinance to register with the City and file quarterly monthly reports of any activity intended to influence local legislative or administrative action. The Commission reviews lobbyist statements to ensure completeness and accuracy. It assesses penalties for failure to adhere to deadlines and other requirements.

Registration is triggered by a threshold level of activity based on the number of City officials contacted and/or the amount of payments received or made. The threshold varies according to the type of lobbying engaged in.

Statements must disclose which City officials were contacted, the positions advocated by the lobbyist, and any campaign contributions or gifts donated. Contract lobbyists are required to disclose the names of their clients and how much money they received from them. Lobbyists who advocate on their own behalf are required to disclose payments made for the purpose of influencing local legislative or administrative action.

The Commission summarizes statements in quarterly monthly reports it issues soon after the filing deadlines. The reports are posted on the Commission's web site.

At the close of the fiscal year, there were 42 lobbyists registered with the Commission reporting more than \$6.5 million in earnings for the fiscal year.

During its *previous* extensive review of the Lobbyist Ordinance, the Commission determined that it would move to an electronic filing format which, if adopted by the Board of Supervisors and signed into law by the Mayor, will take *took* effect on January 1, 2010. Complementing this decision, the Commissioners adopted the following major changes in the lobbyist program *during the prior reporting year. These changes and upgrades were instituted on January 1, 2010 and are proving highly beneficial:*

- Approved amending the Ordinance to state that providing oral information to a City officer in response to a request from that officer is not a contact for the purpose of determining whether the person providing the information qualifies as a lobbyist. But a person who otherwise qualifies as a lobbyist must report such a communication as a contact.
- Approved amending the Ordinance to provide that a communication seeking the status of an action is not a contact for the purposes of qualifying as a lobbyist. A person who otherwise qualifies as a lobbyist must report the communication as a contact if it is a communication to influence local legislative or administrative action under section 2.105(d)(2)(B).
- Approved amending the Ordinance to narrow the exception for expert communications such that only a person providing purely technical data, analysis or expertise in the presence of a registered lobbyist is not making a “contact” under the Ordinance.

- Approved amending the Ordinance to provide that a person negotiating the terms of a contract after being selected to enter into a contract with the City is not making a “contact” under the Ordinance.
- Approved amending the Ordinance to provide that a person appearing as a party or a representative of a party in an administrative adjudicatory proceeding before a City agency or department is not making a “contact” under the Ordinance.
- Approved amending the Ordinance to state that a person communicating on behalf of a labor union representing City employees regarding the establishment, amendment, or interpretation of a collective bargaining agreement (CBA) or memorandum of understanding (MOU) with the City, or communicating about a management decision regarding the working conditions of employees represented by a CBA or MOU is not making a “contact” under the Ordinance.
- Approved amending the Ordinance to provide that, unless representing a client, a person participating in a public interested persons meeting, workshop or other forum convened by a City department for the purpose of soliciting public input is not making a “contact” under the Ordinance.
- Approved amending the Ordinance so that the term “economic consideration” does not include salary, wages or benefits furnished by a federal, state or local agency.
- Approved amending the Ordinance to create a single category of lobbyists. A lobbyist would be defined as any individual who receives or is promised \$3,000 or more in economic consideration within three consecutive months for lobbyist services and makes at least one contact with a City officer on behalf of the person(s) providing the economic consideration.
- Approved amending the Ordinance to require any individual who qualifies as a lobbyist to register with the Ethics Commission no later than five business days after qualifying as a lobbyist and, in any event, prior to making any additional contacts with any City officer.
- Approved amending the Ordinance to require lobbyists to disclose activities on a monthly basis, and a Commission policy to revisit the frequency and timing of filing requirements within six months of the date of implementation of an electronic filing system; lobbyists will also be required to disclose the dates of their contacts with City officers.
- Approved amending the Ordinance to require lobbyists to disclose information such as the local legislative or administrative action that they sought to influence, including, if any, the time and file number of any resolution, motion, appeal, application, entitlement, or contact, and the outcome sought by the client, as well as the economic consideration received or expected by the lobbyist from each client during the reporting period.
- Approved amending the Ordinance to require disclosure of additional information regarding political contributions made, arranged, or delivered by a lobbyist or made by a client at the behest of the lobbyist or lobbyist’s employer, including the amount and date of the contribution, name and street address of the contributor, contributor’s occupation and employer, or if self-employed, the name of the contributor’s business, and the committee to which the contribution was made.
- Approved amending the Ordinance to require lobbyists to undergo a training during the first year of registration and thereafter as necessary as determined by the Executive Director.

*The Commission amended the Lobbyist Ordinance regulations during the reporting year to:*

- *clarify that a person communicating with a City officer on behalf of a labor union is making a contact under the Ordinance unless the communication relates to the working conditions of employees represented by a collective bargaining agreement or memorandum of understanding with the City;*
- *require a lobbyist to supply a digital color photograph to aid identification;*
- *permit a business, firm or organization to register and file reports on behalf of individual lobbyists;*
- *require each lobbyist to register and submit information required under the Ordinance using the Commission's online filing system.*

### Campaign Consultant Registration and Reporting

The Regulation of Campaign Consultants Ordinance, passed in 1997, requires anyone who earns \$1,000 or more in a calendar year from activity as a campaign consultant to register with the City and submit quarterly reports.

Campaign consultants are required to report names of clients, services provided, payments received, contributions and gifts made to local officials, and other information. The Commission prepares summaries of the quarterly filings, posts them on the web site, and publishes a manual. During the fiscal year, 41 campaign consultants registered with the Commission, reporting earnings of \$5,690,080. For the reporting year, there was an average of 27 registered consultants reporting over \$2.1 million in earnings for the fiscal year.

The Campaign Consultant Ordinance is the result of a voter referendum and therefore is not subject to changes without additional voter approval. *In the coming fiscal year, the Commission plans to review the Ordinance and propose changes that will likely go on the ballot in the coming year.*

### Investigations and Enforcement

The San Francisco Charter charges the Ethics Commission with authority to investigate alleged violations of laws governing campaign finance, lobbying, conflicts of interest, and government ethics. In addition, the Improper Government Activities Ordinance, also known as the Whistleblower Ordinance, directs the Commission to investigate charges of retaliation directed against complainants.

During the year, the Enforcement staff resolved 32 cases, including four that went to settlement (settlement summaries are available on the Commission web site). Staff advanced one case to a hearing on the merits, the first in the Commission's history. A number of other cases remain under investigation. During the course of the fiscal year, staff resolved 21 cases.

### Education and Outreach

The Commission has a strong institutional commitment to educate the public about San Francisco's ethics laws and to support campaign reform and government accountability efforts consistent with City policy throughout the state and elsewhere.

It conducts ongoing informational programs about ethics-related laws and requirements. It produces educational materials and actively publicizes its outreach activities through public notices.

Between July 2008 and June 30, 2009, staff conducted workshops and meetings on 71 occasions for at least 1,141 persons, on subjects that included, but were not limited to: public financing, on-line filing and the new electronic filing system, the Lobbyist Ordinance, candidate forums for Supervisor, forums for treasurers, Statements of Economic Interests, and individual City agency conflict of interest seminars. See Attachment 1. Staff also conducted one-on-one sessions with officials and employees. Staff also conducted seven ethics seminars for delegations of international visitors from over twenty nations.

*During the course of the reporting year, staff conducted 25 workshops and meetings. The reduction in number is due to several circumstances. First, most interested agencies have completed staff training on Statements of Incompatible Activities. Next, staff has been concentrating on taping training modules so that they are available online for individual training. Finally, the Educator/Outreach Coordinator took on the tasks of implementing the Statements of Economic Interests and Sunshine Ordinance filings, which placed great demands on her time.*

The Commission works to educate City and County employees in individual departments regarding ethics rules with a focus on conflict of interest laws. Commission staff has created – and constantly updated -- presentations that instruct civic employees on the several laws – local and state – that prescribe conflict of interest rules. While complex, these trainings help present the requirements in a common-sense approach. The feedback from such presentations has been quite positive and the Commission will endeavor to continue such outreach on an ever-wider basis as staffing levels allow.

#### 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 run into the hundreds. In the fiscal year, the Commission issued six one formal advice letters, covering compensated advocacy, mass mailings, liability for accrued expenses and cross-filing rules post-employment restrictions.

#### Electronic Advances

Starting in 2008, the Ethics Commission converted its on-line filing operations from the limited-capability system that it used previously to a state-of-the-art application operated by the private vendor Netfile. Working with Netfile, staff has been able to provide the user community with a much easier and comprehensive program. Five campaign finance forms are now available for submission in electronic format that are instantly accessible on-line to the public upon receipt. Staff continues to work with Netfile to upgrade and expand system capabilities.

Staff has created much greater access to filings made at the Ethics Commission for on-line users. The Commission's records database is now available on-line to the public. Staff continues scanning all forms on file at the Commission for recent years and posting them to the Commission's web site; this means that the public has access to paper-only documents that have never been available to on-line users. Previously, people searching for paper documents could only view them at the Ethics Commission office; now they have the option to view them on-line. Over 15,500 records are now viewable on the Commission's web site. In addition, the same campaign finance data report used by Commission audit staff has also been made available to the public.

The Commission has also made Ethics Commission training modules accessible on-line, so that the regulated community will have opportunities to attend public trainings or to satisfy training requirements at their own convenience.

The Commission launched a new web site and obtained its own web site domain at [www.sfethics.org](http://www.sfethics.org). The new web site offers a wealth of new services including:

- Better compliance with World Wide Web Consortium (W3C) and Federal Section 508 web accessibility standards;
- A calendar of deadlines, trainings and events;
- RSS feeds for the public to track new information posted to the site;
- Connections to social networking sites to expand the Commission's communications capabilities;
- Audio recordings of Ethics Commission meetings accessible on the web and the iTunes Local Government Podcast Directory;
- Improved back-end statistical reporting to help better understand how the public navigates and uses the web site; and
- Training and educational videos.

## **POLICY RECOMMENDATIONS**

The Commission is charged with making policy recommendations on issues under its jurisdiction. The Commission endeavors to create new legislation that makes campaign finance and ethics laws and regulations more effective while being easier to comprehend and also works as a partner with the Board of Supervisors in effecting positive changes to the Administrative Code, the Campaign and Governmental Conduct Code and other statutes governing the City. It has been energetically reviewing the breadth of its mission and continuously prioritizes its work as need and progress require.

The Commission seeks at all time to be proactive in its work, its outreach and its relations. For this particular year, the Commission determined that the following were areas of priority for the Commission to consider and improve.

1. Education and Technology
2. Campaign Finance Laws
3. Communications with the Public
4. Enforcement
5. Conflicts of Interest
6. Lobbyist and Campaign Consultant Ordinances.

1. *Education and Communication with the General Public*
2. *Enforcement*
3. *Campaign Finance*
4. *Conflicts of Interest*
5. *Campaign Consultant Ordinance*

*Education and Communication with the General Public* – the Commission held multiple discussions regarding its needs and capabilities in these areas. While the general consensus was that these priorities are being adequately addressed, the Commission also directed staff to work on enhancing outreach efforts and to look for additional methods of improving communications. Among those efforts currently under use by the Commission to achieve satisfactory public communications are:

***Interested Persons List:*** *The Interested Persons List is a mailing list to obtain press releases and meeting agendas. The public may join the Interested Persons List by completing a form available on the Commission’s web site. In the past, interested persons needed to sign-up only once to stay on the list permanently. This generated a large amount of returned postal mail due to old addresses, or in the case of electronic communication, bounced e-mails for e-mail addresses that no longer exist. In response, staff began sending out annual surveys to confirm that people on the list are still interested in receiving mailings. Interested persons who did not respond to the survey were removed from the list.*

***Interested Persons Meetings:*** *Interested persons may also choose to attend Interested Persons Meetings, which in the past have covered topics such as proposals to amend the Campaign Finance Reform Ordinance, the Lobbyist Ordinance, and other laws or to upgrade the electronic filing system. Meeting notices are distributed via the Interested Persons Mailing List and on the Internet via the Commission’s web site and other avenues*

***Internet Outreach:*** *Last year, staff launched a new web site designed, among other things, to increase its outreach to the community. The new web site publishes updates regarding the Commission’s work on a variety of social networks, subscription services, and external web sites that allow the public to follow the Commission’s work without regularly checking the Commission’s web site. Some of the available Internet services include:*

**Twitter:** Over 150 members of the public and organizations receive updates regarding the Commission's work on Twitter. Twitter users can also receive updates via text messages to a mobile phone.

**Facebook:** Over 200 members of the public and organizations receive updates regarding the Commission's work and view the Commission's calendar on Facebook.

**RSS (Really Simple Syndication) Feeds:** Updates to the Commission's web site are published via a web subscription method known as RSS. The public can subscribe to all new postings to the web site, or for a variety of subsections of the site including: advice letters, agendas, audits, events, education and training opportunities, gifts of travel filings, minutes, meeting recordings, news, payments made at the behest of an elected officer filings, and lobbyist disclosure report filings. Some of the RSS feeds can be followed by users of Yahoo and Google's home page portal services using "widgets" developed by Commission staff. RSS feeds are open and available for other web sites to redistribute.

**Audio Recordings and iTunes:** Since June 2009, audio recordings of Commission meetings have been published on the web as a podcast and are accessible in the iTunes Podcast Directory. Audio recordings are usually posted to the Internet within 24-48 hours of the meeting. The public can subscribe to the podcast to receive notification when new recordings are available and listen to meetings on computers, mobile phones, and a variety of audio devices.

**Video trainings and YouTube:** Staff has developed trainings on video that members of the public and City staff can view from their office or home on the Commission's web site or YouTube channel. The public can subscribe to the Commission's channel to receive updates when new trainings are available. Trainings can be viewed on computers, mobile phones, and a variety of devices that connect to the television.

**Calendar of Events:** A calendar is available on the Commission's web site to track important deadlines, interested persons meetings, training opportunities, events, and Commission meetings. The calendar can be viewed on the Commission's web site, or the public can subscribe to the calendar and receive updates automatically from within their own calendar application or on their mobile phone.

Enforcement – the Commission conducted reviews of enforcement procedures on two tracks during the year: internal enforcement regulations and enforcement regulations dealing with Sunshine Ordinance referrals.

The following changes were adopted to internal enforcement procedures:

- Conformed the definition of "delivery" throughout the regulations and streamlined the actual delivery process, which reduces financial cost incurred by staff;
- Provided respondent additional notice of hearing and additional time to prepare responses to probable cause reports;
- Maintained transparency of complaints referred to Commission by the SOTF in Probable Cause Hearings ("PCH");



- *Established standards of proof for PCH and Hearing on the Merits (“HOTM”);*
- *Eliminated live witness testimony at PCH to expedite hearing process and preserves respondent’s right to appear and have counsel;*
- *Provided objective basis for making determination at both stages;*
- *Clarified that HOTM has higher threshold of proof than PCH;*
- *Provided for situations where staff discovers additional allegations during investigation and allows amendments to probable cause determinations;*
- *Designated the Accusation as the official charging document to clarify exact charges that the respondent is facing;*
- *Provided timely notice for respondent;*
- *Broadened and clarified process of resolution of preliminary and procedural matters;*
- *Allowed staff to dismiss charges that it does not intend to pursue;*
- *Conformed with current court practice and recent Commission practice regarding of exclusion of witnesses during HOTM;*
- *Provided clarity on Charter’s confidentiality rules for Ethics investigations; and*
- *Distinguished complaints referred to the Commission by the SOTF.*

*A separate set of proposals dealing with referrals from the Sunshine Ordinance Task Force is pending at the time of this report.*

*Campaign Finance – conducted the above referenced review of CFRO as well as adopted technical enhancements to the Public Finance Program. (See discussions above.) The Commission will consider refinements and modifications to the CFRO once the November 2010 election is over.*

*Conflicts of Interest – completed several trainings on Statements of Incompatible Activities. Also, during the year, the Commission approved of legislation that:*

- *renamed Chapter 2 of the San Francisco Campaign and Governmental Conduct Code as the “Government Ethics Ordinance” or “GEO;”*
- *clarified the definition of “officer” under the GEO;*
- *clarified the application of conflict of interest prohibitions to City officers;*
- *amended the ban on contracting under section 3.222 to permit officers to enter into settlement agreements and allow the Ethics Commission to waive the ban; and*
- *adopted a set of amendments to extend the ban on gifts from restricted sources and the ban on gifts from subordinates to include loans.*

*Campaign Consultant Ordinance – staff has not conducted any work in this area, but is preparing to conduct a full review during the 2010/2011 Fiscal Year.*

*Education and Technology – The Commission made significant technological advancements including: on-line training and education classes; a new web site that better connects with the community; digitizing Commission filings and making records accessible on-line; and enhancements to on-line filing including making additional forms available in electronic format.*

Campaign Finance Laws – the Commission implemented complex changes to the public financing laws related to individual expenditure ceilings this fiscal year. In addition, it approved amendments to modify the calculation governing when a publicly financed candidate may access additional public funds. After the election, the Commission began taking steps to propose substantive amendments to the CFRO. The Commission also recommended and adopted regulations to implement the voter-approved Proposition H to provide guidance on when elected officials are barred from soliciting or receiving contributions from contractors.

Communications with the Public – the Commission set aside a portion of its November 2008 meeting to discuss this subject and some positive feedback was received from the Department of Human Resources and the general public on the quality of Commission communications. The Commission also scheduled a first-time joint meeting with the Sunshine Ordinance Task Force in April of 2009 which appears will result in changes in the methods the two bodies use to relate to each other.

Enforcement – after the Commission completed work on its first ever Hearing on the Merits, Commission staff worked closely with Commissioner Harriman to draft new and improved regulations related to the conduct of enforcement duties, particularly those governing procedures in probable cause hearings and hearings on the merit. The series of recommendations in these areas is currently pending before the Commission.

Conflicts of Interest – As noted earlier, the Commission completed its several-year review of Statements of Incompatible Activities, with the final SIAs for all departments, boards and commissions approved on September 8, 2008. On October 8, all the SIAs went into effect; Commission staff then worked with several departments to develop and present trainings on ethics and the SIAs. Such trainings remain ongoing. Earlier in the fiscal year, the Commission proposed and approved regulations that address various aspects of the SIAs relating to the advance written determination, handling of complaints of alleged violations of the SIAs and penalties for violations.

This fiscal year, the Commission also proposed legislation to amend the post-employment restrictions set forth in section 3.234 of the Campaign and Governmental Conduct Code. The amendments, which will become effective on October 25, 2009, extend the one-year restriction on communicating with one's former department to employees and officers who have transferred departments within the City, and provide that an officer or employee may not be employed by a party to a City contract within one year after the contract date if the officer or employee participated personally and substantially in the award of the contract.

Lobbyists and Campaign Consultant Ordinances – As stated earlier, the Campaign Consultant Ordinance would require the approval of the voters; the Commission may choose in the future to offer a ballot measure on this subject. The exhaustive Lobbyist Ordinance proposals approved by the Commission involved not only a numerous Commission meeting hours but also a number of Interested Persons Meetings, one-on-one meetings and telephone calls, a great deal of public input and lots of background research by staff. *Staff expects to follow the same procedures with respect to initiating changes in the Campaign Consultant Ordinance.* The result is expected to be a better lobbyist campaign consultant program with more transparency and easier-to-attain

and understandable information about who is working to influence and who is paying to influence governmental decisions *providing management and strategic services to candidates and ballot measures in San Francisco.*

## 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.

## BUDGET

The Commission's annual approved budget totals are as follows:

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)
<i>FY 09-10</i>	<i>6,011,566 (2,283,368 non-grant funding)</i>

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

\*\*Includes 1,358,747 annual set-aside for the Election Campaign Fund

The Commission actually received an approximate 3% 9% increase in its budget at a time when the City was required to institute many severe cuts in order to achieve a balanced budget. However, this increase did not prevent the Commission from losing a full-time permanent position in the new fiscal year. *Although there was an overall increase in funding, there was a \$17,254 cut (1%) in the salaries and wages account.*

## 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

Eileen Hansen	Board of Supervisors	2-2005 to 2-2011
Susan J. Harriman	Mayor	3-2006 to 2-2012
Charles L. Ward	District Attorney	7-2006 to 2-2007 2-2007 to 2-2013
Emi Gusukuma	Assessor	3-2004 to 2-2010
Benedict Y. Hur		3-2010 to 2-2016

Commissioner Jamie Studley was elected to serve as Chair beginning in February 2010 and Commissioner Susan Harriman was elected Vice-Chair.

The Ethics Commission had a staff of *eighteen*, supported by temporary staff and interns throughout the year. Staff included Executive Director John St. Croix; Deputy Executive Director Mabel Ng; Assistant Deputy Director Shaista Shaikh; Auditors John Chan, Menaka Mahajan (*left the Commission July 2009*) and Selina Chan (*left the Commission October 2009*); Public Finance Clerk Marvin Ford; Office Manager Jen Taloa; Campaign Finance Officer Jarrod Flores; Fines Collection Officer Oliver Luby (*left the Commission June 2010*); Campaign Finance Assistants Christian Narvaez and Demarie Dizon (*both left Commission November 2009*); Chief Enforcement Officer Richard Mo; Assistant Investigators Paul Solis (*left Commission August 2009*), Garrett Chatfield and Catherine Argumedo; Investigations Clerk Carmen Torres (*left Commission November 2009*); IT Officer Steven Massey; and Education and Outreach Coordinator Judy Chang. *Joining the Commission Staff this year were Auditors Angeles Huang and Amy Li (both joined the staff in January 2010) and Campaign Finance Staffer Teresa Shew (December 2009) and Fines Collection Officer Ernestine Braxton (June 2010).* Temporary staff included Campaign Finance Assistants Felipe Colin, and Harley Chea. In addition to the staff above, interns included: Anna Schember from Bowdoin University, Jane Kim from St. Ignatius High School, Jamie Bricmont from Bard College and Kamal Boparani from San Jose State University. *In addition to the above, interns included: Johnny Hosey, a graduate of San Francisco State University; Rose Chan, a graduate of USF Law School; Alisha Meyer and Jordan Beal, students at the University of San Francisco; Jane Kim of Georgetown University and Finn Gardiner, who was sponsored by Larkin Street Youth Services.*

## **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 is dedicated to increasing public confidence in its mission and to delivering fairness both in its actions and the perception of its actions.
- The Commission will actively demonstrate its commitment to the education of the public, the regulated community, the City's leadership body and the employees of the City and County through continued educational forums, seminars, on-line tutorials and other outreach mechanisms in order to strengthen both the understanding of and adherence to the laws under the Commission's jurisdiction.

- The Commission will continue the ongoing process of reviewing, updating and renewing the Campaign Finance Reform Ordinance in order to keep pace with changes in policy, technology, civic needs and campaign modernization.
- The Commission will expand its communications and improve its relations with the general public and work to ensure that there is general understanding in the community about the Commission's work, mission and decision-making processes.
- The Commission will work continually to expand the scope of its enforcement and investigation activity, to analyze the needs and accomplishments in this area and to make productive use of staff and other resources.
- The Commission will place new emphasis on resolving conflicts of interest and also the appearance of conflicts of interest by City agencies, officials, department heads and candidates and campaigns through both the education and investigations processes.
- The Commission will implement changes to the Lobbyist Ordinance and conduct a review of the Campaign Consultant program in order to seek improved regulations and reporting requirements.
- The Commission will continue to work with various City departments, boards and commissions to inform members and employees of the various ethics rules that govern them. The Commission and staff will take advantage of training, education and other opportunities that will help advance its capabilities.
- The Commission will endeavor to provide timely and comprehensible advice.
- The Commission will work to secure sufficient budget resources to meet its mandates.
- The Commission will continue to monitor the application of laws within its jurisdiction and will continue to propose amendments and regulations as appropriate.

Respectfully Submitted,

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John St. Croix, Executive Director

Attachment One

During FY 09-10, staff provided or participated in 25 trainings or meetings related to matters within the jurisdiction of the Ethics Commission. The number of trainings or meetings was fewer than the 71 that occurred during the prior fiscal year. This reduction was caused in part by the need of the Training Officer to administer the Statement of Economic Interests (SEI) and Sunshine Declaration Programs, which resulted from staffing changes that impacted the Commission. In addition, the training officer also spent time creating online training programs that will eventually lessen the need for live trainings.

<b>Date</b>	<b># of Trainings or Meetings</b>	<b>Training Name and Description</b>
July 17 and 28, 2009	2	Staff held interested persons meetings on possible changes to the Campaign Finance Reform Ordinance.
August 24, 2009	1	Staff met with a delegation of representatives from Shaanxi Province, People’s Republic of China. The delegation sought to learn about promoting the highest standards of ethical behavior in government; new laws, rules and programs that will lead to ethics compliance; and ethics education and training.
September 8, 2009	1	Staff conducted a Candidates’ Training which covered filing requirements for potential candidates for the City elective offices of City Attorney and Treasurer. This training focused on campaign finance requirements that apply to candidates for all City elective offices and focused on required forms for candidates.
October 8, 2009	1	Staff met with a delegation from the Republic of Moldova, a landlocked Eastern European country located between the Ukraine and Romania. The group, sponsored by the Institute of International Education, was interested in obtaining information about local governments.
September 22, and September 25, 2009	2	Staff conducted a training for Treasurers of Non-Candidate Recipient Committees who were interested in fulfilling the training requirement under the Campaign Finance Reform Ordinance. The training for Treasurers of Non-Candidate Recipient Committees covers campaign finance requirements for treasurers and representatives of general purpose committees, ballot measure committees, and primarily formed candidate committees. The training fulfills a requirement that new and existing treasurers—and assistant treasurers who sign and verify campaign statements—attend a training conducted by the Ethics Commission after filing an original or amended Statement of Organization designating a new treasurer.
September 25, 2009	1	Staff conducted a Candidates’ Training which covered filing requirements for potential candidates for the City elective offices of City Attorney and Treasurer. This training focused on campaign finance requirements that apply to candidates for all City elective

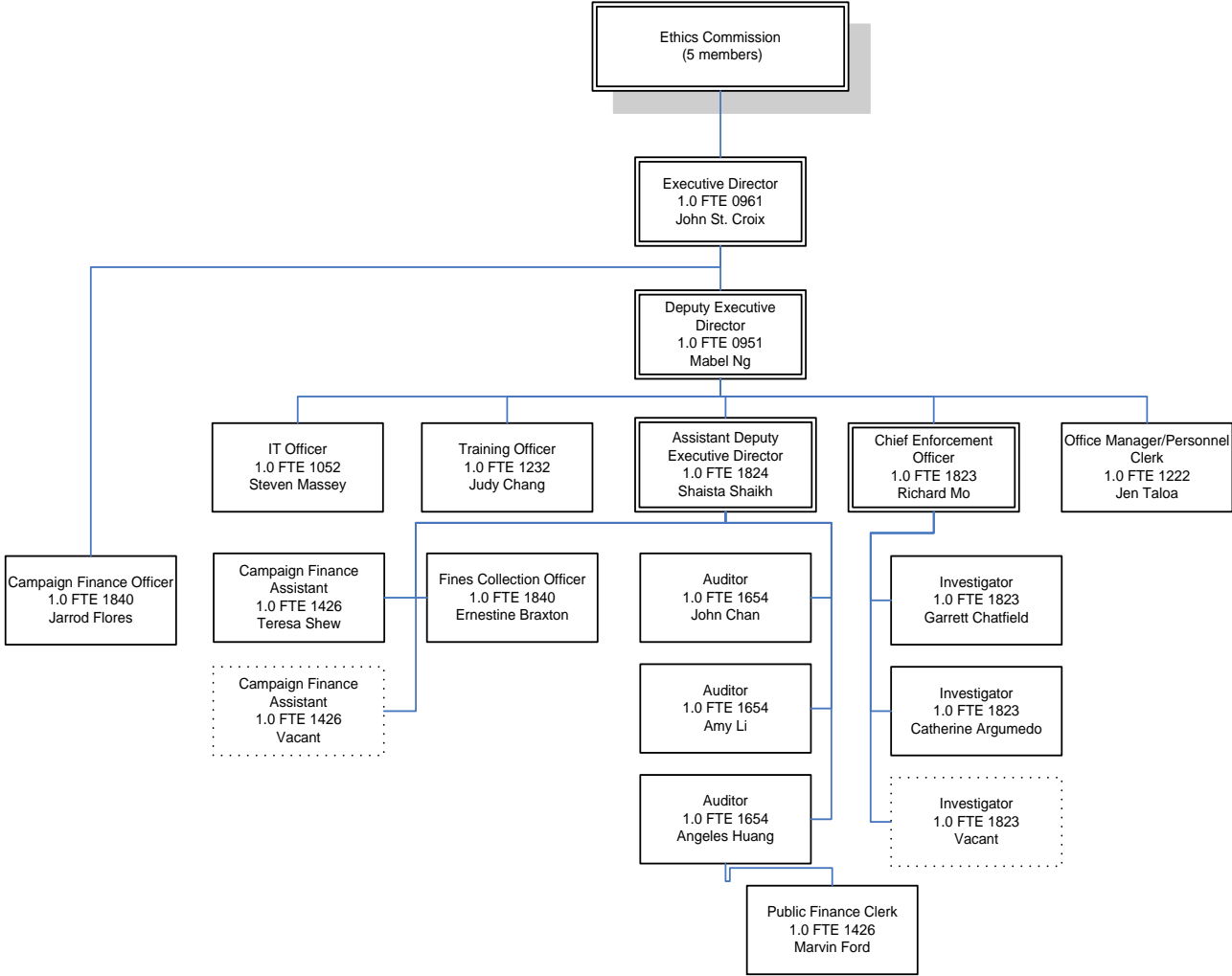
		offices and focused on required forms for candidates.
September 28, 2009	1	Lobbyist Ordinance Training was cancelled due to lack of interest. Another Lobbyist Ordinance Training will be offered in December 2009.
October 22, 2009	1	Staff met the Amabat Erdenebat, Head of the Investigation Department and Commissioner of the Independent Authority Against Corruption of Mongolia. Mr. Amarbat was sponsored by the Institute of International Education, which designs and implements professional programs and provides cultural activities and home hospitality opportunities for foreign leaders, specialists and international scholars participating in the Department of State's International Visitor Leadership Program.
November 2, 2009	1	Staff met with a delegation of representatives of governmental and non-governmental organizations in Tanzania and Uganda. The delegation of 10 visitors, along with two translators, was invited to the United States under the Department of State's International Visitor Leadership Program to explore the U.S. election system and government. The meeting was an opportunity for them to observe the activities of grassroots citizen action groups that interact with elected officials to influence political, social and economic change at the municipal, state and national level; and to obtain information about the role and structure of ethics in government in the U.S. and the principles underlying transparency and accountability.
November 3, 2009	1	Staff met with the managing editor and reporters from Mission Local, a project of the Ford Foundation and UC Berkeley School of Journalism. The group was interested in gathering information about the City's departments, boards and commissions.
November 6, 2009	1	Staff met with a delegation of 20 members from the China Ninxia Public Administration Training Group. The delegation was hosted by the U.S. – China Exchange Council, a California non-profit that has exchanged delegates between the U.S. and China for education and friendship development purposes. The group was interested in discussing the work of the Ethics Commission, conflicts of interest, government integrity and the prevention of corruption.
November 24, 2009	1	Staff met with a delegation of 15 members of the China Academy of Social Science Training Group, which was also hosted by the U.S. – China Exchange Council.
December 4, 2009	1	Staff facilitated a Governmental Ethics and Statement of Incompatible Activities (SIA) Training to the Department of Children, Youth, and Their Families.
December 11, 2009	1	Staff met with a delegation of six representatives from the municipal government of Xiamen, Fujian, China. The delegation was hosted by the U.S. – China Exchange Council, a California non-profit that has exchanged delegates between the U.S. and China for education and friendship development purposes. The group was interested in discussing the work of the Ethics Commission, campaign finance and

		conflicts of interest.
December 15, 2009	1	Staff met with 24 representatives of the Dongcheng District of the Municipality of Beijing, China. The delegation was sponsored by the Triway International Group, headquartered in the greater Washington D.C. area, which provides professional training and visitor programs for Chinese delegations in the U.S.
January 12, 2010	1	Staff provided a Candidates' Training.
January 13, 2010	1	Staff provided a Lobbyist Ordinance Training.
January 25, 2010	1	Staff facilitated a Interested Persons Meeting to address follow-up questions from the Lobbyist Ordinance Training.
March 3, 2010	1	Staff provided a County Central Committee Candidates' Training for candidates running for county central committee seats in the June 2010 election.
March 15, 2010	1	Staff met with a delegation of 23 visitors from the province of Liaoning, China. The delegation, sponsored by the Triway International Group, discussed ethics issues and investigations.
April 26, 2010	1	Staff met with a delegation of representatives from Turkey, whose visit to the U.S. was sponsored by the State Department's International Visitor Leadership Program. The purpose of the trip was to facilitate a greater understanding of U.S. policies, rationales, and the U.S. system of government; to explore progressive and innovative techniques for campaign organization and outreach to the populace; to learn about programs involving youth participation in the political campaigning; and to promote dialogue between U.S. and future Turkish leaders.
May 12, 2010	1	Staff provided a Candidates' Training.
June 15, 2010	1	Staff provided a training on the filing of Statements of Economic Interests to the 2010-2011 Civil Grand Jury.
June 22, 2010	1	Staff provided a training on the Governmental Ethics Ordinance and the Ethics Commission's Statement of Incompatible Activities.
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# San Francisco Ethics Commission

FY 09 - 10



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