

Note regarding the draft annual report:

The introductory language is boilerplate and remains the same each year. In the report, the words that appear in “normal type” are the contents of last year’s report. The words that appear in “*italic type*” are the contents of this year’s report. Last year’s language appears only for the purposes of comparison and will not be included in the final report.



San Francisco Ethics Commission

Annual Report July 1, 2013 - June 30, 2014

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

Benedict Y. Hur
Chairperson

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**SAN FRANCISCO ETHICS COMMISSION
ANNUAL REPORT FY 2013-2014**

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 NINETEENTH 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:

- 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.
- *The Commission staff disseminated 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.*
- *In 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.

- *At its meeting on July 22, 2013, the Commission voted 3-0 (Hur and Studley excused) to adopt policies designed to streamline the handling of violations of certain provisions of the Campaign Finance Reform Ordinance by establishing fixed procedures and penalties for those violations.*
- *At its meeting on May 26, 2014, the Commission voted 5-0 to suspend enforcement of Campaign and Governmental Conduct Code section 1.114(a)(2), the aggregate limit on campaign contributions to City candidates in a given election, in light of the United States Supreme Court's opinion in *McCutcheon v. Federal Election Commission*, No. 12-536.*
- *Commission staff worked with Supervisor Chiu and the City Attorney's office on legislation amending the City's Lobbyist Ordinance, which was signed by the Mayor on June 26, 2014. Most significantly, the legislation eliminated the monetary threshold necessary to qualify as a City lobbyist and replaced it with a bright-line "contacts" test.*
- *At its meeting on November 25, 2013, the Commission voted 3-0 (Hur and Renne excused) to approve regulations to clarify the reporting requirements of San Francisco Campaign and Governmental Conduct Code section 3.216, under which an elected officer who accepts a gift of transportation, lodging or subsistence for any out-of-state travel that is paid for in part by an entity other than the City, another governmental body, or a bona-fide educational institution, must file a report with the Ethics Commission.*
- *The November 5, 2013 Election Dashboard tracked candidate and ballot measure committee activity and included new graphs that track major donors, late contributions, and committee payments. The dashboard updates daily to include the latest filings.*
- *The Campaign Consultant Activity Dashboard summarizes quarterly campaign consultant activity with interactive charts and graphs. Staff updates the campaign consultant data quarterly after each filing deadline. Staff also back-entered campaign consultant data back to 2009, which can be downloaded in its entirety from the Commission's web site.*
- *According to "Governing" magazine, the U.S. Open Data Census in March of this year rated San Francisco as the "best city for open data" in the country. The study involved gives both our lobbyist reporting system and our campaign finance system perfect scores.*
- *In November 2013, the Commission adopted regulations that would make filing of Sunshine Ordinance Declarations and Ethics Training (AB1234) Declarations easier, by allowing these documents to be filed by mail, facsimile or e-mail, as well as in person.*
- *Also in November, the Commission adopted regulations requiring candidates and committees using electronic signatures to provide information so that contributors will certify that they are not barred from making contributions under the Campaign and Governmental Conduct Code Section 1.126.*

MANDATES AND ACCOMPLISHMENTS OF THE COMMISSION

Campaign Finance Reform Ordinance

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.

The Commission staff disseminated 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.

At its meeting on July 22, 2013, the Commission voted 3-0 (Hur and Studley excused) to adopt policies designed to streamline the handling of violations of certain provisions of the Campaign Finance Reform Ordinance by establishing fixed procedures and penalties for those violations.

At its meeting on November 25, 2013, the Commission voted 3-0 (Hur and Renne excused) to approve a regulation that provides a method by which candidates and committees may meet the due diligence requirements of the contractor ban under San Francisco Campaign and Governmental Conduct Code section 1.126. Under the regulation, candidates and committee that obtain signed remit forms from contributors which contain certain language regarding the prohibitions of section 1.126 would qualify for a “safe harbor” from penalties for receiving banned contributions from persons affiliated with City contractors.

*At its meeting on May 26, 2014, the Commission voted 5-0 to suspend enforcement of Campaign and Governmental Conduct Code section 1.114(a)(2), the aggregate limit on campaign contributions to City candidates in a given election, in light of the United States Supreme Court’s opinion in *McCutcheon v. Federal Election Commission*, No. 12-536.*

Public Financing

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 supervisory 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.

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

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.

City officers filed the Statement of Economic Interests Form 700 electronically for the first time for the April 1, 2014 deadline. The Certificate of Ethics Training and Sunshine Ordinance are still submitted on paper and processed manually. In 2014, staff received 306 Certificates of Ethics Training and 435 Sunshine Ordinance Declarations.

The number of late- and non-filers continues to decline. Following last year's dramatic drop in late filings down to 48 from the previous year's 150 (due in large part to a firm stance on denying waivers of late fines), this year saw a further reduction to 32 late filings. The number of individuals referred to the Fair Political Practices Commission (FPPC) for non-filing also dropped compared to last year, from 15 to 5. The FPPC rejected one referral concerning an individual who refused to file electronically, and instead delivered a paper Form 700 on April 1, 2014 which staff mistakenly accepted. The FPPC rejected the Commission's referral because under state law, the Form 700 was timely filed, while the requirement to file electronically is a local law and therefore not a matter of enforcement for the FPPC. As of August 13, 2014, 2 of the original 5 individuals referred to the FPPC have yet to file their Form 700.

Past experience with developing the NetFile campaign finance module and training its users contributed greatly to the success of the e-filing Form 700 rollout. Sufficient advance notice about the change to e-filing helped as well; the initial notification was in July 2013, filing officers began compiling information about their e-filers in November, and staff began follow-up communications in December. Written instructions were distributed in January 2014, and live trainings were offered in February and March.

Implementing a new process and software carries with it a number of challenges. Staff made adjustments as the rollout of NetFile progressed, streamlining internal processes, recognizing and dealing with database glitches, and fine-tuning how filing instructions were given. Among the issues that staff identified and addressed were:

- *human error, such as incorrect e-mail addresses provided by departmental filing officers, as well as errors by Commission staff when setting up the accounts;*
- *software glitches (both simple and not-so-simple to fix);*
- *resistance to change; and*
- *an unfamiliarity with using computers.*

Intake and processing of the Form 700, Sunshine Ordinance Declaration, and Certificate of Ethics Training is a coordinated effort among Commission staff. In previous years, a campaign finance staff person was also temporarily reassigned to help with the months-long task of

scanning, redacting, and manually uploading the paper Form 700s, Sunshine Ordinance Declarations and Certificates of Ethics Training. This year, the temporary reassignment wasn't necessary because the electronically-filed Form 700s – the largest segment of the paper filings – were available instantly on the Commission's website upon receipt. The Commission also benefitted from the assistance of an intern, and will continue the practice in the future.

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. 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.

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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. New amendments to the Lobbyist Ordinance were enacted by the Board of Supervisors at the end of the 2013-2014 fiscal year, and will come into effect in the 2014-2015 fiscal year.

At the end of the 2013-2014 fiscal year, 100 individual lobbyists were registered with the Commission, which was an increase over the last fiscal year of 14 lobbyists. Registered lobbyists reported receiving \$5,320,187 in promised payments. Total revenues collected by the Commission amounted to \$60,700, including \$60,500 in lobbyist registration fees and \$200 in late fines.

Commission staff worked with Supervisor Chiu and the City Attorney's office on legislation amending the City's Lobbyist Ordinance, which was signed by the Mayor on June 26, 2014. Most significantly, the legislation eliminated the monetary threshold necessary to qualify as a City lobbyist and replaced it with a bright-line "contacts" test. An individual now qualifies as a

lobbyist by making either: (1) one or more compensated lobbying contacts on behalf of a client, or (2) Five or more compensated lobbying contacts within one calendar month on behalf of his or her employer (unless the individual owns 20 percent or more of the employing entity). The legislation also modified certain exemptions from the lobbyist registration requirement and instituted reporting by certain permit consultants and developers, among other things.

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.

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.

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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 2013-2014 fiscal year, 29 campaign consultants were registered with the Ethics Commission. All registered campaign consultants filed the required quarterly reports. Out of 80 reports filed with the Commission, only 6 were filed after the required deadline. Campaign consultants reported receiving approximately \$2.1 million in payments from registered clients. As of June 30, 2014, 22 consultants remained active and 22 clients were registered. Staff anticipates an increase in campaign consultant activity in 2014, as there are more contested seats, both local and statewide, as well as 12 local measures that have qualified for the November 2014 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 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.

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 interest, lobbying, campaign consultants, and governmental ethics. During the 2013-2014 fiscal year, 99 pending and/or new complaints were under review by Ethics Commission Enforcement staff. 78 complaints were resolved during the fiscal year; 63 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.

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"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 2013-2014 fiscal year: (1) 21 complaints received; (2) three complaints alleged improper governmental activity; 18 complaints alleged retaliation or other employment matters outside the Commission's jurisdiction; (3) three 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

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.

Enforcement Regulations for Handling Violations of the Sunshine Ordinance

Last fiscal year, the Commission approved new enforcement regulations for handling violations of the Sunshine Ordinance; the Commission removed references to the Sunshine Ordinance from the Regulations for Investigations and Enforcement Proceedings and violations of Sunshine Ordinance are now handled under their own set of rules. These regulations went into effect on January 25, 2013. From that date through the end of this fiscal year, the Commission has held ten public hearings regarding violations of the Sunshine Ordinance. Staff may propose additional policies regarding the process of handling of violations of the Sunshine Ordinance before the Commission.

Education and Outreach

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.

During the year, staff provided or participated in 11 trainings or meetings related to matters within the jurisdiction of the Ethics Commission.

The Commission hired an educator/outreach coordinator in October 2013. In addition to providing training related to the electronic filing of SEIs keeping training materials current, the individual in this position will maintain the reporting programs for Major Developers and Permit Expeditors that were approved recently by this Commission.

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.

The Commission is charged with interpreting and applying the campaign, lobbying and governmental ethics 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 City campaign, lobbying and governmental ethics laws. During the course of the year, the number of inquiries runs into the hundreds.

Electronic Advances

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.

During FY 13-14, the Commission continued its efforts to improve electronic data access and migrate additional paper forms to electronic format.

In 2013, Socrata, the vendor that builds the software for the City’s data.sfgov.org open data system, wrote a case study about the Commission’s use of the system to publish campaign finance dashboards for the November 6, 2012 election on the Commission’s web site. The case study is called “Set it and Forget it” Saves San Francisco Time. In September 2013, Socrata released a new quarterly magazine called Open Innovation and republished the case study in its inaugural issue. The case study is attached to this report. The magazine is available in hard copy or at the following URL: <http://www.socrata.com/magazine/>

In May 2013, the Commission passed regulations requiring elected officials, department heads, and members of decision-making boards and commissions to file the Statement of Economic Interests (Form 700) with the Ethics Commission in electronic format. City officers filed electronically using the Commission’s electronic filing system for the first time for the April 1, 2014 annual filing deadline. All electronically filed statements were made instantly available on the Commission’s web site upon receipt.

In July 2013, the Commission implemented new regulations passed in May 2013, which requires mandatory electronic filing of campaign finance statements for all local committees. Committees filed electronic statements for the July 31, 2013 semi-annual deadline using the Commission’s electronic filing system and committee officers used the Commission’s new Signature Verification Card to authenticate their electronic signature. The Commission’s new

signature verification system allows committee officers to electronically sign statements using the City's electronic filing system, third-party vendor software, or a mobile app. Committee officers that sign campaign statements must verify their signature in the presence of Commission staff or a notary public and in return receive an electronic ID and PIN number to sign statements.

In addition, staff released a complete list of all of the filers in the Commission's campaign finance records database. The list includes over 3,300 individuals and committees including their current names, committee types, filing status, ID numbers, and committee officer names including treasurer, assistant treasurer and controlling candidate. The list can be searched and downloaded on the Commission's web site and will assist users researching committees on the Commission's campaign finance database.

In August 2013, the Commission launched a new dashboard on the Commission's web site for the November 5, 2013 election. The 2013 dashboards expanded on the 2012 dashboards by adding easy-to-read charts and graphs to summarize general purpose committee and major donor activity, late contributions, and committee cash balances and debts.

In addition to the election dashboard, the Commission launched a new dashboard to track campaign consultant activity. Commission staff compiled four years of historical data filed on paper campaign consultant disclosure reports and published the data on the City's DataSF web site. Commission staff summarized the data into charts and graphs and displayed the information on the new dashboard. The data, and respective charts and graphs, are updated quarterly and are available to the public to view and download.

In March 2014, the Mayor's office presented an analysis of the publicly accessible datasets posted to the City's DataSF web site to the Committee on Information Technology. The Ethics Commission was determined to be the largest contributing department to the City's open data efforts with the greatest number of datasets on the DataSF web site. The Commission posts data to DataSF related to lobbyists, campaign consultants, campaign finance, enforcement and conflict of interests.

The Commission compiles all campaign and lobbyist filings on DataSF so that the information may be searched and aggregated. In fact, the Commission uses the campaign and lobbyist data on DataSF to aggregate and visualize the data on the Commission's web dashboards.

A 2014 report by the Mayor's Office describes "how the San Francisco Ethics Commission uses DataSF to increase transparency by summarizing and creating visualizations related to ethics data and reports." Further, the report states "Our top referrer is the Ethics Commission, see Figure 12, which has made extensive use of DataSF not only as a publishing platform but as a means to create dashboards and visualizations on its own site. See Figure 13 on the next page for a screenshot showing how the Ethics Commission creates visualizations using the DataSF platform and then embeds the visualizations into a web page. This makes them the top embedders, i.e. the top data visualizations that have been viewed within an external website."

Further, according to “Governing” magazine, the U.S. Open Data Census in March of this year rated San Francisco as the “best city for open data” in the country. The study involved gives both our lobbyist reporting system and our campaign finance system perfect scores.

The Commission’s web site traffic decreased from FY 12-13. Contributing factors to the decrease in traffic might include the off-year election in which all of the candidate races were uncontested and the spike in traffic in FY 12-13 from the official misconduct hearings. In addition, a significant amount of the Commission’s information is now available from the City’s DataSF web site.

- Users visited the Commission’s web site 40,609 times during the year, a 24 percent decrease over FY 12-13; and
- There were 144,723 “pageviews” of the Commission’s web site, a 14 percent decrease over FY 12-13.

Despite the drop in traffic to the Commission’s web site, the Commission’s web site became the top referrer of traffic to the City’s DataSF web site.

AFFILIATIONS

The Commission is a member of the Council on Governmental Ethics Laws (COGEL). Three persons on staff are members of the California State Bar Association.

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)
 FY 13 - 14 4,531,950 (2,628,391 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>
<i>Jamienne S. Studley</i>	<i>City Attorney</i>	<i>1-2007 to 2-2008</i> <i>2-2008 to 9-2013</i>
<i>Peter Keane</i>		<i>10-2013 to 2-2013</i> <i>3-2013 to 2-2020</i>
<i>Brett Andrews</i>	<i>Board of Supervisors</i>	<i>6-2013 to 2-2017</i>
<i>Beverly Hayon</i>	<i>Mayor</i>	<i>1-2011 to 2-2012</i> <i>2-2012 to 2-2018</i>
<i>Paul A. Renne</i>	<i>District Attorney</i>	<i>2-2012 to 2-2013</i> <i>2-2013 to 2-2019</i>
<i>Benedict Y. Hur</i>	<i>Assessor-Recorder</i>	<i>3-2010 to 2-2016</i>

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. Commissioner Ben Hur was elected to serve as Chair at the February 24, 2014 and Commissioner Paul Renne was re-elected to serve as Vice-Chair.

The Ethics Commission had a staff of 18, supported by interns throughout the year. Staff included Executive Director John St. Croix; Deputy Executive Director Mabel Ng (who retired in January of 2014); Deputy Executive Director Jesse Mainardi (who joined the staff in March of 2014); Assistant Deputy Director Shaista Shaikh; Auditors Angeles Huang, Amy Li, Alex Lewis-Koskinen (who left the staff in February 2014), Manisha Lal (who joined the staff in December 2013) and Eric Willett (who joined the staff in May 2014); 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 Patricia Petersen (who joined the staff in November 2013) and Special Projects Assistant Johnny Hosey. During the fiscal year, the Commission was fortunate to have had the services of several interns: Ava Ameril, a 2014 graduate of UC Berkeley; Giovanni de Leon, a student at the Ruth Asawa San Francisco School of the Arts; Nan Li, a student at Palo Alto High School; Randy Russell, a student at SFSU; Alana Taloa, a student at Chabot College; and Amanda Tan, a student at UC Berkeley.

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 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.
- *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.*
- *The Commission will work with the City Controller's office to reduce the backlog of pending audits of candidates and campaign committees.*
- *The Commission will pass regulations to interpret and implement the City's Lobbyist Ordinance, including recent amendments to that ordinance.*
- *The Commission will issue forms and implement programs for new reporting requirements for permit consultants and for developers of major City real estate projects.*

- *The Commission may propose amendments to the Campaign Finance Reform Ordinance to clarify the City’s disclaimer and reporting requirements for campaign communications by City candidates and by third parties, institute more frequent reporting requirements for certain communications, and otherwise harmonize City requirements which state law.*
- *The Commission may consider changes to its enforcement procedures and its policies for handling late filers and non-filers of campaign reports.*
- *The Commission will produce and publicly disseminate “infographic” representations of collected campaign finance data collected during the 2014 election cycle.*
- *The Commission will issue a new Lobbyist Manual, which incorporates the changes to the Lobbyist Ordinance as well as the Commission’s new regulations*

Respectfully Submitted,

John St. Croix, Executive Director

DRAFT

San Francisco Ethics Commission

FY 13-14
(19 Positions)

