



San Francisco Ethics Commission

Annual Report
July 1, 2010 - June 30, 2011

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

Benedict Y. Hur
Chairperson

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

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

**SAN FRANCISCO ETHICS COMMISSION
ANNUAL REPORT FY 2010-2011**

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 SIXTEENTH 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;
- Created a ballot proposal to update and streamline the Campaign Consultant Ordinance;
- 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;
- Provided informal written or oral advice and responded to requests for informal and formal written advice letters;
- Added improvements to the new web site at www.sfethics.org and 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. Mayoral Public Financing Program
 2. Campaign Consultant Ordinance
 3. Staff Building
 4. Education and Outreach

MANDATES AND ACCOMPLISHMENTS OF THE COMMISSION

The Commission is managing to meet its mandates with 17 staff members, down from the 18 staff members who were present three years ago. Incremental budget decreases have led to a loss of staffing. The Commission manages to meet solidly its obligations but is limited in the number and scope of new initiatives and improvements that it can make due to budget shortfalls that currently affect all of City government. While accomplishments are not as sweeping as in prior years, the Commission managed to conduct its business and produce some new efficiencies and improvements.

On June 30, 2011, the Civil Grand Jury issued a report entitled “San Francisco’s Ethics Commission: The Sleeping Watch Dog,” which is available at <http://www.sfsuperiorcourt.org/Modules/ShowDocument.aspx?documentid=2860>. On August 12, 2011, the Commission issued its response, which is available at <http://www.sfethics.org/ethics/2011/09/ethics-commission-response-to-the-2010-2011-civil-grand-jury-report.html>.

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, enacts enabling regulations, and proposes substantive and operational changes. It also advises on amendments proposed by the Board of Supervisors.

This year, staff has continued its review of the CFRO, and conducted two interested persons meetings about possible amendments to consolidate several of the reporting requirements mandated under the Ordinance. These draft amendments will likely come before the Commission for review and discussion in October 2011. Recently, at its July 2011 meeting, the Commission approved amendments relating to the City’s partial public financing program to place a cap on the amount of public funds that may be disbursed to each certified candidate. This legislation is pending before the Board of Supervisors.

Earlier in the year, at its October 2010 meeting, the Commission approved changes to section 1.126 of the CFRO. These amendments, if enacted, would allow campaign contributions to be made by individuals affiliated with non-profit organizations that contract with local agencies; allow such contributions to come from parties that contract with state agencies whose board members are appointed by local elected officials; refine the scope of the contractor contribution ban so that it applies only to contracts or a series of contracts worth \$100,000 or more; and amend related filing and disclosure requirements. At this point, the Board of Supervisors is not expected to consider these improvements and, therefore, they will not be enacted in the foreseeable future.

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 late fines and/or penalties for failure to adhere to filing deadlines and reporting requirements.

Regular semi-annual filings for active committees occurred on August 2, 2010 and January 31, 2011. Quarterly filing deadlines occurred on October 5 and 21, 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.

Staff continued to send out advance notices through mail, email and phone calls in order to reduce the number of late filings.

Campaign Finance – (See discussions above.) The Commission will consider staff recommendations to amend the CFRO at its October 2011 meeting.

Conflicts of Interest – The Commission continued to provide trainings on Statements of Incompatible Activities. Also, during the year, the Commission approved:

- An amendment to section 3.216(b)-5 of the Government Ethics Ordinance (“GEO”), San Francisco Campaign and Governmental Conduct Code section 3.200 et seq., to clarify that all gift cards and gift certificates are to be treated as cash under this section of the ordinance that addresses gifts from restricted sources.

- An amendment to section 3.234(b)(2) of the GEO to permit an appointed Mayor who does not seek candidacy for that office to obtain full-time City employment within one year of leaving office. The amendment restricts the former Mayor to obtaining a position that, in the first year, pays no more than the salary that he or she received immediately prior to appointment as Mayor.
- A request for a waiver from the one-year post-employment ban on compensation from contractors under GEO section 3.234(a)(3) by Doug Shoemaker, head of the Mayor's Office of Housing, so that he could assume a position as President of Mercy Housing California.
- Requests for waivers from the one-year post-employment communications ban and the ban on compensation from contractors under sections 3.234(a)(2) and 3.234(a)(3) of the GEO, respectively, by Office of Economic and Workforce Development employee Kyri S. McClellan so that she could assume the executive director position on the San Francisco America's Cup Organizing Committee.

Public Financing

For the November 2, 2010 election 22 candidates for the Board of Supervisors qualified to receive public funding totaling \$1,477,713, an average of \$67,169 per eligible candidate. While some of these funds were disbursed in FY 09-10, most of the disbursements, a total of \$1,081,472, occurred during FY 10-11. The per candidate available disbursement limit (PCADL) for the November 2010 election was \$293,288 and the highest amount of public funds distributed to any candidate was \$140,572. Candidate spending in the election totaled \$3,581,175 and third party spending totaled \$1,305,460. The highest level to which the Ethics Commission raised a candidate's Individual Expenditure Ceiling was \$493,000.

Beginning in February 2011, the Commission began the administration of the public financing program for candidates for Mayor in the November 2011 election. For the FY 10-11, the Commission disbursed a total of \$2,686,699 in public funds to eight eligible mayoral candidates.

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

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

Elected officials, department heads, and members of decision-making boards and commissions file the SEI, Sunshine Ordinance Declaration, and Certificate of Ethics Training with the Ethics

Commission to provide financial interest information and to verify that they have completed governmental ethics training. Some original SEIs filed by elected officials are forwarded to the Fair Political Practices Commission, the state agency that regulates SEIs.

On the SEIs, filers list financial interests such as stocks, investment property, gifts, and income. SEIs are public documents that provide financial interest information to ensure that public officials are not making governmental decisions that inure to their own benefit.

Both the Sunshine Ordinance Declaration and Certificate of Ethics Training verify that the filer has read the Sunshine Ordinance and watched the governmental ethics training video “Rules of Conduct for Public Officials.” This training, found on the City Attorney’s website, provides information on governmental ethics laws, public disclosure rules, and public meeting requirements. Customarily the Ethics Commission coordinates with the City Attorney’s office to present a revised training every two years. The “Rules of Conduct for Public Officials” training was last hosted on March 2, 2009, and the next training will be provided sometime in spring of 2012. In the mean time, filers may meet the requirements found on both forms by watching the most recent version available on the City Attorney’s web site or linked from the Commission’s web site.

The 693 SEIs, 414 Sunshine Ordinance Declarations, and 299 Certificates of Ethics Training filed with the Ethics Commission this year are available on the Commission’s website. As of June 30, 21 members of boards and commissions did not file their annual SEIs. (This number was reduced to three as of August 26, 2011.)

Lobbyist Registration and Reporting

Lobbyists are required by ordinance to register with the City and file monthly reports of any activity intended to influence local legislative or administrative action. The Commission reviews lobbyist statements to ensure completeness and accuracy.

During its previous extensive review of the Lobbyist Ordinance, the Commission determined that it would move to an electronic filing format, which took effect on January 1, 2010. This change has allowed for more timely filings and greater public access to each lobbyist’s disclosures. The electronic database allows the public to conduct customized searches for information rather than laborious manual searches through paper filings. Staff has worked with the filing system provider to streamline the electronic filing system and continues to listen to feedback by the public and registered lobbyists to ensure both users and the public are able to access the system with greater ease.

Campaign Consultant Registration and Reporting

The Campaign Consultant Ordinance, passed in 1997, requires any individual or entity that earns \$1,000 or more in a calendar year in exchange for providing campaign consultant services to register with the Ethics Commission and file quarterly disclosure statements. The Campaign Consultant Ordinance is the result of a voter referendum and therefore is not subject to changes

without additional voter approval. A ballot measure with proposed amendments to the Ordinance will be on the November 2011 ballot.

Campaign consultants are required to report names of clients, services provided for those clients, payments promised or received, political contributions, gifts made to local officials, and other information. Staff prepares a summary of the quarterly statements and posts the summary on the Commission's website. For the 2010-2011 fiscal year, there was an average of 33 consultants registered with the Commission and over \$4.2 million in payments reported as promised or received.

In early August 2011, staff conducted an audit of all 2011 campaign statements filed with the Ethics Commission. Staff continues to ensure that all consultants required to be registered with the Commission file their registration forms and pay their registration fees.

Investigations and Enforcement

The Ethics Commission has the authority to investigate complaints that allege violations of certain state and local laws that relate to campaign finance, conflicts of interests, lobbyists, campaign consultants, and governmental ethics. In addition, the Whistleblower Ordinance directs the Commission to investigate charges of retaliation directed against complainants. During the 2010-2011 fiscal year, staff resolved 20 cases. This number does not include the myriad of other cases that come before staff but that were determined not to be within the jurisdiction of the Commission. The Commission entered into six settlement agreements during the year.

Enforcement Regulations

Staff is currently reviewing and preparing updates of its enforcement regulations regarding complaints alleging willful violations of the Sunshine Ordinance. The Sunshine Ordinance Task Force delivered its recommendations on these proposed regulations on August 1, 2011. The Commission will likely consider these amendments in the near future.

Education and Outreach

The Commission's commitment to educate the public about San Francisco's ethics laws and to support campaign reform and government accountability efforts is consistent with City and state policy.

In addition to in-person and web trainings, the Commission provides information to elected officials, members of boards and commissions, City departments, candidates, treasurers, lobbyists, campaign consultants, and members of the public about ethics-related laws and requirements on a day-to-day basis.

Compared to last year, staff conducted an additional 43 workshops. Of the total 68 trainings provided this year, 58 were in-person trainings or meetings. Ten trainings are videos available on the Commission's website.

Because the Educator/Outreach Coordinator continued to administer the Statements of Economic Interests, Sunshine Ordinance Declarations, and Certificates of Ethics Training, all time-consuming tasks, resources were focused on producing online training videos that can be viewed anytime on the web. This year, the Commission posted web training videos that range from 26 minutes to 56 minutes each. The ten training videos on the web and in-person trainings have received positive feedback for their accessibility, usefulness, and ability to provide complex information in an approachable manner.

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. In the fiscal year, the Commission issued three informal advice letters, one relating to conflicts of interest, a second relating to the Lobbyist Ordinance, and a third relating to the Campaign Consultant Ordinance. All of the Commission's advice letters are available on its website.

Electronic Advances

The Commission continued to expand its on-line services available to the public and aggressively pursue new technologies to enhance services despite significant budget constraints. The Commission renewed its contract with Netfile to maintain and enhance the Commission's campaign finance, Statement of Economic Interests, and lobbyist electronic filing systems. In FY 10-11, the electronic filing system processed over 2,000 campaign finance, Form 700, and lobbyist electronic filings, which were instantly made available to the public on the Commission's on-line database. In addition, the Commission scanned and made paper filings, including campaign consultant filings, available on-line.

During the winter, Commission staff actively worked with the Fair Political Practices Commission Chairman's Task Force to make recommendations to support paperless electronic filing statewide. In January 2011, the Commission enhanced its Interested Persons E-mail List to allow the public to sign-up on the Commission's web site and receive automated notices. A month later, the Commission launched an on-line payment system to pay fines, settlements, and registration fees by credit/debit card or e-check.

The Commission's web site remained a popular resource:

- Users visited the system 58,086 times during the year, a ten percent increase over FY 09-10; and
- There were 151,048 "pageviews" of the website, a nine percent increase over FY 09-10.

The Commission also made use of a variety of social networks and on-line services to disseminate information to the public including:

- **Interested Persons E-mail List:** The public may subscribe to the Ethics Commission's Interested Persons E-mail List to obtain important notices, press releases and meeting agendas via e-mail;
- **Twitter:** Over 400 Twitter users receive news updates regarding the Commission's work on Twitter;
- **Facebook:** Over 250 Facebook users receive news updates regarding the Commission's work on Facebook;
- **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;
- **Google Calendar:** 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 anyone may subscribe to the calendar and receive updates automatically from within his or her own calendar application or mobile phone;
- **RSS (Really Simple Syndication) Feeds:** Updates to the Commission's web site are published via RSS. Anyone may subscribe to all new postings to the web site, or to a variety of subtopics; and
- **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 may 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.

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. Policy Priorities adopted for this year include:

1. Mayoral Public Financing Program – staff has to be ready for an intensified season of what is already a very busy program that is highly technical and difficult to administer. Additional complications may well result because of the Supreme Court's June 27, 2011 decision in *Arizona Free Enterprise Club's Freedom Club PAC, et al. v. Bennett*, which overturned Arizona's public financing program. This will perhaps entail swift and complicated changes to how the program is administered in mid-election.
2. Campaign Consultant Ordinance – once the Commission's proposal for the ballot is ratified, the Commission may no longer express any public opinion for or against the ballot

measure; the measure must speak for itself. If it passes, the Commission will then need to adopt regulations to govern the program and staff will have to implement the new procedures, including the development of software to integrate the new program into our current Online Filing System. Should the measure fail, the Commission may opt to “return to the drawing board.”

3. Staff building – in prior discussions, the Commission has acknowledged that unexpectedly high staff turnover made it necessary to allow time for staff-building. The long-term stability and capability of the staff requires that newer employees develop a deft understanding of the laws we oversee and a stable performance record that the Commission – and the public – can count on. It also requires that long-term staff feel supported and energized in their duties and that all staff reflect high morale and satisfaction in order to achieve maximum productivity.

4. Education and Outreach – the Commission has frequently restated its commitment to this area and conducted several discussions about it last year, essentially reaching the conclusion that work in this area is satisfactory but that it is also an ongoing priority.

The Commission never stops reviewing campaign finance laws and regulations, consistently performs research and outreach on conflict-of-interest issues, and is always mindful of the need for quality enforcement.

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)
FY 09 - 10	6,011,566 (2,283,368 non-grant funding)
FY 10 - 11	4,177,819 (2,201,325 non-grant funding)**

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

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

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 Dorothy S. Liu	Board of Supervisors	2-2005 to 4-2011 4-2011 to 2-2017
Susan J. Harriman Beverly Hayon	Mayor	3-2006 to 11-2010 1-2011 to 2-2012
Charles L. Ward	District Attorney	7-2006 to 2-2007 2-2007 to 2-2013
Benedict Y. Hur	Assessor-Recorder	3-2010 to 2-2016

Commissioner Ben Hur was elected to serve as Chair at the February 14, 2011 meeting and Commissioner Jamienne Studley was elected as Vice-Chair.

The Ethics Commission had a staff of 17, supported by interns throughout the year. Staff included Executive Director John St. Croix; Deputy Executive Director Mabel Ng; Assistant Deputy Director Shaista Shaikh; Auditors John Chan, Angeles Huang, and Amy Li; Public Finance Clerk Marvin Ford; Office Manager Jen Taloa; Campaign Finance Officer Jarrod Flores; Fines Collection Officer Ernestine Braxton; Campaign Finance Assistants Teresa Shew and Connie Ward; Chief Enforcement Officer Richard Mo; Assistant Investigators Garrett Chatfield and Catherine Argumedo; IT Officer Steven Massey; and Education and Outreach Coordinator Judy Chang. In addition to the above, the Commission had the privilege of working with the following interns: Rose Chan, a graduate of the USF School of Law; Johnny Hosey, a graduate of San Francisco State University; Dakotta Alex, a student at the Graduate Theological Union/UC Berkeley; and Perry Wong, an undergraduate at New York University.

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.

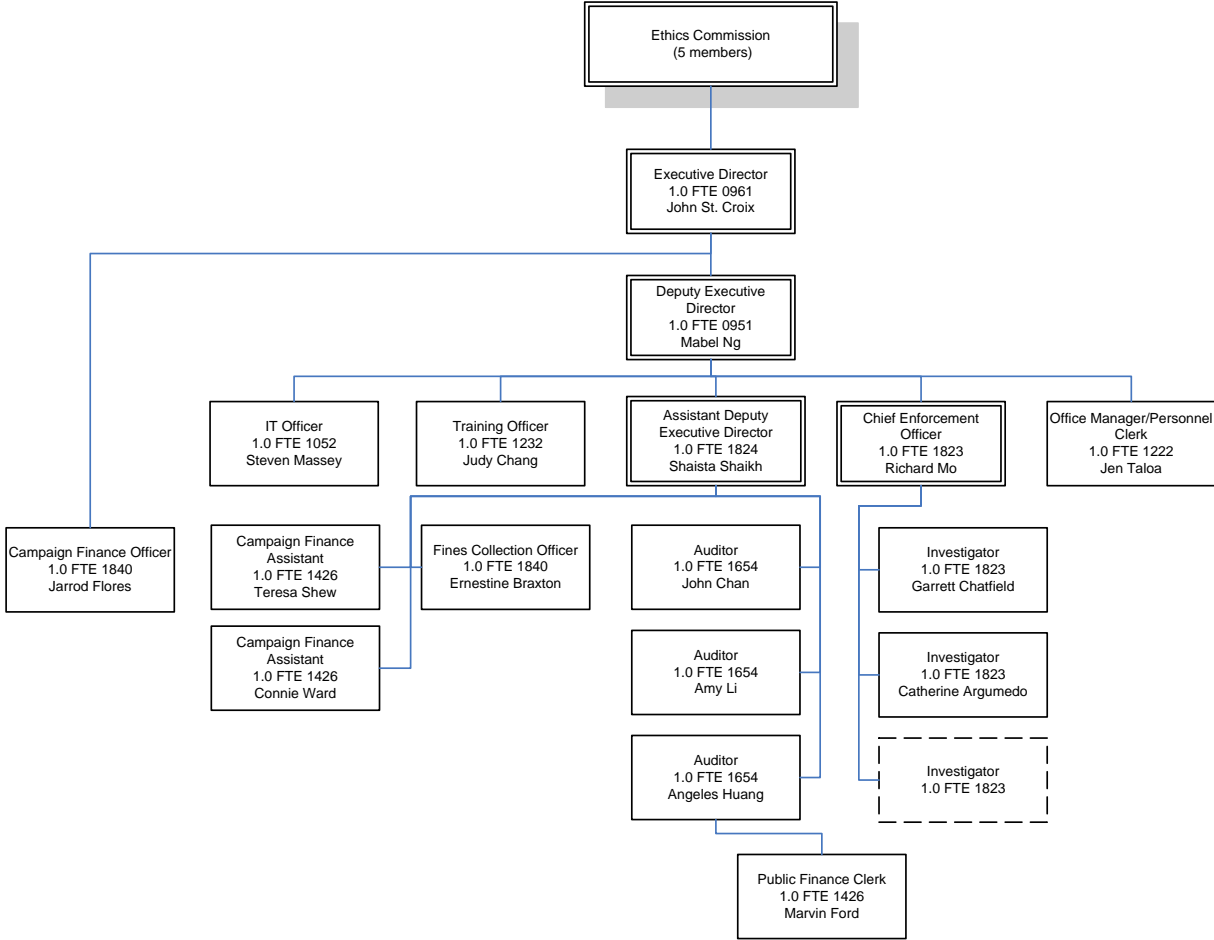
- The Commission will actively demonstrate its commitment to the education of the public, the regulated community, the City's leadership body and the employees of the City and County through continued educational forums, seminars, on-line tutorials and other outreach mechanisms in order to strengthen 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 continue to conduct reviews of the Lobbyist Ordinance and draft regulations related to the Campaign Consultant program in order to seek improved disclosure 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 their 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,

John St. Croix, Executive Director

San Francisco Ethics Commission

FY 10-11



S:\Commission\Annual Report\2010-2011\final 9.2011.doc