

**City of Long Beach***Working Together to Serve***Memorandum****Office of the City Attorney**

DATE: February 3, 2021

TO: Honorable Members, Ethics Commission

FROM: Amy R. Webber, Deputy City Attorney *ARW*

SUBJECT: Memo Re Parameters of Ethics Commission Authority

Please see attached memo regarding the parameters of the authority of the City Ethics Commission, prepared at the request of the City Manager in response to the City Auditor's audit of ethics issues. This memo has been shared with both those offices.

I will be available to discuss this memo at your next meeting if you have questions or comments. Thank you.

ARW

document2

cc: Charles Parkin, City Attorney
Laura Doud, City Auditor
Tom Modica, City Manager
Rebecca Guzman Garner, Administrative Deputy City Manager



City of Long Beach

Working Together to Serve

Memorandum

Office of the City Attorney

DATE: January 13, 2021

To: Thomas B. Modica, City Manager

FROM: Amy R. Webber, Deputy City Attorney *ARW*

SUBJECT: Parameters of Ethics Commission Authority

In 2018, the Long Beach City Charter was amended by initiative ordinance to add Article 24, establishing a City Ethics Commission. The legislation gave the Commission the following specific powers and duties:

“Sec. 2402. Powers and Duties of the Ethics Commission.

The Ethics Commission is responsible for the impartial and effective administration and implementation of the provisions of the Charter, statutes and ordinances concerning campaign financing, lobbying, conflicts of interest, and governmental ethics.

The City Ethics Commission shall have the following duties and responsibilities:

- (a) to provide support to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, conflicts of interest, and government ethics;
- (b) to make recommendations to the Mayor and City Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report the Council concerning the effectiveness of these laws;
- (c) to assist departments in developing their conflict of interest codes as required by state law;
- (d) to advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process;
- (e) to develop an educational program to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with City, state and federal ethics laws and the importance of ethics to the public’s confidence in municipal government; and
- (f) such other duties as may be established by this Charter or the Municipal Code.”

You have asked for an opinion on the current powers of the Ethics Commission; what additional powers could be created in the Municipal Code; and what powers would require future City Charter amendments to provide clarity and options for the Mayor and City Council to consider.

I. Current Powers.

When legislation was drafted creating the Ethics Commission, it envisioned that the Commission would act as a central policy-making body for City employees and officials. As can be seen from Section 2402, most of the powers listed involve increasing awareness of ethical responsibilities; supporting agencies which currently have enforcement authority, such as the District Attorney and the FPPC; and establishing clear City policy on compliance with current ethics laws and regulations. These powers are consistent with those of many ethics commissions in the state, such as those of Santa Clara and Berkeley.

However, there are also ethics commissions which have investigatory authority as well as enforcement powers, such as those in Los Angeles and San Diego. They have investigators and sizeable staffs, and are authorized to make findings regarding particular conduct, and may impose fines and discipline, if appropriate. These powers are not currently part of the Commission's duties and powers.

These issues were brought to prominence by the City Auditor's Ethics Audit. The Audit was prepared by Harvey Rose and Associates, a consultant to the Auditor's office. The Audit was presented to City management and this office, and many legal and practical issues were raised by both. The Audit was subsequently presented to the Ethics Commission.

II. Changes to Current Powers and Duties Which Require a Charter Amendment.

The City Charter currently includes provisions regarding the authority to impose discipline on City employees. To the extent the Ethics Commission seeks to establish powers in conflict with existing Charter authority, a Charter amendment approved by a vote of the people would be required. In addition, actions which could impose new discipline on employees represented by labor unions would require participation in a meet-and-confer process. The following City departments have Charter authority to investigate and impose discipline on affected employees. Moreover, within some departments, such as the Police and Fire Departments, there are additional state law requirements related to investigation of misconduct and discipline.

- City Council and Mayor (see Charter, Art. 2, especially sec. 207);
- City Attorney (see Charter Art. VI, especially sec. 603);
- City Prosecutor (see Charter Art. VII);
- City Auditor (see Charter Art. VIII)

- Civil Service (see Charter Art. XI, especially sec. 1101(b), affecting all classified City employees)

A. Civil Service -- Employee Right of Appeal

Pursuant to section 1100(g) of the City Charter, the Civil Service Commission has been delegated exclusive authority to adjudicate appeals involving employee discipline. Moreover, per section 1103 of the City Charter, no employee in the classified service can be suspended, discharged or reduced in classification for disciplinary reasons until the employee has been presented with the reasons for such action specifically stated in writing. Additionally, employees are afforded the right to appeal disciplinary action to the Civil Service Commission.

At the Appeal hearing, the Civil Service Commission is represented by the City Attorney's Office while the City is represented by outside counsel retained by the City Attorney's Office. The retention of outside counsel is to avoid a conflict of interest in having the City Attorney represent both the Civil Service Commission and the City at appeal hearings. After an appeal hearing is heard, per section 83 of the Civil Service Rules and Regulations, the Civil Service Commission may, at its discretion, either sustain, reduce, or deny the charges alleged against an employee. The decision of the Commission is final. Once the Commission has adopted a final decision, employees have the right to file a petition for judicial review of the Commission's decision within 90 days of the Commission adopting its final decision.

The Ethics Commission has no authority to impose discipline upon employees. Thus, in order to grant the Ethics Commission more authority beyond making recommendations and vest final authority with the Ethics Commission to hear and adjudicate employee appeals of discipline, a Charter amendment would be required to divest the Civil Service Commission of this authority and vest it with the Ethics Commission.

III. Changes to Current Powers and Duties Which Could be Made by Municipal Code.

When Measure CCC was drafted, it was not possible to include all possible powers the City, its citizens and Ethics Commissioners might find appropriate or useful, so the language of the measure was very broad. It also included subsection 2402(f), which allows amendments "...for such other duties as may be established by this Charter or the Municipal Code." Essentially, this would permit duties and responsibilities not in conflict with a current Charter provision to be added to the Municipal Code.

If you have questions regarding this matter, please feel free to contact us.

ARW:bg

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Thomas B. Modica, City Manager

January 13, 2021

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cc: Charles Parkin, City Attorney
Michael J. Mais, Assistant City Attorney
Gary Anderson, Principal Deputy City Attorney
Rebecca Guzman Garner, Deputy City Manager
JT Nagayama, City Clerk Specialist

Date: November 3, 2020

To: Charles Parkin, City Attorney

From: Thomas B. Modica, City Manager



Subject: **Ethics Commission – Legal Opinion Request**

Earlier this year, the City Auditor retained the services of Harvey M. Rose Associates, LLC, to conduct a performance audit of the City of Long Beach's Ethics Program.

Many of the recommendations from the performance audit were directed toward the Ethics Commission and may not be implementable for an extended period of time (see Attachment). Several of the recommendations refer to investigations and enforcement of potential ethical violations. The initial review by your office was that the Ethics Commission does not currently have investigation powers under Measure CCC, and those responsibilities likely reside with other entities either local, state or others, or under other areas of the City Charter. However, Measure CCC does refer to "other duties established by the Charter or Municipal Code."

I am requesting that the City Attorney prepare a formal opinion on the powers of the Ethics Commission, and what additional powers can be provided under the Municipal Code and what powers would require future City Charter amendments to provide clarity and options for the Mayor and City Council to consider. The Commission needs to fully understand the complexity of their potential role in investigations and enforcement on ethical violations before a request for those powers is made. I am requesting a document that lays out the major issues. If they do investigations and enforcement, what happens if staff's appointing authority disagrees? What happens if there is an appeal? What happens if there is a union grievance on how the Commission did their work? What authority does the Commission have over elected officials and their staff? What is the penalty for non-compliance or at-fault? Once the Commission makes their findings, who does the actual action to enforce the discipline, and who represents the City in front of Civil Service during the appeals? There are a lot of questions that need answers before investigation and enforcements powers are delegated to a Commission.

Having a legal opinion that helps to provide some legal clarity on these issues, as promised in management's response to the Audit, will help determine potential next steps.

If you have any questions, please contact me at (562) 570-5091.

ATTACHMENT

CC: AMY R. WEBBER, DEPUTY CITY ATTORNEY
LINDA F. TATUM, ASSISTANT CITY MANAGER
REBECCA G. GARNER, ADMINISTRATIVE DEPUTY CITY MANAGER

Date: July 30, 2020

To: Laura Doud, City Auditor

From: Thomas B. Modica, City Manager



Subject: **Audit of Ethics Program – Management Response and Action Plan**

Thank you for the opportunity to comment on the Performance Audit of the City's Ethics Program, as well as for the additional time afforded to us to respond due to the COVID-19 crisis. Our Management Response and Action Plan is attached.

We agree with the City Auditor's recommendations and believe their implementation will further promote ethics within the City organization. Ethics is important to me personally, and I am fully committed to the implementation of any additional programs and/or changes to strengthen our ethics programs and to further set an expectation of a strong ethical culture for our entire organization.

Much attention has been paid to ethics over the past two years, and there are numerous policies, procedures, and programs relating to ethics in place. These are summarized in the attached documents prepared for the Ethics Commission. The summaries include functions typically included in an ethics program (such as the code of ethics, investigations, and ethics training), and other functions and business and HR practices that are important in ensuring ethical behavior. All management level employees now receive ethics training every two years pursuant to our Ethics Guide as an adjunct to the Sexual Harassment Training (provided by the City Attorney). In addition, a basic ethics overview has already been incorporated into training provided by the Financial Management Purchasing Division to approvers of purchasing transactions in Munis, which includes many City employees in a position to influence purchasing decisions.

It should be noted that many of the recommendations may not be implementable for an extended period of time. Not only is the Ethics Commission in its formative stage, but the City's current fiscal situation may not allow us to staff the Commission to an optimal level. The recommendations on the performance audit constitute a significant workload that existing staff are not able to address. Staffing the full level of the recommendations will likely require two to three full-time staff, support from the City Attorney and potentially outside counsel, and a training budget. Given the \$30 million structural deficit projected for FY 21, it will be very difficult to achieve full staffing to accomplish the full recommended plan. City staff are committed to supporting the Ethics Commission and will propose dedicated staffing as part of the Proposed FY 21 Budget in line with the resources available for City Council consideration, and work on an implementation schedule that aligns with the resources available.

Audit of Ethics Program – Management Response and Action Plan

July 30, 2020

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Several of the recommendations refer to investigations and enforcement of potential ethical violations. The initial review by the City Attorney was that the Ethics Commission does not current have investigation powers under Measure CCC, and those responsibilities likely reside with other entities either local, state or others or under other areas of the City Charter. However, Measure CCC does refer to “other duties established by the Charter or Municipal Code.” It is recommended that the City Attorney prepare a formal opinion of the powers of the Ethics Commission, and what additional powers can be provided under the Municipal Code and what powers would require future City Charter amendments to provide clarity and options for the Mayor and City Council to consider.

I would like to thank the City Auditor and her staff for working with us in a collaborative and professional manner. We are always open to suggestions for improvement.

If you have any questions, please contact me at (562) 570-5091.

ATTACHMENTS

CC: CHARLES PARKIN, CITY ATTORNEY
DOUGLAS P. HAUBERT, CITY PROSECUTOR
LINDA F. TATUM, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
TERESA CHANDLER, DEPUTY CITY MANAGER
REBECCA G. GARNER, ADMINISTRATIVE DEPUTY CITY MANAGER
AMY R. WEBBER, DEPUTY CITY ATTORNEY

MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
ALIGNMENT WITH BEST PRACTICE STANDARDS						
Standard #1: Clearly Established Oversight and Delegation of Responsibilities						
1	The Mayor and City Council should delegate authority to the City's new Ethics Commission to assume a centralized coordinating role for all City ethics program activities covering all City elected and appointed officials and all City employees, including those in departments that, by the Charter, do not report to the City Manager. The Ethics Commission should assist the Mayor and City Council in setting ethics policy, to conduct investigations, and to receive and publish annual Citywide ethics activity and performance reports and other pertinent ethics program information on its website.		Agree	Mayor and City Council	On November 6, 2018, Long Beach voters approved Measure CCC, which creates in the City Charter an Ethics Commission for the purpose of monitoring, administering, and implementing governmental ethics in the City, which would include all City elected and appointed officials and all City employees, including those in departments that report to the City Manager as well as those that do not. The newly-formed Commission is responsible for the impartial and effective administration and implementation of the provisions of the Charter, statutes and ordinances concerning campaign financing, lobbying, conflicts of interest, and governmental ethics. Its primary duties are to (1) Provide support to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, lobbying, conflicts of interest, and government ethics; (2) Make recommendations to the Mayor and City Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report to the Council concerning the effectiveness of these laws; (3) Assist departments in developing their conflict of interest codes as required by state law; (4) Advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process; (5) Develop an educational program to familiarize newly	In progress.

MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
					<p>elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with City, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government; and (6) other duties as may be established by the City Charter or the Long Beach Municipal Code.</p> <p>The Commission is currently in a formative stage. Delays in onboarding of the remaining three commissioners were experienced due to the COVID-19 pandemic. The first Commission meeting with all seven members took place on July 15, 2020. The Commission will commence the duties as outlined by Measure CCC shortly thereafter. The Commission, as currently established per Measure CCC and the City Charter, does not have investigative powers.</p>	
2	<p>With input from the City Attorney, City Auditor and HR Department, the City Manager should propose a level of staffing and, possibly, FPPC contractor assistance and a baseline budget for consideration by the Mayor and City Council to support the new Ethics Commission in its centralized coordination efforts covering all elected and appointed officials and all City employees, including those in departments that by the Charter do not report to the City Manager. This new reporting should cover Citywide ethics activities and investigations of certain complaints of ethics violations.</p>		Agree	City Manager	<p>Staffing for the Ethics Commission will be considered in the context of the FY 21 budget preparation process, currently underway. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future.</p>	August 1, 2020
3	<p>With input from the City Attorney, City Auditor and HR Department, the Ethics Commission staff should work with the City Attorney and City Manager to: 1) replace the current Ethics Guide with an expanded Citywide ethics program document covering all City elected and appointed</p>		Agree	Ethics Commission	<p>Progress toward this recommendation will be dependent, in large part, to available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable</p>	December 2021

MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
	officials and all City employees, including those in departments that by the Charter do not report to the City Manager. This new document should be made available on the Ethics Commission website, containing information in the current Ethics Guide plus identification of pathways to report alleged violations, how to obtain information and advice on ethics issues, inclusion of sexual harassment and discrimination policies, details on whistleblower protection from retaliation, and any newly adopted ethics ordinances or regulations, and 2) begin posting on the Ethics Commission website annual reports, links to Municipal Code sections, and other documents related to the City's ethics rules and laws, and descriptions of ongoing and new initiatives undertaken by the Ethics Commission.				future. A tentative date of December 2021 is given.	

Standard #2: Easily Accessible Comprehensive Written Ethics Policies and Procedures

4	The Mayor and City Council should direct staff to include in the new consolidated ethics program document and website (see Recommendation #3) explanations of the entire ethics program including: a) the various ways all City elected and appointed officials and employees can obtain advice, b) how to submit an ethics complaint, specifying which City agency is responsible for handling each type of complaint, c) penalties, d) retaliation protections, and e) related information.		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021
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Standard #3: Written Policies and Procedures Outlining Ethics Program in the City's Municipal Code

5	The Mayor and City Council should direct the City Attorney to work with the Ethics Commission to develop their priorities and suggestions for inclusion in a new cohesive section of the City's Municipal Code covering: 1) the City's ethics principles and high level rules and regulations; 2) the nature of the authority delegated to the Ethics Commission for ethics program oversight, specifying that it covers all City elected and appointed officials and City employees, including those that do not report to the City Manager; 3)		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021
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MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
	hearings and investigations; and 4) statements of the City's broad ethical values and specific requirements pertaining to campaign finance, lobbying, conflicts of interest, sexual harassment, and discrimination. Finally, this expanded Municipal Code ethics section should specify various penalties that can be imposed, who can impose them, and who is responsible for enforcing compliance.					

Standard #4: Clear Definition of "Ethics"

6	The Mayor and City Council should direct the City Attorney to prepare a definition of "ethics" to spell out more details of what is expected of City employees and officials, addressing areas such as accountability and transparency in all City management and operations, inclusivity, and respect for all employees and citizens, to be included in the new ethics section of the Municipal Code (see Recommendation #5) and the consolidated Citywide ethics document and website (see Recommendation #3) to both serve as a foundation for the work of the new Ethics Commission and to ensure a common understanding of ethics by all City officials, employees and the public.		Agree	Mayor and City Council	A definition of City "ethics" is a policy determination by the City Council, taking into consideration existing State law and regulations, community values, and expectations for ethical conduct of our leaders and employees. City ordinances on the issue may not conflict with State law. The completion date for this item will depend on when it is referred to the City Attorney for action by the City Council and by staffing and availability to complete this task in light of this year's fiscal constraints.	Undetermined
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Standard #5: Clearly Identified Pathways to Report Alleged Violations, Anonymously or No

7	The Mayor and City Council should direct the Ethics Commission and City Manager to include in the comprehensive City ethics document and website (see Recommendation #3) descriptions of the various pathways for all elected and appointed officials, employees and the public to file complaints of suspected ethical misconduct including details on the various departments that can receive complaints, protocols for referring them to other departments better equipped to investigate the subject matter, and the roles of supervisors, department heads, and Administrative Officers and Employment Opportunity Counselors in each department who can receive		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021
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MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
	complaints about ethical misconduct including sexual harassment and discrimination complaints.					

Standard #6: Advice and Information Available on Ethics-Related Issues

8	The Mayor and City Council should: 1) direct staff to create an advice and referral hotline staffed by Ethics Commission support staff or possibly a contractor to respond to questions by City elected and appointed officials, staff, contractors and the public about ethical issues and complaint procedures, and 2) direct the City Attorney to provide ongoing support for this function as needed and to routinely provide standard disclaimers that with such advice, as is their current practice for other legal advice.		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021
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Standard #7: Establish and Publish Disciplinary Actions and Penalties for Violations

9	The Mayor and City Council, with input from the Ethics Commission and the City Attorney, should specify and publish in the expanded ethics section in the Municipal Code (see Recommendation #5) penalties and disciplinary actions that can be imposed by the Ethics Commission and other City parties for all types of ethics violations, consistent with provisions of State and local law.	M	Agree	Mayor's Office	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. The Commission, as currently established per Measure CCC and the City Charter, does not have investigative powers.	December 2021
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Standard #8: Publish Annual Reports with Violations and Case Outcomes

10	The Mayor and City Council should direct the Ethics Commission and its staff to annually publish a single public report containing information on the role of the Ethics Commission, staff size and functions, annual budget appropriations, total number of ethics complaints filed Citywide and summarized outcomes by type, including complaints filed and resolved at the department level, and total number of advice requests by type, training statistics,		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021
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MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
	and an overview of new initiatives and priorities for the upcoming year.					

Standard #9: Implement Proactive Measures and Checks for Effectiveness						
11	Amend the Municipal Code to require that signed attestations of compliance with the City's Code of Ethics be prepared by all City employees annually and filed with the new Ethics Commission, whose assigned staff should track and report compliance.		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. Meet and Confer will be required.	December 2021
12	Direct all City departments to provide ethics training to all staff at least once a year, with documentation of such training provided to Ethics Commission staff to review and report compliance.		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future.	December 2021
13	Adopt a policy that all Councilmembers attest to the absence of any conflict of interest at each City Council meeting. Such an attestation could be accomplished through an efficient or automated process, such as a roll call vote.		Agree	Mayor and City Council	Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney.	Undetermined
14	Direct the City Manager to amend Administrative Regulation 32-1 to require that newly elected officials and City staff sign a statement indicating whether they have any members of their "immediate family" on staff at the City with each such statement updated and restated annually.		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021
15	Consider directing the Ethics Commission and its staff to conduct proactive audits on select campaign contributions and expenditures.		Agree	Mayor and City Council	The Commission, as currently established per Measure CCC and the City Charter, does not have auditing powers, but may be able perform proactive reviews. The Commission is currently in a formative stage, and, at this time, is not positioned, nor staffed, to conduct reviews.	Undetermined

MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
16	Direct the Financial Management Department to amend its contract boilerplate language to include mandatory provisions that contractors must state that they will comply with the City's Ethics Code to prevent conflicts of interest with City officials and employees, and that they and their company employees do not have financial or family relationships with City officials or employees involved in their contract selection or contract administration processes, with such documentation maintained in bidder files.		Agree	City Manager	The Financial Management Department will be directed to work with the City Attorney to include all mandatory provisions, as appropriate, in City procurement contracts to comply with the relevant sections of the City's Ethics Code and State law and regulations.	In progress
17	Direct the Financial Management Department to establish procedures to periodically conduct independent reviews of its own staff buyers' activities to ensure that they are not engaged in ethical misconduct pertaining to selecting vendors and contractors.		Agree	City Manager	The Financial Management Department will be directed to add to its procedures a requirement that Buyers AND decentralized City employees participating in a decision-making capacity in a vendor selection certify they have no known financial or family relationships with the respondents with which they are evaluating for each competitive solicitation. This additional requirement will provide for timely and accurate certifications each time solicitations are completed, not just annually and after the fact.	In progress
18	Direct the Financial Management Department to establish procedures to implement the State requirement that consultants submit financial disclosures in cases when their consulting engagements put them in decision-making positions.		Agree	City Manager	The Financial Management Department will be directed to strengthen and more broadly implement the existing process to ensure compliance with the State requirements. There currently is a process directing operating departments to obtain appropriate documentation before contracting with professional services consultants to comply with the State requirements for financial disclosure.	In progress

MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
Standard #10: Required and Regular Ethics Trainings, Including Sexual Harassment and Discrimination Training						
19	The Mayor and City Council should require that ethics training for all City staff and officials regardless of whether they report to the City Manager or another authority, be required on a regular basis and that compliance be tracked and reported to the Mayor, City Council, City Manager, and Ethics Commission annually. Similarly, attendance at State-mandated sexual harassment training for certain City employees every other year should be tracked by staff and reported to the Mayor, City Council, Ethics Commission, and City Manager annually.		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. Attendance at State-mandated sexual harassment training is tracked, though not currently reported to the City Council or the Ethics Commission.	December 2021

Standard #11: Retaliation Protection						
20	The Mayor and City Council should direct the City Attorney to work with the Ethics Commission and draft a Citywide retaliation protection policy for adoption by the Council, including descriptions of scenarios that could constitute retaliation and specifying the types of penalties and disciplinary action that would be issued in response to retaliation.		Agree	Mayor and City Council	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021

COMPLIANCE WITH STATE FINANCIAL DISCLOSURE AND OTHER ETHICS REQUIREMENTS

Financial Disclosures: Form 700 Filings						
21	The City's Ethics Commission should consider recommending to the Mayor and City Council for their adoption amendments to the City's Ethics Code and Municipal Code specifying local fines and/or other penalties for non-compliance with financial disclosure filing and training requirements.		Agree	Ethics Commission	Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given.	December 2021

Gift Disclosures						
22	Set a timeline for City staff and officials to submit all applicable gift disclosure forms within 10 calendar days of gift receipt.		Agree	Ethics Commission	Staff agrees with the sentiment of this recommendation, though the actual implementation will require further	Undetermined

MANAGEMENT RESPONSE AND ACTION PLAN

Performance Audit of the City's Ethics Program

No.	Recommendation	Priority	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
					discussion with the City Council, Ethics Commission, and City Attorney.	
23	Direct new Ethics Commission staff to periodically review gift disclosures and review donors against City approvals for contracts, development projects, and other privileges to ensure that gift recipients have not been involved in decision-making pertaining to those donors.		Agree	Ethics Commission	Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney.	Undetermined

Lobbyist Tracking

24	The Mayor, City Council, City Clerk and City Manager should: 1) collaborate to establish and codify in the City's recommended core ethics document a protocol to allow Ethics Commission support staff to regularly review a sample of Mayor and City Council visitor sign-in sheets and appointment calendars to identify all potential lobbyists interacting with the City's elected officials and ensuring they are registered, and 2) request that the City Attorney prepare necessary ordinances to allow for the Mayor's and City Councilmembers' calendars to be treated as public records available for review by staff.		Agree	Mayor, City Council, City Clerk and City Manager	Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney.	Undetermined
25	The Mayor and City Council should delegate authority for enforcing the City's "revolving door" regulations to the Ethics Commission to be administered by their support staff, with this codified in the City's recommended core ethics document or the Municipal Code, as deemed appropriate by the City Attorney.		Agree	Mayor and City Council	Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney.	Undetermined

Ethics Training

N/A	See recommendations #19 and #21.					
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Priority

H – High Priority - The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

M – Medium Priority - The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. Recommendation should be implemented no later than six months.

L – Low Priority - The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

Long Beach Ethics Program Summary

July 2020

Ethics Handbook Topics (City Attorney)

- Ethics
- Accepting Gifts
- Conflicts of Interest
- Financial Disclosure
- Use of City Tickets
- Political Activities
- Brown Act
- Public Records Act
- Restrictions of Public Mailings
- “Revolving Door” Restrictions
- Fraud Prevention and Reporting Policy

Ethics Training for Elected Officials and Commissioners (AB 1234)

- Training required
- Online system to track and document
- May not take office until this is completed

Form 700

- Online system with reminders and tracking
- Long Beach helped create the law and implement the online system

Code of Ethics for All Employees:

- Adopted by the City Council on February 6, 2003

Ethics Information for New Employees

- Online Onboarding (Prior to Start Date)
- First week of employment
- New Employee Orientation (City Manager’s Office and City Attorney’s Office)

Proactive Steps and Policies (Applicable to 15 City Manager-led Departments)

- Pre-Approval of Travel for Gift Detection
- Reimbursement of Travel Expenses (Receipts rather than Per Diem)
- Travel Expenses for Elected Officials (Handled by Legislative Department)
- City Decisions Affecting a Personal Property (Elected Official Maps)
- Limits on City Credit Cards
- Limiting Salary Increases
- Fraud Hotline and Fraud Awareness Materials in Partnership With City Auditor
- Tickets to Events (Form 802)
- Mass Mailings (199 Rule)
- Alcohol and Drug Use

- Gifts (City Manager Policy Stricter than State Law)
- City Council “Divide by Nine” Discretionary Funds (\$38.6 million since FY 12)
- Collateral Employment Forms
- Sexual Harassment / Discrimination Training
- Ethics Training
- City Purchases over \$25,000 (Revolving Door / Potential Conflicts)

Investigation of Complaints (Multiple Avenues Available)

- City Auditor
- FPPC
- Internal Affairs
- Citizen’s Police Complaint Commission
- Department Investigations
- Human Resources
- City Attorney
- Police Department (Criminal)
- District Attorney: Public Integrity Unit

Budget Allocated

- City Auditor’s Office
- City Attorney
- City Manager’s Office
- City Clerk
- Human Resources
- Police Department
- Departments

Materials / Policies / Municipal Code / Charter Sections

- See attached list of policies, municipal code sections and Charter sections
- Electronic copies of policies attached

ETHICS PROCEDURES

JULY 2020

The City has a number of policies, procedures and practices in place to ensure ethical behavior and to proactively take steps to identify and rectify potential ethical dilemmas. The following is a description of the training City employees receives, the practices City staff take to proactively prevent or detect potential conflicts of interest or potential ethical violations, and the investigatory resources available to the City to follow up on complaints.

TRAINING AND INFORMATION

Ethics Handbook

The City of Long Beach City Attorney's Office has for many years compiled an Ethics Guide for Long Beach City Officials & Employees. This 31-page document, which was updated in March 2015, is prominently featured on the homepage of the City Attorney's Office website and is an easy to follow guide for employees, elected officials, appointed officials, and commissioners on the City's expectations for ethical behavior as well as guidance on areas including:

- Ethics
- Accepting Gifts
- Conflicts of Interest
- Financial Disclosure
- Use of City Tickets
- Political Activities
- Brown Act
- Public Records Act
- Restrictions of Public Mailings
- "Revolving Door" Restrictions
- Fraud Prevention and Reporting Policy

To view the document, please see the attachment, or click [here](#) to view it online.

Ethics Training for Elected Officials and Commissioners (AB 1234)

State law AB 1234 (2006) outlines the requirements for ethics training for elected officials, as well as the process for reimbursement of travel expenses for the Mayor and Council. Mandatory ethics training is coordinated by the City Clerk's office in coordination with the City Attorney and is a requirement for all elected officials, commission and advisory board members prior to start of service. The process for the ethics training is described in the Ethics Guide for Long Beach City Officials & Employees. The City Clerk keeps electronic records of the trainings and ensures that all applicable officials receive the appropriate training, and the Clerk has the ability to detect if a covered individual has not completed the required training.

Authorities, Boards, Commissions and Committees Handbook

The City Clerk's Office has assembled a handbook provided to each new member of an Authority, Board, Commission or Committee that outlines duties and responsibilities. This document was adopted by the Long Beach City Council in February 2008 and was recently updated on July 10, 2018. This handbook also covers the City's ethics requirements, Form 700 filing requirements, provides the written Ethics Pledge, and outlines the requirements for the AB 1234 training. A copy of the handbook is attached.

Form 700

The City Clerk's Office administers the City's FPPC Form 700 compliance. The Clerk's Office has an automated system that tracks, allows online submission for most of the required filers, keeps the required records, and has tools to help ensure compliance with the FPPC filing requirements. The City Manager and Appointing Authorities determine which new or existing positions are required to file Form 700 based on the FPPC guidance. Reviews are conducted biennially and are approved by the City Council. All Form 700 filers are provided with instructions on how to file and what must be reported. The City's Ethics Guidebook provide guidance on Form 700, specifically calling out gifts and how they must be handled. This includes "Frequently Asked Questions" to help filers understand the nuances of the FPPC requirements and what constitutes a reportable gift. The City Clerk has records of all Form 700 filings, and the system sends automatic reminders to filers of upcoming filing deadlines.

Online Onboarding

Each new employee is required to complete the City's online onboarding system (SterlingOne) prior to the first day of employment. In addition to that onboarding system, employees also receive the following:

Payroll and HR Forms (During First Week of Start Date)

Each new employee meets with a Department Personnel Payroll Assistant (PPA) to complete payroll and human resources forms and written acknowledgement of policies. Each employee is required to sign a Code of Ethics Statement prior to assuming office or employment. The PPA ensures this form is completed. New employees are also requested to view the Ethics training video and employees are given a copy of the Ethics Guide for Long Beach City Officials and Employees.

New Employee Orientation

The Human Resources Department offers a New Employee Orientation (NEO) training for new hires. Departments schedule employees for the orientation. The NEO is offered on a bi-monthly basis and provides four hours of training by various speakers. The training provides employees with information on City policies. The City Attorney's Office provides training on Ethics and includes the following topics: code of ethics; accepting gifts; and political activities. The following HR policies are covered during New Employee Orientation (NEO):

- Policy 1.7 Collateral Employment - Business Activity
- Policy 1.10 Alcohol & Drug Use
- Policy 1.11 City Computer, E-mail and Internet Use
- Policy 2.2 Unlawful Harassment
- Policy 2.1 Discrimination Complaints
- Policy 7.9 Workplace Threat & Violence
- AR 36-1 Occupational Health and Safety Program (Employee Responsibility)

Code of Ethics for All Employees

On February 6, 2003, the City Council adopted a Code of Ethics, which applies to City employees, officers and commission members. Each new employee signs a document acknowledging the City's ethics pledge, and the Human Resources Department (HR) keeps records of these documents in the online onboarding system. The Assistant City Manager speaks to new employees at the New Employee Orientation (NEO) and as part of the introduction underscores the importance of ethical behavior when working for the City of Long Beach. Later in the day during that same training, a Deputy City Attorney provide ethics training to new employees (see previous section on Onboarding)

PROACTIVE STEPS AND POLICIES (APPLICABLE TO 15 CITY MANAGER DEPARTMENTS)

Pre-Approval of Travel for Gift Detection

Travel expenses and acceptance of free or discounted travel is an area of potential conflict. The City Manager requires that any travel requiring an overnight accommodation be pre-approved by the City Manager. Administrative Regulation (AR) 4-1 outlines the process for City Manager Departments requesting travel. Departments wishing to travel need to both fill out a travel request form as well as create a memo for signature outlining what the travel is for, and the cost of the travel. It is through this method that the City Manager's Office flags any travel that is requested but is at no or reduced cost to the City. Each of these requests are scrutinized and questions are asked as to who is covering the cost, what the reason for that is, and whether it is acceptable for the City to accept. The Assistant City Manager (ACM) confers with the City Attorney's Office to determine whether the City can accept the gift, and if so how the City appropriately records the gift. Acceptance of free or reduced travel seldom occurs, and when it does the ACM approves and directs the requesting Department to record the travel on FPPC Form 801, or on the filers individual Form 700, as applicable. Travel not in keeping with a specific business purpose, or a gift that can or should not be accepted by the City is not approved. This is an ongoing process – for example, Departments submitted 464 travel request forms for review and approval thus far in 2018. Of those, 9 were identified as requiring a Form 801, or 1.9% of requests.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

Reimbursement of Travel Expenses (Receipts rather than Per Diem)

Reimbursement of travel expense is another area for potential abuse. To counteract potential abuse, the City Manager requires that all travel requiring an overnight stay receive pre-approval prior to travel, and an estimate of the potential travel expenses. Expenses are either pre-paid through check (for items like registration) or a travel agency, or paid for through a personal credit card subject to reimbursement for eligible expenses. An employee must submit for reimbursement after the travel has been completed, and the City Auditor requires itemized receipts for each reimbursable item to ensure that reimbursement only occurs for eligible expenses. Unlike some other agencies who use a “per diem” approach to expenses such as meals, Long Beach requires itemized expenses so we can determine actual cost of items to be reimbursed and that City funds are not used for items like alcohol, personal expenses, meals not related to the person travelling, etc. Those forms are approved by the employee’s manager and the Administrative Officer prior to submittal to the City Auditor. The City Auditor reviews expense reimbursement and often requests additional information or rejects certain reimbursements. Employees who notice any potential unethical behavior notify their supervisor and/or contact the Fraud Hotline administered by the City Auditor’s Office.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

Travel Expenses for Elected Officials (Handled by Legislative Department)

Travel expenses for the Mayor and City Council are handled by the Legislative Department, and not by the City Manager. While they are encouraged to use the City Manager’s Administrative Regulation for travel reimbursement, they are not required to as the City Manager does not have the authority to require it. It is our understanding that the Mayor’s Office processes the travel reimbursement requests from each of the City Council offices in accordance with AB 1234, and each member of the Legislative Department is responsible for agendaizing the required AB 1234 report on a City Council agenda prior to the payment of the reimbursement by the City Auditor. Further information on this process should be obtained by the Legislative Department and the City Auditor.

City Decisions Affecting a Personal Property (Elected Official Maps)

One area of potential ethical risk is a City official making a decision that has the potential to affect their own personal wealth. State law prohibits an employee, elected or appointed official or commissioner from making, participating in making, or attempting to influence any government decision if it is reasonably foreseeable that the decision will have a material financial effect on any economic interests or those of an immediate family member. This provision is covered in the Ethics Guide for Long Beach City Officials & Employees. It is the responsibility of the individual to disclose whether they have a financial interest and abstain from any decision-making in that instance. Employees who notice any potential unethical behavior notify their supervisor and/or contact the Fraud Hotline administered by the City Auditor’s Office. The most likely area where this would occur in a City typically involves an elected official’s primary residence, where that official may vote on an agenda item that would affect their property value. As a proactive

measure, the City staff have printed copies of maps of the homes of the Mayor and City Council, with a 500-foot radius identified on the map. Copies of these are available in the City Manager's Office and the Development Services Department. If City staff believe a project may fall into that radius, City staff is able to proactively consult the map and have a discussion with the City Attorney's Office on whether a conflict of interest may exist and how to remedy it. The City Attorney's Office routinely consults with elected and appointed officials, as well as employees on these types of potential financial conflict issues, and provides advice where appropriate. When necessary, the City Attorney obtains both formal and informal opinions on these matters directly from the FPPC.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

Limits on City Credit Cards

The issuance of City credits cards is another potential area for fraud or ethical violations. Unlike some other cities, Long Beach severely restricts who has access to a City credit card. Other municipal agencies may issue cards to the City Manager, Assistant City Manager, Department Directors, and at times the Mayor and City Council. None of those individuals in Long Beach have access to a City credit card. In 2018 the City initiated a new Purchasing Card system, and in consultation with the City Auditor, developed controls to detect fraud and/or potential misuse. Cards are only issued to certain specified individuals within a department (usually those who have a job requirement to purchase a large quantity of items). Under the program, no City executives or elected officials have access to a City Purchasing Card.

Limits on Salary Increases

Another area for potential unethical behavior concerns the ability to provide large pay increases to employees. To proactively counteract any potential abuse, the Human Resources Department (HR) has central control of the payroll system and procedures are in place to prohibit any single official from increasing an employee's pay, even if those employees do not report to the City Manager. The City's Salary Resolution states that pay increases are limited to 7 percent, subject to HR approval, for management and unclassified staff (with the exception of the Harbor Department who have the ability to issue increases up to 12 percent for management and unclassified staff), and must follow the adopted salary schedule for all classified staff. For the City Manager Departments, increases in pay up to 7 percent must go through a multi-step review process where the Department submits a request memo with appropriate documentation for both HR and City Manager approval. For non-City Manager departments, HR has a control to prevent any other official from approving a raise of more than 7 percent in violation of the Salary Resolution.

Fraud Hotline and Fraud Awareness Materials in Partnership With the City Auditor

The City Manager's Office partners with the City Auditor to raise awareness of the City's fraud hotline and the warning signs for fraud and/or unethical behavior. The City Auditor has made posters available throughout the City warning of fraud, has promoted the fraud

hotline in several different ways, and most recently in October 2018 worked with HR to send out materials on fraud and unethical behavior to all City employees both through paychecks and a Global Email to all employees. These documents reached more than 4,700 employees by email and more than 5,800 employees through the paycheck distribution.

Tickets to Events (Form 802)

The acceptance of free tickets to events in the City is another area of risk. The City Manager's Office takes proactive steps to ensure that ticket distribution is handled through the approved FPPC Form 802 process in accordance with the City's ticket policy. The City Council's adopted ticket policy, adopted on February 3, 2015, is attached, and outlines the proper procedure for both requesting and accepting tickets that are not otherwise filed under Form 700. The City Clerk keeps a webpage for these reports. Click [here](#) to view it.

Since the adoption of the policy, City staff have proactively reached out to the major potential sources of tickets to inform them that any requests from departments or elected officials should be directed back to the City Manager's Office for review in accordance with the policy. Solicitation of tickets happens on a somewhat regular basis, particularly with the Aquarium of the Pacific and the Grand Prix, and both organizations have regular contact with the City Manager's Office to ensure that requests for tickets are appropriately followed. When major events come to town that have the potential for distribution of tickets to elected officials, the City Manager's Office makes contact and establishes the proper mechanism for ticket distribution. All tickets are managed by the City's Ticket Administrator (the Assistant City Manager per the policy) and City Manager's Office staff ensure that the requesting official, the names of the individuals receiving tickets, and the appropriate category per the policy are recorded prior to distribution of tickets to ensure compliance. The City Manager's Office also ensures that the appropriate FPPC Form 802 report is filed in a timely manner. The City Manager's Office confers with the City Attorney's Office on any areas of potential concern.

Note: This procedure applies to City Manager Departments and ticket requests that are brought to the attention of the City Manager's Office or are proactively identified. Harbor and Water have their own process. Elected Officials can either use the Form 802 process for tickets the City receives for their use, or follow the Form 700 process for tickets they otherwise receive.

Mass Mailings (199 Rule)

Another area of potential risk is the use of mass mailings to the community using City resources that are not in keeping with rules set forth by the FPPC and the City's Municipal Code. The City proactively looks for any potential violation by directing the City's public information officers to look for mailings that may not fit the FPPC criteria. Additionally, as a precautionary measure, when the City designs fliers for events (even for those that mostly will be distributed online), City staff in charge of the design ensure that only one mention of the Councilmember is listed, that logos for elected officials are not included, and that no picture or signature of the elected official is included. The City's reprographics

team, who print the majority of these materials, are a second check in place as they look for potential violations. Anomalies or potential violations are routinely discussed with the City Attorney's Office for guidance.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

Alcohol and Drug Use

A risk area for unethical behavior is the use of alcohol or drugs while at work. The City has a comprehensive policy in place prohibiting use of alcohol or drugs in the workplace for City Manager Departments. Human Resources Department (HR) Policy 1.10 (attached) outlines the City's policy. This policy was originally created in 1990 and recently updated in March 2016. All City Manager Department employees receive a copy of the policy and are required to sign it. When evidence of potential use of drugs or alcohol at work is perceived, the employee may be required to submit to a drug/alcohol test if reasonable suspicion exists. Employees who notice any potential unethical behavior concerning drugs/alcohol use by an employee can notify their supervisor and/or contact the Fraud Hotline administered by the City Auditor's Office.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

Gifts (City Manager Policy Stricter than State Law)

The City follows both State law and City policy regarding gifts. State Law outlines the rules for Form 700 filers regarding gifts, and the City's ethics handbook provides clear direction on how to handle gifts for those requiring to file Form 700. Recognizing the potential complexity of this issue, the handbook directs City employees, officers and commission members to the City Attorney's Office for specific information beyond the scope of the handbook. The City Manager has issued stricter guidelines regarding gifts, which can be found in AR 8-2, which essentially prohibits the acceptance of gifts to individual City Manager employees. Enforcement of the policy can occur in several ways. The anonymous City Auditor's Fraud Hotline is an excellent avenue for employees to report someone who has potentially accepted an inappropriate gift. Employees may also report to a supervisor if they are concerned of any wrongdoing. Managers and supervisors that hear of gifts being accepted report misconduct to their Administrative Officer and/or the Human Resources Department for an investigation as appropriate.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

City Council “Divide by Nine” Discretionary Funds (\$38.8 million since FY 12)

City Council Discretionary Funds, also known colloquially as “Divide by Nine” funds, are funds that are recommended by the City Council offices and are either implemented directly by the City Council office, or are transferred to a City department to implement the recommendation of the Council office. Divide by Nine Funds have totaled \$38.8 million since FY 12. Given this substantial dollar amount, City staff developed protocols and procedures in coordination with the City Attorney to determine appropriate mechanisms for allocation of these funds in accordance with the City Charter and the City’s purchasing policies. Since the allocation of these funds are outside the normal budget process, at the discretion of the elected official, and at times not the typical expenditure of funds by a Department, there is an increased potential risk for unethical use of these funds.

The City Manager and Financial Management Department proactively developed guidelines for use of Divide by Nine funds to minimize the potential risk, and set up procedures to handle unusual requests. Unusual requests are reviewed by the City Attorney and require the full approval of the City Council as part of a fully-agendized item in an open session. Requests that are not proper uses of City funds, such as a potential gift of public funds or those that do not follow the City’s purchasing practices, are flagged through this process by the City Attorney and addressed appropriately. An Assistant to the City Manager in the City Manager’s Office reviews the requested spending by the City Council office and determines whether it is in keeping with the policy. The City’s implementation guidelines for Divide by Nine is attached, and City staff are in the process of updating those procedures.

Collateral Employment Forms

Collateral employment, particularly if the employment can be perceived to be related to their official employment or impacts the performance of the City employee’s employment, is another area where there is the potential for unethical behavior. The City has procedures in place to require disclosure and approval of secondary employment. HR Policy 1.7 requires all full time and part-time employees reporting to the City Manager to receive approval of collateral employment prior to engaging in any collateral employment or business activity. This approval must be renewed annually. Full time employees may not work more than 20 hours per week in collateral employment or business activity. Employees who do not disclose employment or have not received approval may be subject to discipline.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

Sexual Harassment / Discrimination Training

Sexual Harassment or discrimination are other types of unethical behavior. Long Beach recently updated our HR policies in March 2015, which can be found in HR Policy 2.1. Additionally, AR 8-10 (Policy Regarding Sexual Harassment) and HR Policy 2.2 (Unlawful Harassment Complaints) also address harassment. All new employees receive training on these policies through the New Employee Orientation, as well as the onboarding system. Additionally, under State law supervisors and managers receive training every two years. Long Beach has historically sent more employees than required under State law to this training, including staff that lead teams, Executive Assistants, and others who may find themselves in a position of authority. Human Resources is currently broadening the training to reach front line staff who do not receive the mandated State training.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

Ethics Training

All management level employees now receive ethics training every two years pursuant to our Ethics Guide as an adjunct to the Sexual Harassment Training (provided by the City Attorney). In addition, a basic ethics overview has already been incorporated into training provided by the Financial Management Purchasing Division to approvers of purchasing transactions in Munis, which includes many employees in a position to influence purchasing decisions.

Note: Ethics training is mandatory for all management employees in the City. Elected officials are also requested to attend.

City Purchases over \$25,000 (Revolving Door / Potential Conflicts)

Attempting to influence the City purchasing process is another potential area of ethical misconduct. The City Manager has created myriad financial policies to prevent fraud or misconduct in the purchasing system, and checks and balances to detect inappropriate purchases. Purchases go through a multi-tiered approval process, which increases as the amount of spending increases. Purchases above \$25,000 require Department approval, Purchasing approval, and City Manager's Office approval. During that review process, staff check for potential conflicts of interest, including "Revolving Door" purchases to prevent former City officials, employees, or commission members from exercising, or appearing to exercise, improper influence over City decision making. The City's Municipal Code establishes certain "revolving door" limits on attempts to influence City decisions after leaving City service.

Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.

INVESTIGATIONS OF COMPLAINTS AND BUDGET ALLOCATED TO ETHICS PROGRAMS

Investigation of Complaints

There are a number of different avenues to investigate complaints that arise regarding potential unethical conduct. Each situation is unique and is handled through the appropriate investigation resource.

- **City Auditor's Office Fraud Hotline:** The City Auditor's Office operates a fully anonymous and secure method of reporting potential fraud and abuse. This is one of the easiest methods for receiving complaints and is well known through the organization as a mechanism for filing a complaint. Upon receipt, the City Auditor works with the involved department or appointing authority to review the complaint.
- **FPPC:** The Fair Political Practices Commission is an independent agency that investigates and rules on potential financial and other conflicts with State law. Any member of the public or an employee may complain to the FPPC, who notify the City Attorney's office of the complaint. As previously mentioned, the City Attorney's Office also routinely corresponds with FPPC investigative staff to obtain both formal and informal advice opinions from the FPPC to prevent possible ethical violations or other misconduct.
- **Internal Affairs:** The Police Department's Internal Affairs Division (IA) is set up solely to investigate complaints of wrongdoing against Police Department employees, both sworn and civilian. IA investigates and reports their findings to the Chief of Police for appropriate action.
- **Citizen's Police Complaint Commission:** Another avenue for the public to report potential wrongdoing in the Police Department is the independent Citizens Police Complaint Commission, housed in the City Manager's Office. The CPCC has an Executive Director and two investigators who review and investigate complaints. The 11 member citizens' commission hears the evidence and makes a recommendation to the City Manager for appropriate action.
- **Department Investigations:** Most potential misconduct investigations begin at the Department level. Each Department has an Administrative Officer (AO) who handles personnel issues and is trained in how to respond to complaints. Some complaints may be handled at the AO level for the investigation, and the AO will work with the Human Resources Department (HR) and the City Attorney to conduct the investigation and determine appropriate action. Some situations, depending on their complexity, are elevated to HR or City Attorney to take the lead on the investigation, depending on the subject matter.
- **Human Resources Investigations:** The Human Resources Department (HR) provides guidance to departments on personnel matters. Some investigations,

such as EEO complaints, are handled exclusively by HR in collaboration with the City Attorney.

- **City Attorney Investigations:** At times, the City finds it necessary to bring in outside investigators to review complaints. These are handled through the City Attorney's Office in partnership with the Human Resources Department and the involved department. The City Attorney's Office is also responsible for investigations that address the City's elected officials or appointing authorities who do not report to the City Manager, Harbor Department, or Water Department. If the City Attorney handles an investigation, they may do this "in house" or may seek the assistance of outside counsel or other appropriate outside investigator.
- **Police Department:** At times, certain misconduct may reach the level of criminal activity. In these cases, the Human Resources Department and the City Attorney's Office conduct an administrative investigation, but also turn over the case to the Long Beach Police Department for appropriate criminal investigation and potential prosecution
- **District Attorney Public Integrity Division:** Certain types of unethical behavior, particularly conduct involving elected officials or high level appointed officials, may rise to the level of criminal activity that would be investigated and pursued by the District Attorney's Public Integrity Division. In these cases, the information gathered by the City Attorney and Police Department is turned over to the independent District Attorney who reviews the case for potential criminal filings. The District Attorney also investigates potential Brown Act violations which may forwarded to them by members of the public.

BUDGET ALLOCATED TO ETHICS

Significant personnel resources are committed to Ethics enforcement and oversight as part of City staff's day to day assignments. City staff are assembling estimates of staff time dedicated towards ethics and will provide that analysis shortly. Departments that will be included in this analysis include the City Auditor's Office, City Manager's Office, City Attorney's Office, City Clerk's Office, the Police Department, the Human Resources Department, and Administrative Officers in each department.