

Fair Campaign Practices Commission
Open Government Commission

CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

MEETING AGENDA

January 16, 2025

6:30 p.m.

2180 Milvia St., Berkeley, CA 94704
1st Floor, Cypress Room

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

A live broadcast of this meeting will be available at: <https://cityofberkeleyinfo.zoomgov.com/j/1614055306>. Public comment will be taken in-person and virtually through the posted link.

Secretary: Samuel Harvey

The Commission may act on any item on this agenda

1. Call to Order 6:30 p.m.
2. Roll Call.
3. Land Acknowledgement: The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay

communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

4. Approval of agenda.
5. Public Comment. *Comments on subjects not on the agenda that are within the Commissions' purview are heard at the beginning of meeting. Speakers may comment on agenda items when the Commission hears those items.*
6. Approval of minutes for November 21, 2024 FCPC-OGC Regular Meeting.

Fair Campaign Practices Commission (FCPC) Agenda

7. Reports
 - a. Report from Chair
 - b. Report from Staff
8. Report from Negotiating Subcommittee: Yes on Measure CC / No on Measure BB; discussion and possible action.
9. Clerk Referral: Failure to repay unspent public financing funds; discussion and possible action.
10. Proposed Amendment to Commission Regulation R.2.12.270.1 – Administrative Termination of Filing Obligations; discussion and possible action.
11. Enforcement referral regarding Andy Kelley for Rent Board 2020 campaign; discussion and possible action.
12. Enforcement referral regarding Campaign for Police Accountability campaign and possible administrative closure of committee pursuant to FCPC Regulation R2.12.270.1; discussion and possible action.
13. Enforcement referral regarding Vanessa Danielle Marrero, Rent Stabilization Board Commissioner; discussion and possible action.
14. Review and possible revision of Procedures for the Fair Campaign Practices Commission (Available at <https://berkeleyca.gov/sites/default/files/2022-01/FCPC-Procedures.pdf>); discussion and possible action.

Open Government Commission (OGC) Agenda

15. Reports.
 - a. Report from Chair
 - b. Report from Staff
16. City Clerk referral of non-filing of quarterly lobbying activity disclosure: Yuro Sadiki-Torres (Northern California Land Trust); discussion and possible action.
17. Publicizing Commission work and vacancies; discussion and possible action.
18. Commissioners Manual - Recommendations for revision. (Includes action on Commissioner stipends); discussion and possible action.
19. City Council Rules of Procedure and Order Revisions
(See https://berkeleyca.gov/sites/default/files/documents/Supp%20%20-%20Rules%20of%20Procedure%20and%20Order%209_24_24.pdf); discussion and possible action.

Joint FCPC-OGC Calendar

20. Training presentation: Brown Act and procedural due process: discussion and possible action.
21. Adoption of 2025 FCPC-OGC Joint Concurrent Meeting Schedule; discussion and possible action.
22. Chair and Vice-Chair elections to be held at February meeting; discussion and possible action.

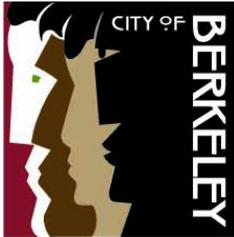
Information Items

23. Berkeley Election Reform Act of 1974 - Easily printable format:
https://docs.google.com/document/d/1Xfv2Q4bN02f7W0_w9X2KZahhHlbf2CBANDBW6McKygs/edit?usp=sharing
24. Adjournment

Communications

None

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. **SB 343 Disclaimer:** Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the City Attorney's Office at 2180 Milvia St., 4th Fl., Berkeley, CA.



Fair Campaign Practices Commission
Open Government Commission

DRAFT MINUTES

November 21, 2024

CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

Civic Center
2180 Milvia St.
Berkeley, CA 94704
Cypress Room

Secretary: Samuel Harvey

Members Present: Patrick O'Donnell, Jedidiah Tsang, Emmanuelle Soichet, Henry Isselbacher, Andrew Lazarus, Kitt Saginor

Also present: Samuel Harvey, Staff Secretary

1. **Call to Order**

Chair called the meeting to order at 6:36 p.m.

2. **Roll Call**

Roll call taken

3. **Land Acknowledgement.**

4. **Approval of agenda**

Motion to approve agenda (M/S/C: O'Donnell/Soichet; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

5. **Public Comment**

No speakers.

6. **Approval of minutes for October 17, 2024 FCPC-OGC Regular Meeting**

- a. Public comment: none
- b. Commission discussion and action

Motion to approve minutes (M/S/C: Isselbacher, Lazarus; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

Fair Campaign Practices Commission (FCPC) Agenda

7. **Reports**

- a. **Report from Chair**
- b. **Report from Staff**

8. **Report from negotiating subcommittee: Mike Chang for School Board; possible approval of stipulated agreement; discussion and possible action**

- a. Public comment: none
- b. Commission discussion and action

Motion to approve the stipulated agreement (M/S/C: Soichet/Lazarus; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus; Noes: none; Abstain: Saginor; Absent: Ching, Blome.)

9. **Complaint: Yes on Measure CC / No on Measure BB**

- a. Public comment: none
- b. Commission discussion and action

Motion to find probable cause on a late 460 disclosure and dismiss for being only a slight impact on the administration of BERA and the outcomes of any election and because further proceeding would be an inefficient use of resources. (M/S/C: Tsang/Lazarus; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to find probable cause on the Committee's failure to timely disclose a \$35,000 non-monetary contribution within the 24-hour deadline and filing that form 30 days late. (M/S/C: Isselbacher/O'Donnell; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to dismiss the complaint regarding failure to disclose a \$35,000 contribution as a "major funding" disclosure on two campaign websites and an online advertisement

FCPC / OGC Agenda
November 21, 2024
Page 3

(M/S/C: Saginor/Lazarus; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to dismiss complaint that the online PDF is a paid advertisement that violates BERA's "major funding" disclosure provisions (M/S/C: Tsang/Isselbacher; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to dismiss complaint that "Housing Provider" is not an appropriate name as not within the purview of BERA (M/S/C: Lazarus/ Isselbacher; Ayes: Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: O'Donnell, Soichet; Absent: Ching, Blome.)

Motion to find probable cause that BERA section 2.12.335.A was violated by inclusion of the incorrect Committee name on the Facebook ad (M/S/C: Saginor/Isselbacher; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Motion to empanel an ad hoc subcommittee to pursue a negotiated settlement with the Committee taking into account the duration of the violations for which probable cause was found and direct staff to further investigate the duration and severity of the violations (M/S/C: Isselbacher/Tsang; Ayes: O'Donnell, Tsang, Soichet, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: none; Absent: Ching, Blome.)

Chair Saginor appointed Commissioners Isselbacher and Lazarus to this ad hoc subcommittee.

10. **Complaint: Berkeleyans for Effective Climate Action, No on GG**

- a. Public comment: none
- b. Commission discussion and action

Motion to dismiss the complaint. (M/S/C: Isselbacher/O'Donnell; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

11. **Enforcement referral regarding Andy Kelley for Rent Board 2020 Campaign**

- a. Public comment: none
- b. Commission discussion

12. **Enforcement referral regarding Campaign for Police Accountability**

- a. Public comment: none
- b. Commission discussion and action

Motion to direct staff to pursue contact with the Committee, to notify the Committee treasurer of our intent to consider administrative termination and request that any objection be submitted by a date set by the staff and direct the staff to make recommendations for further actions to be taken. (M/S/C: Soichet/Saginer; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginer; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

13. **Enforcement referral regarding Campaign Rent Stabilization Board Commissioner Vanessa Danielle Marrero**

- a. Public comment: none
- b. Commission discussion and action

Motion to direct staff to communicate with office holder Vanessa Danielle Marrero, including by letter and by phone and to include in that communication that this matter will be on the Fair Campaign Practices Commission January agenda, and direct staff to report back at our next meeting. (M/S/C: O'Donnell/Isselbacher; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginer; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

14. **Review and possible revision of Procedures for the Fair Campaign Practices Commission**

- a. Public comment: none
- b. Commission discussion

Open Government Commission (OGC) Agenda

15. **Reports**

- a. Report from Chair
- b. Report from Staff

16. **Presentation: Information about commissions on the web**

- a. Public comment: none
- b. Item deferred to future meeting

17. **Publicizing Commission work and vacancies**

- a. Public comment: none
- b. Commission discussion

18. **Commissioner stipends**

- a. Public comment: none
- b. Commission discussion and action

Motion to direct staff to request that the City Clerk update the stipend information in the Commissioners' Manual (M/S/C: Tsang/Soichet; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

19. **City Council Rules of Procedure and Order Revisions**

- a. Public comment: none
- b. Commission discussion

20. **Annual report regarding Public Records Act requests and other open government topics pursuant to to BMC § 2.06.190.C**

- a. Public comment: none
- b. Commission discussion

Joint FCPC-OGC Calendar

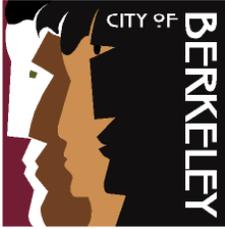
21. **Training presentation: Brown Act and procedural due process**

- a. Public comment: none
- b. Item deferred to future meeting

22. **Adjournment**

Motion to adjourn (M/S/C: Isselbacher/Tsang; Ayes: O'Donnell, Tsang, Isselbacher, Lazarus, Saginor; Noes: none; Abstain: Soichet; Absent: Ching, Blome.)

Meeting adjourned at 9:18 p.m.



City Clerk Department

January 8, 2025

To: Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Referral of Public Finance Participants to the Fair Campaign Practices Commission

This memo serves as an official referral to the Fair Campaign Practices Commission for failure to return unspent funds by Public Finance Participants, as required by Berkeley Municipal Code Section 2.12.505(H)(4).

Participating candidates in the Public Financing Program are required to return all unspent campaign funds sixty (60) days after the date of the election (BMC § 2.12.505(H)(2)). For the November 5, 2024 election, participating candidates were noticed on November 15, December 2, and December 31. The candidates listed below are in violation of the Berkeley Election Reform Act and are being referred to the Fair Campaign Practices Commission for enforcement.

Jenny Guarino
Jenny Guarino for City Council 2024
 2nd pre-election campaign statement ending cash balance: \$14,177.48

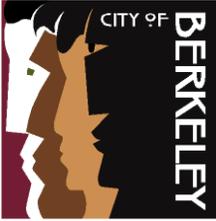
Laura Babitt
Re-Elect Laura Babitt 4 Berkeley School Board 2024
 2nd pre-election campaign statement ending cash balance: \$12,098.96

The table below provides a summary of returned funds.

Referral of Public Finance Participants to the
Fair Campaign Practices Commission

Committee Name	Amount Returned	Date Returned
Adena Ishii for Mayor of Berkeley 2024	\$3,836.29	12/18/2024
Alfred Twu for Berkeley Rent Board 2024	\$269.70	12/12/2024
Ana Vasudeo for School Board 2024	\$298.27	12/19/2024
Andrew for Berkeley Council 2024	\$1,927.14	1/8/2025
Andy Katz for Berkeley City Council 2024	\$903.02	1/6/2025
Avery Arbaugh for Berkeley Rent Board 2024	\$76.87	12/6/2024
Brent Blackaby for Berkeley City Council 2024	\$0.00	1/1/2025
Deborah Matthews for Council 2024	\$11,018.03	12/17/2024
Dominique Walker for Berkeley Rent Board 2024	\$70.86	12/6/2024
Jen Corn for Berkeley School Board 2024	\$130.97	12/18/2024
Jenny Guarino for City Council 2024		
John "Chip" Moore for Berkeley City Council District #3 2024	\$0.00	12/31/2024
Kate Harrison for Mayor 2024	\$26.74	12/9/2024
Re-elect Laura Babitt 4 Berkeley School Board 2024		
Shoshana O'Keefe for Berkeley City Council District 5 2024	\$0.00	12/31/2024
Terry Taplin for City Council 2024	\$8,513.99	1/2/2025
Xavier Johnson for Berkeley Rent Board 2024	\$71.42	12/6/2024
Rigel Robinson for Berkeley Mayor 2024	\$17,613.46	6/11/2024
Ana Vasudeo for City Council 2024	\$11,814.00	6/24/2024

Please confirm receipt of this referral and provide notice of any next steps in the enforcement process to my office and to the participating candidates being referred. My staff is available if you have any questions regarding this matter.



Fair Campaign Practices Commission

Date: January 10, 2025

To: Fair Campaign Practices Commission

From: Samuel Harvey, Secretary

Subject: Proposed Amendment to Commission Regulation R.2.12.270.1 – Administrative Termination of Filing Obligations

The Commission has recently considered a number of referrals from the City Clerk regarding committees which have failed to file one or more outstanding campaign statements. In one or more of these cases, it appears that the subject committee has been largely inactive for multiple years. These committees show little or no activity on their most recent campaign statements. It is therefore likely that these committees are largely inactive and defunct, with the committee officers simply failing to take the necessary steps to file outstanding statements and/or close the committees.

In at least one of these cases, the committee officer has been unresponsive to City Clerk staff and the Commission Secretary, despite numerous messages, reminders and notices sent to the officer. The Commission has considered whether administrative termination is an appropriate option for this committee.

The Commission's process for administrative termination is outlined in Regulation R.2.12.270.1. That regulation provides that

A candidate's or committee's status and filing obligations pursuant to BMC Chapter 2.12 may be administratively terminated by the Commission, either on its own initiative or upon the candidate's or committee's request.

While administrative closure would eliminate a committee's obligations under the Berkeley Election Reform Act ("BERA") (BMC Ch. 2.12), it would not eliminate any other filing obligations the committee may have with the state or any other jurisdiction.

The Commission's regulations direct the Commission to consider the following factors in determining whether to administratively close a committee:

- (1) Aggregate annual reported financial activity
- (2) Reports disclosing minimal or no receipt of contributions and/or expenditures;
and
- (3) Primary purpose for filing reports confined to disclosure of outstanding debts and obligations

January 10, 2025

Page 2 Proposed Amendment to Commission Regulation R.2.12.270.1

Notably, Regulation R.12.270.1 also provides that “[a]ny evidence of possible violations of any provisions of BMC Chapter 2.12 at present, or if administrative termination occurs, will preclude such administrative termination.” Failure to file outstanding campaign statements is technically a violation of BMC Chapter 2.12. (See BMC §§ 2.12.270 & 2.12.271.)

However, staff believe that disallowing administrative termination where a committee’s only apparent violation is failure to file outstanding reports would preclude the Commission from using administrative termination in one of the precise situations for which administrative termination is most useful – namely, where an inactive and unresponsive committee has failed to file reports for an extended period of time.

Commission staff have prepared the attached proposed amendment to Commission Regulation R2.12.270.1 for the Commission’s review and possible approval.

Attachments:

1. Proposed Amendment to Fair Campaign Practices Commission Regulation R2.12.270.1

Proposed Amendment to Fair Campaign Practices Commission Regulation R2.12.270.1

R2.12.270.1 Administrative Termination of Filing Obligations

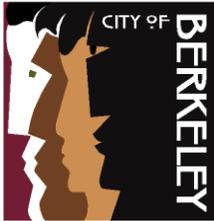
(a) A candidate's or committee's status and filing obligations pursuant to BMC Chapter 2.12 may be administratively terminated by the Commission, either on its own initiative or upon the candidate's or committee's request.

(b) Factors the Commission will consider in determining administrative termination include the candidate's or committee's:

- (1) aggregate annual reported financial activity
- (2) reports disclosing minimal or no receipt of contributions and/or expenditures; and
- (3) primary purpose for filing reports confined to disclosure of outstanding debts and obligations

Any evidence of possible violations of any provisions of BMC Chapter 2.12, *other than violations for failure to file one or more outstanding campaign statements*, at present, or if administrative termination occurs, will preclude such administrative termination.

(c) The Commission will notify the candidate and committee treasurer of its intent to consider administrative termination and may request that any objections be submitted within a reasonable time.



Fair Campaign Practices Commission

Date: January 9, 2025

To: Fair Campaign Practices Commission

From: Samuel Harvey, Secretary

Subject: Enforcement referral regarding Andy Kelley for Rent Board 2020

At its October 17, 2024 meeting, the Commission received the attached referral from the City Clerk regarding failure by the campaign committee Andy Kelley for Rent Board 2020 (“Committee”) to file the campaign statement (Form 460) covering the period January 1, 2024 to June 30, 2024, which was due July 31, 2024. The Clerk’s referral also indicated that the Committee failed to file any reports covering the year 2023. (Attachment 1.)

At the Commission’s direction, the Commission Secretary sent the attached notice to the Committee on October 25, 2024, informing the Committee of its obligations and warning the Committee that the Commission may pursue enforcement action against the Committee. (Attachment 2.)

On October 25, 2024, the same day the Secretary’s notice was sent, the candidate sent a response indicating that he did not believe there has been any activity by the Committee since the 2020 election, and that he intends to resolve the outstanding filings “as soon as possible.” (Attachment 3.) As of the date of this report, no additional filings have been submitted by the Committee.

As the candidate noted in his message to the Secretary, it is possible the Committee has had little or no activity since the 2020 election. The Committee’s last-filed campaign statement, which was filed on April 12, 2023 and covers the period from July 1, 2022 to December 31, 2022, shows a single un-itemized expenditure of \$99 and an ending cash balance of \$302.83. (Attachment 4.)

At its November 21, 2024, meeting, the Commission decided to take no action and await possible filings from the Committee as indicated in the candidate’s communication to the Commission Secretary.

Commission staff emailed the candidate on January 7, 2025, reminding him of his obligations to file outstanding reports. (Attachment 5.) As of the date of this report, the Committee has not filed any of the outstanding reports.

The Secretary recommends the Commission review this matter and direct staff to take action it deems appropriate, consistent with the Commission’s Procedures.

January 9, 2025

Page 2 Re: Administrative Closure of Inactive Campaign Committees

Attachments:

1. Excerpt from City Clerk's referral as published in October 17, 2024 meeting agenda packet
2. Notice from Secretary to Committee (Oct. 25, 2024)
3. Message from the Candidate to the Secretary (Oct. 25, 2024)
4. Committee's Semi-Annual Statement for July 1, 2022 – December 31, 2022.
5. Commission Secretary message to Committee (Jan. 7, 2025)



City Clerk Department

September 25, 2024

To: Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Referral of Non-Filers to the Fair Campaign Practices Commission

This memo serves as an official referral to the Fair Campaign Practices Commission for the non-filing of campaign disclosure statements required under the Berkeley Election Reform Act.

Treasurers for the following committees were properly noticed of their requirement to file campaign statements no later than July 31, 2024 for the semi-annual reporting period ending June 30, 2024.

1. Andy Kelley for Rent Board 2020

Ending cash balance of previous report: \$302.83 (Statement period 7/1/2022 – 12/31/2022). The notices were sent on July 19 and July 24.

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.

2. Campaign for Police Accountability

Ending cash balance of previous report: \$0.00 (7/1/2022 – 12/31/2022). The notices were sent on July 19 and July 24.

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.

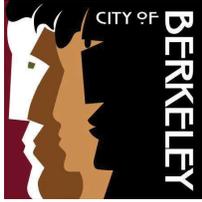
The Elected official below was properly noticed of their requirement to file an officeholder campaign statement, Form 470, covering the calendar year 2024.

3. Vanessa Danielle Marrero, Rent Stabilization Board Commissioner

The notices were sent on July 19 and July 24.

These filers have failed to file the required statements and are being referred to the Fair Campaign Practices Commission for enforcement. Detailed information regarding each filer case, including relevant correspondence, is attached to this memorandum.

Please confirm receipt of this referral and provide notice of any next steps in the enforcement process to my office and to the committees being referred. My staff is available if you have any questions regarding this matter.



City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Committee Andy Kelley for Rent Board 2020

Treasurer Andy Kelley

Candidate Andy Kelley

Statement Information

Filing Due Date 7/31/2024

Reporting Period Start Date 1/1/2024

Reporting Period End Date 6/30/2024

Notifications to Filer

Date 7/19/2024 Type Notification (letter & email)

Date 7/24/2024 Type 1st Reminder (email)

Date 8/6/2024 Type 1st Notice of Non-Filing (letter & email)

Date 9/10/2024 Type 2nd Notice of Non-Filing (letter & email)

Date _____ Type _____

Additional Information

Ending cash balance of previous report: \$302.83 (Statement period 7/1/2022 - 12/31/2022).

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.



City Clerk Department

July 18, 2024

Andy Kelley, Treasurer
Andy Kelley for Rent Board 2020
1418A 67th Street
Berkeley, CA 94702

Dear Andy:

This letter is notice that open campaign committees must file a semi-annual campaign statement (Form 460) covering the period of January 1 – June 30, 2024. The statement is due by **Wednesday, July 31, 2024**. Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additional information regarding your filing obligations is below.

Termination

Filing obligations continue until the committee has terminated. You may terminate when there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge debt. To terminate the committee, file a terminating Form 410 and Form 460. Refer to the [State Campaign Disclosure Manual](#) appropriate for your committee for detailed information on these requirements. Remember that the original Form 410 is filed with the Secretary of State, and a paper copy is filed with my office.

Differences in State and Local Law

Berkeley's campaign disclosure requirements differ from state law. Consult the Fair Campaign Practices Commission's regulations and campaign filing manual (available on our website at <https://berkeleyca.gov/your-government/elections>) to ensure full compliance with the law.

Most campaign statements must be filed electronically. If you need help with the electronic filing system, please contact my staff at (510) 981-6908 or elections@berkeleyca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville
City Clerk

cc: Fair Campaign Practices Commission

From: [Elections](#)
To: andykelley@gmail.com
Cc: [Elections](#); [FCPC \(Fair Campaign Practices Commission\)](#)
Subject: Notification regarding campaign filing requirement (due by July 31, 2024)
Date: Friday, July 19, 2024 10:40:31 AM
Attachments: [2024-07-18 Andy Kelley for Rent Board 2020.pdf](#)
Importance: High

Good morning,

Please see the attached correspondence regarding the *Andy Kelley for Rent Board 2020* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
elections@berkeleyca.gov

From: [Elections](#)
To: andykelley@gmail.com
Cc: [Elections](#)
Subject: REMINDER: Notification regarding campaign filing requirement (due by July 31, 2024)
Date: Wednesday, July 24, 2024 1:59:32 PM
Attachments: [2024-07-18 Andy Kelley for Rent Board 2020.pdf](#)
Importance: High

Hello,

This is a reminder of the upcoming filing deadline outlined in the attached correspondence.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

Email: elections@berkeleyca.gov
Website: <https://berkeleyca.gov/your-government/elections>

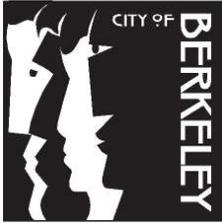
From: Elections <elections@berkeleyca.gov>
Sent: Friday, July 19, 2024 10:40 AM
To: andykelley@gmail.com
Cc: Elections <elections@berkeleyca.gov>; FCPC (Fair Campaign Practices Commission) <FCPC@berkeleyca.gov>
Subject: Notification regarding campaign filing requirement (due by July 31, 2024)
Importance: High

Good morning,

Please see the attached correspondence regarding the *Andy Kelley for Rent Board 2020* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
elections@berkeleyca.gov



City Clerk Department

August 6, 2024

VIA Email and U.S. Mail

Andy Kelley, Treasurer
Andy Kelley for Rent Board 2020
1418A 67th Street
Berkeley, CA 94702

NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Andy:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period January 1 - June 30, 2024 with the City Clerk no later than July 31, 2024. **A review of your file indicates that you have not yet filed this statement.**

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at (510) 981-6908 or elections@berkeleyca.gov if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission

From: [Elections](#)
To: andykelley@gmail.com
Cc: [Elections](#)
Subject: Notice of non-filing of campaign statement (Andy Kelley for Rent Board 2020)
Date: Wednesday, August 7, 2024 1:40:36 PM
Attachments: [2024-08-06 Andy Kelley for Rent Board 2020 NONF 460.pdf](#)
Importance: High

Hello,

Please see the attached Notice of Non-Filing regarding the *Andy Kelley for Rent Board 2020* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA

Assistant City Clerk

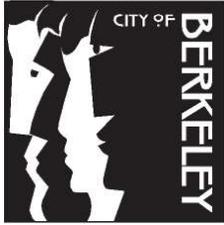
City of Berkeley

2180 Milvia Street, 1st Floor

Berkeley, CA 94704

Email: elections@berkeleyca.gov

Website: <https://berkeleyca.gov/your-government/elections>



City Clerk Department

September 10, 2024

VIA Email and U.S. Mail

Andy Kelley, Treasurer
Andy Kelley for Rent Board 2020
1418A 67th Street
Berkeley, CA 94702

2nd NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Andy:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period January 1 – June 30, 2024 with the City Clerk no later than July 31, 2024. A Notice of Non-Filing was sent on August 6, 2024. **A review of your file indicates that you have not yet filed this statement.**

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

If the statement is not filed by **September 24, 2024**, the matter will be referred to the Berkeley Fair Campaign Practices Commission for enforcement action. Please do not hesitate to contact my staff at (510) 981-6908 or elections@berkeleyca.gov if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission

From: [Elections](#)
To: andykelley@gmail.com
Cc: [Elections](#)
Subject: Second Notice of Non-Filing of Campaign Statement (Andy Kelley for Rent Board 2020)
Date: Wednesday, September 11, 2024 9:33:46 AM
Attachments: [2024-09-10 Andy Kelley for Rent Board 2020 2NONF 460.pdf](#)
Importance: High

Hello Andy,

Please see the attached second Notice of Non-Filing regarding the *Andy Kelley for Rent Board 2020* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA

Assistant City Clerk

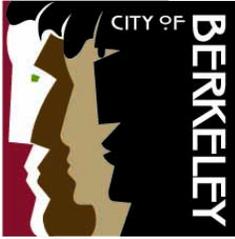
City of Berkeley

2180 Milvia Street, 1st Floor

Berkeley, CA 94704

Email: elections@berkeleyca.gov

Website: <https://berkeleyca.gov/your-government/elections>



Fair Campaign Practices Commission

October 25, 2024

VIA E-MAIL AND U.S. MAIL

Andy Kelley, Treasurer
Andy Kelley for Rent Board 2020
1418A 67th Street
Berkeley, CA 94702
andykelley@gmail.com

RE: Notice of Investigation and Possible Imposition of Penalties for Failure to File Campaign Statements

Dear Mr. Kelley:

Please be informed that the City of Berkeley's Fair Campaign Practices Commission ("FCPC" or "Commission") considered the attached referral ("Referral") from the City Clerk Department at its meeting on Thursday, September 19, 2024. As indicated in the Referral, your campaign committee Andy Kelley for Rent Board 2020 has failed to file the following:

- Campaign statement (Form 460) for the period January 1, 2024 to June 30, 2024, due July 31, 2024

As the Clerk's Referral indicates, you received a notification and a reminder on July 19, 2024 and July 24, 2024 respectively, informing you of your obligation to file the campaign statement due July 31, 2024. Following your failure to file the statement, you also received two notices of non-filing, via letter and email, on August 6, 2024 and September 10, 2024, reminding you of your obligation to file the above campaign statement.

In addition, City records indicate that your committee has failed to file any reports covering the year 2023. Specifically, your campaign committee Andy Kelley for Rent Board 2020 has failed to file the following:

- Campaign statement covering the period from January 1, 2023 to June 30, 2023, due July 31, 2023
- Campaign statement covering the period from July 1, 2023 to December 31, 2023, due January 31, 2024

Notice of Investigation and Possible Imposition of Penalties for Failure to File Campaign Statements

October 25, 2024

Page 2 of 2

Failure to file campaign statements is a violation of the Berkeley Election Reform Act (“BERA”) (BMC Ch. 2.12) and the California Political Reform Act (Cal. Gov. Code § 81000 et seq.) If you do not file these campaign statements, the FCPC may initiate a hearing pursuant to the Berkeley Election Reform Act (“BERA”) (BMC Ch. 2.12), where the FCPC will be empowered to levy fines of up to \$1,000 per violation, or up to the amount of the undisclosed contributions or expenditures, whichever is greater. (BMC § 2.12.231.C.) Additionally, should the Commission determine that you have committed a “substantial violation” of BERA, you will be barred from receiving matching funds under the City’s public financing program for a period of four years. (BMC § 2.12.555.)

Please also be advised that the City Clerk is authorized to impose penalties for late filing of campaign statements in the amount of \$10 per day for late filings. (Gov. Code § 91013). If imposed for your committee’s late statements, late penalties could total up to the greater of \$100 or the total amount of contributions or expenditures reported on each late campaign statement. (Gov. Code § 91013(c).)

Please file your outstanding campaign statements as soon as possible. This matter will appear again on the agenda for the FCPC’s November 21, 2024 regular meeting. You are welcome to appear at that meeting to discuss this matter.

Sincerely,



Samuel Harvey
Secretary, Fair Campaign Practices Commission

Attachment: City Clerk Referral of Non-Filers to the Fair Campaign Practices Commission

cc: Kitt Saginor, Chair, Fair Campaign Practices Commission
Mark Numainville, City Clerk

From: [Andy Kelley](#)
To: [FCPC \(Fair Campaign Practices Commission\)](#)
Cc: [Kitt Saginor](#); [Numainville, Mark L.](#)
Subject: Re: FCPC: Notice of Investigation and Possible Penalties
Date: Friday, October 25, 2024 11:46:04 AM

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Samuel, Mark, Kitt,

Thank you for bringing this to my attention.

I do not believe I have had any activity in that account since the 2020 election occurred. I served as my own Treasurer in 2020.

I have reached out to a treasurer to request advice on how to properly go about closing the campaign account with the City, however with the upcoming election it is difficult to get that assistance immediately.

I am very involved in my re-election campaign right now and making sure those reports are filed correctly and on time, but definitely intend to resolve this matter as soon as possible.

If it is helpful for me to attend the FCPC meeting I am glad to do so. I hope to be able to report to them that the account has been closed by then or to have a timeline for its closure, pending the conversation with a Treasurer.

Thank you,
Andy

Recipient Committee Campaign Statement Cover Page

(Government Code Sections 84200-84216.5)

COVER PAGE

CALIFORNIA FORM 460

Page 1 of 5
For Official Use Only

Date Stamp

E-Filed
04/12/2023
23:27:49
Filing ID:
207738089

Date of election if applicable:

(Month, Day, Year)

11/09/2020

Statement covers period

from 07/01/2022

through 12/31/2022

SEE INSTRUCTIONS ON REVERSE

1. Type of Recipient Committee: All Committees – Complete Parts 1, 2, 3, and 4.

- Officeholder, Candidate Controlled Committee
- State Candidate Election Committee
- Recall (Also Complete Part 5)
- General Purpose Committee
- Sponsored
- Small Contributor Committee
- Political Party/Central Committee
- Primarily Formed Ballot Measure Committee
- Controlled
- Sponsored (Also Complete Part 6)
- Primarily Formed Candidate/Officeholder Committee (Also Complete Part 7)

2. Type of Statement:

- Preelection Statement
- Semi-annual Statement
- Termination Statement (Also file a Form 410 Termination)
- Amendment (Explain below)
- Quarterly Statement
- Special Odd-Year Report
- Supplemental Preelection Statement - Attach Form 495

3. Committee Information

I.D. NUMBER
1429628

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)

Andy Kelley for Rent Board 2020

Treasurer(s)

NAME OF TREASURER

Andy Kelley

MAILING ADDRESS

STREET ADDRESS (NO P.O. BOX)

CITY

Berkeley

STATE

CA

ZIP CODE

94702

AREA CODE/PHONE

(510) 473-7896

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX

CITY

STATE

ZIP CODE

AREA CODE/PHONE

OPTIONAL: FAX / E-MAIL ADDRESS

andykelley@gmail.com

CITY

Berkeley

STATE

CA

ZIP CODE

94702

AREA CODE/PHONE

4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 04/12/2023
Date

By Andy Kelley

Signature of Treasurer or Assistant Treasurer

Executed on 04/12/2023
Date

By Andy Kelley

Signature of Controlling Officerholder, Candidate, State Measure Proponent or Responsible Officer of Sponsor

Executed on _____
Date

By _____

Signature of Controlling Officerholder, Candidate, State Measure Proponent

Executed on _____
Date

By _____

Signature of Controlling Officerholder, Candidate, State Measure Proponent

**Recipient Committee
Campaign Statement
Cover Page — Part 2**

CALIFORNIA FORM 460
Page 2 of 5

5. Officeholder or Candidate Controlled Committee

NAME OF OFFICEHOLDER OR CANDIDATE
Andy Kelley
OFFICE SOUGHT OR HELD (INCLUDE LOCATION AND DISTRICT NUMBER IF APPLICABLE)
Rent Stabilization Board Berkeley: City of Berkeley
RESIDENTIAL/BUSINESS ADDRESS (NO. AND STREET) CITY STATE ZIP
Berkeley CA 94702

Related Committees Not Included in this Statement: *List any committees not included in this statement that are controlled by you or are primarily formed to receive contributions or make expenditures on behalf of your candidacy.*

COMMITTEE NAME	I.D. NUMBER
NAME OF TREASURER	CONTROLLED COMMITTEE? <input type="checkbox"/> YES <input type="checkbox"/> NO
COMMITTEE ADDRESS	STREET ADDRESS (NO P.O. BOX)
CITY	STATE ZIP CODE AREA CODE/PHONE
COMMITTEE NAME	I.D. NUMBER
NAME OF TREASURER	CONTROLLED COMMITTEE? <input type="checkbox"/> YES <input type="checkbox"/> NO
COMMITTEE ADDRESS	STREET ADDRESS (NO P.O. BOX)
CITY	STATE ZIP CODE AREA CODE/PHONE

6. Primarily Formed Ballot Measure Committee

NAME OF BALLOT MEASURE

BALLOT NO. OR LETTER JURISDICTION SUPPORT OPPOSE

Identify the controlling officeholder, candidate, or state measure proponent, if any.

NAME OF OFFICEHOLDER, CANDIDATE, OR PROONENT

OFFICE SOUGHT OR HELD DISTRICT NO. IF ANY

7. Primarily Formed Candidate/Officeholder Committee *List names of officeholder(s) or candidate(s) for which this committee is primarily formed.*

NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE

Attach continuation sheets if necessary

Campaign Disclosure Statement Summary Page

Amounts may be rounded
to whole dollars.

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Andy Kelley for Rent Board 2020

Statement covers period

from 07/01/2022

through 12/31/2022

Page 3 of 5

I.D. NUMBER

1429628

Contributions Received

Column A
TOTAL THIS PERIOD
(FROM ATTACHED SCHEDULES)

Column B
CALENDAR YEAR
TOTAL TO DATE

Calendar Year Summary for Candidates Running in Both the State Primary and General Elections

1/1 through 6/30 7/1 to Date

1. Monetary Contributions	Schedule A, Line 3	\$ 0.00	\$ 0.00
2. Loans Received	Schedule B, Line 3	0.00	100.00
3. SUBTOTAL CASH CONTRIBUTIONS	Add Lines 1 + 2	0.00	100.00
4. Nonmonetary Contributions	Schedule C, Line 3	0.00	0.00
5. TOTAL CONTRIBUTIONS RECEIVED	Add Lines 3 + 4	0.00	100.00

20. Contributions Received \$ _____

21. Expenditures Made \$ _____

Expenditures Made

Expenditure Limit Summary for State Candidates

6. Payments Made	Schedule E, Line 4	\$ 99.00	\$ 159.00
7. Loans Made	Schedule H, Line 3	0.00	0.00
8. SUBTOTAL CASH PAYMENTS	Add Lines 6 + 7	99.00	159.00
9. Accrued Expenses (Unpaid Bills)	Schedule F, Line 3	0.00	0.00
10. Nonmonetary Adjustment	Schedule C, Line 3	0.00	0.00
11. TOTAL EXPENDITURES MADE	Add Lines 8 + 9 + 10	99.00	159.00

22. Cumulative Expenditures Made*
(If Subject to Voluntary Expenditure Limit)

Date of Election (mm/dd/yy) _____ Total to Date _____

Current Cash Statement

12. Beginning Cash Balance	Previous Summary Page, Line 16	401.83
13. Cash Receipts	Column A, Line 3 above	0.00
14. Miscellaneous Increases to Cash	Schedule I, Line 4	0.00
15. Cash Payments	Column A, Line 8 above	99.00
16. ENDING CASH BALANCE	Add Lines 12 + 13 + 14, then subtract Line 15	302.83

If this is a termination statement, Line 16 must be zero.

17. LOAN GUARANTEES RECEIVED	Schedule B, Part 2	\$ 0.00
------------------------------------	--------------------	---------

Cash Equivalents and Outstanding Debts

18. Cash Equivalents	See instructions on reverse	\$ 0.00
19. Outstanding Debts	Add Line 2 + Line 9 in Column B above	\$ 100.00

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

*Amounts in this section may be different from amounts reported in Column B.

Schedule B – Part 1 Loans Received

SCHEDULE B – PART 1

Amounts may be rounded to whole dollars.

Statement covers period from 07/01/2022 through 12/31/2022

CALIFORNIA 460 FORM

SEE INSTRUCTIONS ON REVERSE

Page 4 of 5

NAME OF FILER

I.D. NUMBER

Andy Kelley for Rent Board 2020

1429628

FULL NAME, STREET ADDRESS AND ZIP CODE OF LENDER (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	OUTSTANDING BALANCE BEGINNING THIS PERIOD	AMOUNT RECEIVED THIS PERIOD	AMOUNT PAID OR FORGIVEN THIS PERIOD*	OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	INTEREST PAID THIS PERIOD	ORIGINAL AMOUNT OF LOAN	CUMULATIVE CONTRIBUTIONS TO DATE
Andy Kelley Berkeley, CA 94702	Planning Commissioner Alameda County	\$ 100.00	\$ 0.00	<input type="checkbox"/> PAID <input type="checkbox"/> FORGIVEN \$ 0.00	\$ 100.00	0 %	\$ 100.00	CALENDAR YEAR \$ 0.00 PER ELECTION** \$ 0.00
<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC					12/01/2020 DATE DUE	\$ 0.00 RATE	07/31/2020 DATE INCURRED	
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$	\$	<input type="checkbox"/> PAID <input type="checkbox"/> FORGIVEN \$	\$	%	\$	CALENDAR YEAR \$ PER ELECTION** \$
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		\$	\$	<input type="checkbox"/> PAID <input type="checkbox"/> FORGIVEN \$	\$	%	\$	CALENDAR YEAR \$ PER ELECTION** \$
SUBTOTALS \$		0.00 \$	0.00 \$	0.00 \$	100.00 \$	0.00		

Schedule B Summary

- Loans received this period \$ 0.00
(Total Column (b) plus unitemized loans of less than \$100.)
- Loans paid or forgiven this period \$ 0.00
(Total Column (c) plus loans under \$100 paid or forgiven.)
(Include loans paid by a third party that are also itemized on Schedule A.)
- Net change this period. (Subtract Line 2 from Line 1.) **NET \$** 0.00
Enter the net here and on the Summary Page, Column A, Line 2.

*Amounts forgiven or paid by another party also must be reported on Schedule A.
** If required.

†Contributor Codes
 IND – Individual
 COM – Recipient Committee
 (other than PTY or SCC)
 OTH – Other (e.g., business entity)
 PTY – Political Party
 SCC – Small Contributor Committee

Schedule E Payments Made

Amounts may be rounded to whole dollars.

Statement covers period
from 07/01/2022
through 12/31/2022

Page 5 of 5

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

I.D. NUMBER

Andy Kelley for Rent Board 2020

1429628

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- | | | | | | |
|-----|---|-----|---|-----|---|
| CMP | campaign paraphernalia/misc. | MBR | member communications | RAD | radio airtime and production costs |
| CNS | campaign consultants | MTG | meetings and appearances | RFD | returned contributions |
| CTB | contribution (explain nonmonetary)* | OFC | office expenses | SAL | campaign workers' salaries |
| CVC | civic donations | PET | petition circulating | TEL | t.v. or cable airtime and production costs |
| FIL | candidate filing/ballot fees | PHO | phone banks | TRC | candidate travel, lodging, and meals |
| FND | fundraising events | POL | polling and survey research | TRS | staff/spouse travel, lodging, and meals |
| IND | independent expenditure supporting/opposing others (explain)* | POS | postage, delivery and messenger services | TSF | transfer between committees of the same candidate/sponsor |
| LEG | legal defense | PRO | professional services (legal, accounting) | VOT | voter registration |
| LIT | campaign literature and mailings | PRT | print ads | WEB | information technology costs (internet, e-mail) |

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL \$ 0.00

Schedule E Summary

- Itemized payments made this period. (Include all Schedule E subtotals.) \$ 0.00
- Unitemized payments made this period of under \$100 \$ 99.00
- Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).) \$ 0.00
- Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.) **TOTAL \$ 99.00**

ITEM NO.11-ATTACHMENT 4

Harvey, Samuel

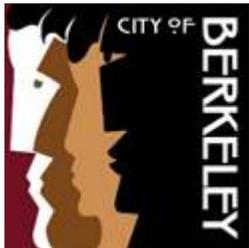
From: FCPC (Fair Campaign Practices Commission)
Sent: Tuesday, January 7, 2025 10:30 AM
To: FCPC (Fair Campaign Practices Commission); 'Andy Kelley'
Cc: Harvey, Samuel
Subject: RE: FCPC: Notice of Investigation and Possible Penalties

Hi Andy,

This is a reminder for you to please file the late campaign statements as soon as possible. The FCPC will be meeting next week, and may decide to pursue enforcement action against you if you file to file the statements. Please note, as stated below, that it is better to file the statements sooner rather than later, even if the statements are not in perfect shape and require subsequent correction, than it is to delay further in filing.

If you would like to attend the next meeting to discuss the status of your efforts to close the account, I am sure the Commission will be happy to hear from you. The next meeting will likely be held (assuming we have a quorum) on January 16, 2025, at 6:30pm.

Thanks,
Stephen

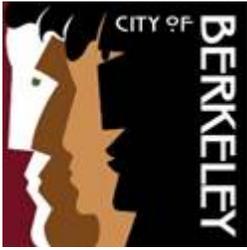


Stephen A. Hylas
Acting Secretary
Fair Campaign Practices Commission
2180 Milvia Street, 4th floor
Berkeley, CA 94704
fcpc@berkeleyca.gov

From: FCPC (Fair Campaign Practices Commission)
Sent: Wednesday, October 30, 2024 9:42 AM
To: Andy Kelley <andykelley@gmail.com>
Cc: FCPC (Fair Campaign Practices Commission) <FCPC@berkeleyca.gov>
Subject: RE: FCPC: Notice of Investigation and Possible Penalties

Thank you, Andy. We will bring this information to the Commission at the next regular meeting on November 21. In the meantime, if you are able to file the late statements as soon as you can, that would be helpful. It is common for people to file amendments later if there are any mistakes, so even if the statement is not in perfect shape, it is better that it be filed sooner rather than later, and then it could be subsequently corrected.

Thanks,
Stephen



Stephen A. Hylas
Acting Secretary
Fair Campaign Practices Commission
2180 Milvia Street, 4th floor
Berkeley, CA 94704
fcpc@berkeleyca.gov

From: Andy Kelley <andykelley@gmail.com>
Sent: Friday, October 25, 2024 11:46 AM
To: FCPC (Fair Campaign Practices Commission) <FCPC@berkeleyca.gov>
Cc: Kitt Saginor <ksaginor@gmail.com>; Numainville, Mark L. <MNumainville@berkeleyca.gov>
Subject: Re: FCPC: Notice of Investigation and Possible Penalties

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi Samuel, Mark, Kitt,

Thank you for bringing this to my attention.

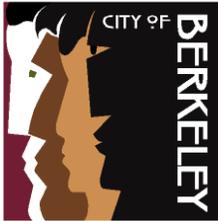
I do not believe I have had any activity in that account since the 2020 election occurred. I served as my own Treasurer in 2020.

I have reached out to a treasurer to request advice on how to properly go about closing the campaign account with the City, however with the upcoming election it is difficult to get that assistance immediately.

I am very involved in my re-election campaign right now and making sure those reports are filed correctly and on time, but definitely intend to resolve this matter as soon as possible.

If it is helpful for me to attend the FCPC meeting I am glad to do so. I hope to be able to report to them that the account has been closed by then or to have a timeline for its closure, pending the conversation with a Treasurer.

Thank you,
Andy



Fair Campaign Practices Commission

Date: January 9, 2025

To: Fair Campaign Practices Commission

From: Samuel Harvey, Secretary

Subject: Enforcement referral regarding Campaign for Police Accountability; possible administrative closure of Committee

At its October 17, 2024 meeting, the Commission received the attached referral from the City Clerk regarding failure by the campaign committee Campaign for Police Accountability (“Committee”) to file the campaign statement (Form 460) covering the period January 1, 2024 to June 30, 2024, which was due July 31, 2024. The Clerk’s referral also indicated that the Committee failed to file any reports covering the year 2023. (Attachment 1.)

At the Commission’s direction, the Commission Secretary sent the attached notice to the Committee on October 25, 2024, informing the Committee of its obligations and warning the Committee that the Commission may pursue enforcement action against the Committee. (Attachment 2.) As of the date of this report, the Secretary has not received any confirmation of receipt of the notice or any correspondence from the Committee, and no additional filings have been submitted by the Committee.

In its last-filed campaign statement, which was filed on January 27, 2023 and covers the period from July 1, 2022 to December 31, 2022, the Committee reported no activity during that period, a cash balance of zero dollars, and only \$50 in contributions and \$50 in expenditures made during the first half of 2022. (Attachment 3.) It is possible the Committee has not had any activity since 2022.

At its November 21, 2024 meeting, the Commission directed staff to pursue contact with the Committee, to notify the Committee treasurer of the Commission’s intent to consider administrative termination of the Committee, and request that any objection be submitted by a date set by the staff, and directed the staff to make recommendations for further actions to be taken.

The Commission Secretary sent two email communications to the Committee Treasurer (on December 27, 2024 and January 8, 2025) informing the Committee that the Commission will consider administrative termination of the Committee. (Attachment 4.) The Secretary requested that the Committee submit any objection to such termination by January 15, 2025. The Commission Secretary also attempted to contact the Committee Treasurer via the telephone number provided in the Committee’s Statement of Organization but found that the number was no longer in service. As of the date of this

January 9, 2025

Page 2 Re: Enforcement referral regarding Campaign for Police Accountability

report, the Commission Secretary has not received any communication from the Committee.

Commission Regulation R2.12.270.1(a) provides that

A candidate's or committee's status and filing obligations pursuant to BMC Chapter 2.12 may be administratively terminated by the Commission, either on its own initiative or upon the candidate's or committee's request.

(Attachment 5)

Notably, while administrative closure would eliminate the Committee's obligations under the Berkeley Election Reform Act ("BERA") (BMC Ch. 2.12), it would not eliminate any state or other filing obligations the Committee may have.

The Commission's regulations direct the Commission to consider the following factors in determining whether to administratively close a committee:

- (1) Aggregate annual reported financial activity
- (2) Reports disclosing minimal or no receipt of contributions and/or expenditures;
and
- (3) Primary purpose for filing reports confined to disclosure of outstanding debts and obligations

As noted above, the Committee's last-filed statement, filed in January 2023, shows no activity, a cash balance of zero dollars, and only \$50 in contributions and \$50 in expenditures made during the first half of 2022. (Attachment 3.) The factors above therefore appear to be satisfied.

However, Regulation R.12.270.1 also provides that "[a]ny evidence of possible violations of any provisions of BMC Chapter 2.12 at present, or if administrative termination occurs, will preclude such administrative termination." Failure to file outstanding campaign statements is technically a violation of BMC Chapter 2.12. (See BMC §§ 2.12.270 & 2.12.271.) The Commission's regulations are therefore capable of being read to preclude administrative termination in this instance.

The Commission may wish to consider whether Regulation R2.12.270.1 should be amended to permit administrative termination where a committee's sole apparent BERA violation is failure to file outstanding reports.

The Secretary recommends the Commission review this matter and direct staff to take action it deems appropriate, consistent with the Commission's Procedures.

January 9, 2025

Page 3 Re: Enforcement referral regarding Campaign for Police Accountability

Attachments:

1. Excerpt from City Clerk's referral as published in October 17, 2024 meeting agenda packet
2. Notice from Secretary to Committee (Oct. 25, 2024)
3. Committee's Form 460 (July 1, 2022 – December 31, 2022)
4. Emails from Commission Secretary to Committee (Dec. 27, 2024 & Jan. 8, 2025)
5. FCPC Regulation R2.12.270.1.



City Clerk Department

September 25, 2024

To: Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Referral of Non-Filers to the Fair Campaign Practices Commission

This memo serves as an official referral to the Fair Campaign Practices Commission for the non-filing of campaign disclosure statements required under the Berkeley Election Reform Act.

Treasurers for the following committees were properly noticed of their requirement to file campaign statements no later than July 31, 2024 for the semi-annual reporting period ending June 30, 2024.

1. Andy Kelley for Rent Board 2020

Ending cash balance of previous report: \$302.83 (Statement period 7/1/2022 – 12/31/2022). The notices were sent on July 19 and July 24.

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.

2. Campaign for Police Accountability

Ending cash balance of previous report: \$0.00 (7/1/2022 – 12/31/2022). The notices were sent on July 19 and July 24.

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.

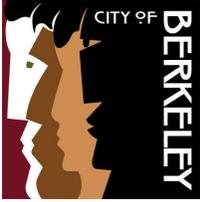
The Elected official below was properly noticed of their requirement to file an officeholder campaign statement, Form 470, covering the calendar year 2024.

3. Vanessa Danielle Marrero, Rent Stabilization Board Commissioner

The notices were sent on July 19 and July 24.

These filers have failed to file the required statements and are being referred to the Fair Campaign Practices Commission for enforcement. Detailed information regarding each filer case, including relevant correspondence, is attached to this memorandum.

Please confirm receipt of this referral and provide notice of any next steps in the enforcement process to my office and to the committees being referred. My staff is available if you have any questions regarding this matter.



City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Committee **Campaign for Police Accountability**

Treasurer **Russ Tilleman**

Candidate **N/A**

Statement Information

Filing Due Date **7/31/2024**

Reporting Period Start Date **1/1/2024**

Reporting Period End Date **6/30/2024**

Notifications to Filer

Date **7/19/2024** Type **Notification (letter & email)**

Date **7/24/2024** Type **1st Reminder (email)**

Date **8/6/2024** Type **1st Notice of Non-Filing (letter & email)**

Date **9/10/2024** Type **2nd Notice of Non-Filing (letter & email)**

Date _____ Type _____

Additional Information

Ending cash balance of previous report: \$0.00 (7/1/2022 - 12/31/2022).

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.



City Clerk Department

July 18, 2024

Russ Tilleman, Treasurer
 Campaign for Police Accountability
 2670 Parker Street
 Berkeley, CA 94704

Dear Russ:

This letter is notice that open campaign committees must file a semi-annual campaign statement (Form 460) covering the period of January 1 – June 30, 2024. The statement is due by **Wednesday, July 31, 2024**. Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additional information regarding your filing obligations is below.

Termination

Filing obligations continue until the committee has terminated. You may terminate when there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge debt. To terminate the committee, file a terminating Form 410 and Form 460. Refer to the [State Campaign Disclosure Manual](#) appropriate for your committee for detailed information on these requirements. Remember that the original Form 410 is filed with the Secretary of State, and a paper copy is filed with my office.

Differences in State and Local Law

Berkeley's campaign disclosure requirements differ from state law. Consult the Fair Campaign Practices Commission's regulations and campaign filing manual (available on our website at <https://berkeleyca.gov/your-government/elections>) to ensure full compliance with the law.

Most campaign statements must be filed electronically. If you need help with the electronic filing system, please contact my staff at (510) 981-6908 or elections@berkeleyca.gov.

Sincerely,

Mark Numainville
 City Clerk

cc: Fair Campaign Practices Commission

From: [Elections](#)
To: russ.tilleman@gmail.com
Cc: [Elections](#); [FCPC \(Fair Campaign Practices Commission\)](#)
Subject: Notification regarding campaign filing requirement (due by July 31, 2024)
Date: Friday, July 19, 2024 11:08:11 AM
Attachments: [2024-07-18 Campaign for Police Accountability.pdf](#)
Importance: High

Good morning,

Please see the attached correspondence regarding the *Campaign for Police Accountability* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
Email: elections@berkeleyca.gov
Website: <https://berkeleyca.gov/your-government/elections>

From: [Elections](#)
To: russ.tilleman@gmail.com
Cc: [Elections](#)
Subject: REMINDER: Campaign filing requirement (due by January 31, 2024)
Date: Wednesday, January 24, 2024 9:17:53 AM
Attachments: [2024-01-10 \(Semi-Annual Form 460\) Campaign for Police Accountability.pdf](#)
Importance: High

Hello,

This email is a reminder of the upcoming filing deadline outlined in the attached correspondence.

Please contact our office at elections@berkeleyca.gov or call (510) 980-6908 if you have any questions.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
elections@berkeleyca.gov

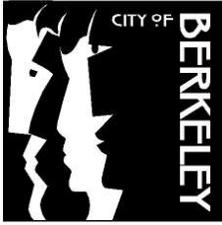
From: Elections
Sent: Wednesday, January 10, 2024 11:48 AM
To: russ.tilleman@gmail.com
Cc: Elections <elections@berkeleyca.gov>
Subject: Notification regarding campaign filing requirement (due by January 31, 2024)
Importance: High

Hello,

Please see the attached correspondence regarding the *Campaign for Police Accountability* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
elections@berkeleyca.gov



City Clerk Department

August 6, 2024

VIA Email and U.S. Mail

Russ Tilleman, Treasurer
Campaign for Police Accountability
2670 Parker Street
Berkeley, CA 94704

NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Russ:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period January 1 - June 30, 2024 with the City Clerk no later than July 31, 2024. **A review of your file indicates that you have not yet filed this statement.**

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at (510) 981-6908 or elections@berkeleyca.gov if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission

From: [Elections](#)
To: russ.tilleman@gmail.com
Cc: [Elections](#)
Subject: Notice of non-filing of campaign statement (Campaign for Police Accountability)
Date: Wednesday, August 7, 2024 1:42:20 PM
Attachments: [2024-08-06 Campaign for Police Accountability_NONF_460.pdf](#)
Importance: High

Hello,
Please see the attached Notice of Non-Filing regarding the *Campaign for Police Accountability* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA

Assistant City Clerk

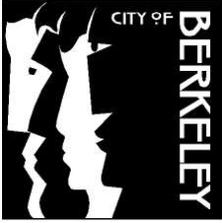
City of Berkeley

2180 Milvia Street, 1st Floor

Berkeley, CA 94704

Email: elections@berkeleyca.gov

Website: <https://berkeleyca.gov/your-government/elections>



City Clerk Department

September 10, 2024

VIA Email and U.S. Mail

Russ Tilleman, Treasurer
Campaign for Police Accountability
2670 Parker Street
Berkeley, CA 94704

2nd NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Russ:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period January 1 – June 30, 2024 with the City Clerk no later than July 31, 2024. A Notice of Non-Filing was sent on August 6, 2024. **A review of your file indicates that you have not yet filed this statement.**

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

If the statement is not filed by **September 24, 2024**, the matter will be referred to the Berkeley Fair Campaign Practices Commission for enforcement action. Please do not hesitate to contact my staff at (510) 981-6908 or elections@berkeleyca.gov if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission

From: [Elections](#)
To: russ.tilleman@gmail.com
Cc: [Elections](#)
Subject: Second Notice of Non-Filing of Campaign Statement (Campaign for Police Accountability)
Date: Wednesday, September 11, 2024 9:32:52 AM
Attachments: [2024-09-10 Campaign for Police Accountability 2NONF 460.pdf](#)
Importance: High

Hello Russ,

Please see the attached second Notice of Non-Filing regarding the *Campaign for Police Accountability* campaign committee. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA

Assistant City Clerk

City of Berkeley

2180 Milvia Street, 1st Floor

Berkeley, CA 94704

Email: elections@berkeleyca.gov

Website: <https://berkeleyca.gov/your-government/elections>



Fair Campaign Practices Commission

October 25, 2024

VIA E-MAIL AND U.S. MAIL

Russ Tilleman, Treasurer
Campaign for Police Accountability
2670 Parker Street
Berkeley, CA 94704
russ.tilleman@gmail.com

RE: Notice of Investigation and Possible Imposition of Penalties for Failure to File Campaign Statements

Dear Mr. Tilleman:

Please be informed that the City of Berkeley's Fair Campaign Practices Commission ("FCPC" or "Commission") considered the attached referral ("Referral") from the City Clerk Department at its meeting on Thursday, September 19, 2024. As indicated in the Referral, your campaign committee Campaign for Police Accountability has failed to file the following:

- Campaign statement (Form 460) for the period January 1, 2024 to June 30, 2024, due July 31, 2024

As the Clerk's Referral indicates, you received a notification and a reminder on July 19, 2024 and July 24, 2024 respectively, informing you of your obligation to file the campaign statement due July 31, 2024. Following your failure to file the statement, you also received two notices of non-filing, via letter and email, on August 6, 2024 and September 10, 2024, reminding you of your obligation to file the above campaign statement.

In addition, City records indicate that your committee has failed to file any reports covering the year 2023. Specifically, your campaign committee has failed to file the following:

- Campaign statement covering the period from January 1, 2023 to June 30, 2023, due July 31, 2023
- Campaign statement covering the period from July 1, 2023 to December 31, 2023, due January 31, 2024

Notice of Investigation and Possible Imposition of Penalties for Failure to File Campaign Statements

October 25, 2024

Page 2 of 2

Failure to file campaign statements is a violation of the Berkeley Election Reform Act (“BERA”) (BMC Ch. 2.12) and the California Political Reform Act (Cal. Gov. Code § 81000 et seq.). If you do not file these campaign statements, the FCPC may initiate a hearing pursuant to the Berkeley Election Reform Act (“BERA”) (BMC Ch. 2.12), where the FCPC will be empowered to levy fines of up to \$1,000 per violation, or up to the amount of the undisclosed contributions or expenditures, whichever is greater. (BMC § 2.12.231.C.)

Please also be advised that the City Clerk is authorized to impose late filing penalties in the amount of \$10 per day. (Gov. Code § 91013). If imposed for your committee’s late statements, late penalties could total up to the greater of \$100 or the total amount of contributions or expenditures reported on each late campaign statement. (Gov. Code § 91013(c).)

Please file your outstanding campaign statements as soon as possible. The FCPC understands that City records indicate that your committee had a cash balance of \$0.00 and no outstanding debts as of December 21, 2022. However, even inactive campaign committees continue to incur campaign statement filing obligations until the campaign committee is terminated.

This matter will appear again on the agenda for the FCPC’s November 21, 2024 regular meeting. You are welcome to appear at that meeting to discuss this matter.

Sincerely,



Samuel Harvey
Secretary, Fair Campaign Practices Commission

Attachment: City Clerk Referral of Non-Filers to the Fair Campaign Practices Commission

cc: Kitt Saginor, Chair, Fair Campaign Practices Commission
Mark Numainville, City Clerk

**Recipient Committee
Campaign Statement
Cover Page — Part 2**

**CALIFORNIA
FORM 460**

Page 2 of 3

5. Officeholder or Candidate Controlled Committee

NAME OF OFFICEHOLDER OR CANDIDATE _____

OFFICE SOUGHT OR HELD (INCLUDE LOCATION AND DISTRICT NUMBER IF APPLICABLE) _____

RESIDENTIAL/BUSINESS ADDRESS (NO. AND STREET) CITY STATE ZIP _____

6. Primarily Formed Ballot Measure Committee

NAME OF BALLOT MEASURE
Police Accountability Board

BALLOT NO. OR LETTER JURISDICTION SUPPORT OPPOSE

NA City of Berkeley

Identify the controlling officeholder, candidate, or state measure proponent, if any.

NAME OF OFFICEHOLDER, CANDIDATE, OR PROponent _____

OFFICE SOUGHT OR HELD DISTRICT NO. IF ANY _____

Related Committees Not Included in this Statement: List any committees not included in this statement that are controlled by you or are primarily formed to receive contributions or make expenditures on behalf of your candidacy.

COMMITTEE NAME	I.D. NUMBER
NAME OF TREASURER	CONTROLLED COMMITTEE? <input type="checkbox"/> YES <input type="checkbox"/> NO
COMMITTEE ADDRESS	STREET ADDRESS (NO P.O. BOX)
CITY	STATE ZIP CODE AREA CODE/PHONE
COMMITTEE NAME	I.D. NUMBER
NAME OF TREASURER	CONTROLLED COMMITTEE? <input type="checkbox"/> YES <input type="checkbox"/> NO
COMMITTEE ADDRESS	STREET ADDRESS (NO P.O. BOX)
CITY	STATE ZIP CODE AREA CODE/PHONE

7. Primarily Formed Candidate/Officeholder Committee List names of officeholder(s) or candidate(s) for which this committee is primarily formed.

NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSE

Attach continuation sheets if necessary

Campaign Disclosure Statement Summary Page

Amounts may be rounded
to whole dollars.

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

Campaign for Police Accountability

Statement covers period
from 07/01/2022
through 12/31/2022

Page 3 of 3

I.D. NUMBER
1400286

Contributions Received

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
1. Monetary Contributions	Schedule A, Line 3 \$ 0.00	\$ 0.00
2. Loans Received	Schedule B, Line 3 0.00	0.00
3. SUBTOTAL CASH CONTRIBUTIONS	Add Lines 1 + 2 0.00	\$ 0.00
4. Nonmonetary Contributions	Schedule C, Line 3 50.00	50.00
5. TOTAL CONTRIBUTIONS RECEIVED	Add Lines 3 + 4 0.00	\$ 50.00

Calendar Year Summary for Candidates Running in Both the State Primary and General Elections

1/1 through 6/30 7/1 to Date

20. Contributions Received \$ _____

21. Expenditures Made \$ _____

Expenditures Made

6. Payments Made	Schedule E, Line 4 \$ 0.00	\$ 0.00
7. Loans Made	Schedule H, Line 3 0.00	0.00
8. SUBTOTAL CASH PAYMENTS	Add Lines 6 + 7 0.00	\$ 0.00
9. Accrued Expenses (Unpaid Bills)	Schedule F, Line 3 0.00	0.00
10. Nonmonetary Adjustment	Schedule C, Line 3 50.00	50.00
11. TOTAL EXPENDITURES MADE	Add Lines 8 + 9 + 10 0.00	\$ 50.00

Expenditure Limit Summary for State Candidates

22. Cumulative Expenditures Made*
(If Subject to Voluntary Expenditure Limit)

Date of Election (mm/dd/yy) _____ Total to Date _____

_____ / _____ / _____ \$ _____

_____ / _____ / _____ \$ _____

Current Cash Statement

12. Beginning Cash Balance	Previous Summary Page, Line 16 0.00	\$ 0.00
13. Cash Receipts	Column A, Line 3 above 0.00	0.00
14. Miscellaneous Increases to Cash	Schedule I, Line 4 0.00	0.00
15. Cash Payments	Column A, Line 8 above 0.00	0.00
16. ENDING CASH BALANCE	Add Lines 12 + 13 + 14, then subtract Line 15 0.00	\$ 0.00

If this is a termination statement, Line 16 must be zero.

17. LOAN GUARANTEES RECEIVED

Schedule B, Part 2 \$ 0.00

Cash Equivalents and Outstanding Debts

18. Cash Equivalents	See instructions on reverse 0.00	\$ 0.00
19. Outstanding Debts	Add Line 2 + Line 9 in Column B above 0.00	\$ 0.00

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

*Amounts in this section may be different from amounts reported in Column B.

Harvey, Samuel

From: Harvey, Samuel
Sent: Wednesday, January 8, 2025 3:30 PM
To: russ.tilleman@gmail.com
Cc: FCPC (Fair Campaign Practices Commission)
Subject: FCPC: Notice of Possible Administrative Termination
Attachments: FCPC Notice of Investigation - Campaign for Police Accountability.pdf

Mr. Tilleman,

I am following up on my December 27th message to you. I attempted to reach you via telephone but found that the number we have on file for you ((510) 485-6044) is no longer in service.

Please be informed that, at its November 21, 2024, regular meeting, the Fair Campaign Practices Commission (FCPC) considered the matter of the numerous outstanding filings of your committee, Campaign for Police Accountability. Given the failure by your committee to file any required reports in 2023 and 2024, and the apparent inactivity by the committee during that time, the FCPC will consider administratively terminating your committee at its January 16, 2025, regular meeting pursuant to FCPC Regulation R2.12.270.1.

Please submit any objection to such termination to FCPC@berkeleyca.gov no later than Wednesday January 15, 2025.

Please feel free to contact me with any questions.

Regards,

Sam Harvey



Samuel J. Harvey

Secretary

Fair Campaign Practices Commission / Open Government Commission

City of Berkeley

2180 Milvia Street, 4th Floor

Berkeley, CA 94704

fcpc@berkeleyca.gov

This E-Mail message and any attachments are confidential and may be privileged. The information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents of this information is prohibited and may be unlawful. If you have received this E-Mail in error, please reply immediately to the sender and destroy all copies of this message and any attachments without reading or disclosing their contents. Thank you.

From: Harvey, Samuel
Sent: Friday, December 27, 2024 6:14 PM
To: 'russ.tilleman@gmail.com' <russ.tilleman@gmail.com>
Cc: FCPC (Fair Campaign Practices Commission) <FCPC@berkeleyca.gov>
Subject: FCPC: Notice of Possible Administrative Termination

Dear Mr. Tilleman,

Please be informed that, at its November 21, 2024, regular meeting, the Fair Campaign Practices Commission (FCPC) considered the matter of the numerous outstanding filings of your committee, Campaign for Police Accountability. Given the failure by your committee to file any required reports in 2023 and 2024, and the apparent inactivity by the committee during that time, the FCPC will consider administratively terminating your committee at its January 16, 2025, regular meeting pursuant to FCPC Regulation R2.12.270.1.

Please submit any objection to such termination to FCPC@berkeleyca.gov no later than Wednesday January 15, 2025.

Please feel free to contact me with any questions.



Samuel J. Harvey

Secretary

Fair Campaign Practices Commission / Open Government Commission

City of Berkeley

2180 Milvia Street, 4th Floor

Berkeley, CA 94704

fcpc@berkeleyca.gov

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From: FCPC (Fair Campaign Practices Commission)
Sent: Friday, October 25, 2024 11:36 AM
To: russ.tilleman@gmail.com
Cc: Kitt Saginor <ksaginor@gmail.com>; Numainville, Mark L. <MNumainville@berkeleyca.gov>
Subject: FCPC: Notice of Investigation and Possible Penalties

Restricted

Mr. Tilleman,

Please find attached a notice that the City of Berkeley's Fair Campaign Practices Commission (FCPC) has received and considered a referral from the City Clerk regarding repeated failure by your campaign committee Campaign for Police Accountability to file outstanding campaign statements.

ITEM NO. 12-ATTACHMENT 4

Please file your outstanding campaign statements as soon as possible. This matter will appear again on the agenda for the FCPC's November 21, 2024 regular meeting. You are welcome to appear at that meeting to discuss this matter.

Sincerely,

Sam Harvey

Samuel J. Harvey

Secretary

Fair Campaign Practices Commission / Open Government Commission

City of Berkeley

2180 Milvia Street, 4th Floor

Berkeley, CA 94704

fcpc@cityofberkeley.info

CONFIDENTIALITY NOTICE

This message, including any attachments, is intended solely for the named addressee, and may contain information that is confidential, privileged, proprietary, or legally protected from disclosure. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender and delete this message and any attachments from your system. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

R2.12.270.1 Administrative Termination of Filing Obligations

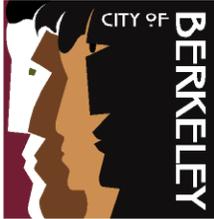
(a) A candidate's or committee's status and filing obligations pursuant to BMC Chapter 2.12 may be administratively terminated by the Commission, either on its own initiative or upon the candidate's or committee's request.

(b) Factors the Commission will consider in determining administrative termination include the candidate's or committee's:

- (1) aggregate annual reported financial activity
- (2) reports disclosing minimal or no receipt of contributions and/or expenditures; and
- (3) primary purpose for filing reports confined to disclosure of outstanding debts and obligations

Any evidence of possible violations of any provisions of BMC Chapter 2.12 at present, or if administrative termination occurs, will preclude such administrative termination.

(c) The Commission will notify the candidate and committee treasurer of its intent to consider administrative termination and may request that any objections be submitted within a reasonable time.



Fair Campaign Practices Commission

Date: January 9, 2025

To: Fair Campaign Practices Commission

From: Samuel Harvey, Secretary

Subject: Enforcement referral regarding Campaign Rent Stabilization Board Commissioner Vanessa Danielle Marrero

At its October 17, 2024 meeting, the Commission received the attached referral from the City Clerk regarding failure by Rent Stabilization Board Commissioner Vanessa Danielle Marrero (“Officeholder”) to file a Form 470 (Short Form Officeholder and Candidate Campaign Statement) for the year 2024. (Attachment 1.) Officeholders are required to file a Form 470 annually in any year in which they anticipate they will not receive contributions or make expenditures over \$1,000. (BMC § 2.12.270.C.1.)

At the Commission’s direction, the Commission Secretary sent the attached message to the Officeholder on October 25, 2024, informing the Officeholder of the referral and reminding the Officeholder of the obligation to file a Form 470 for the year 2024. (Attachment 2.) As of the date of this report, the Secretary has not received any confirmation of receipt of the message.

At its November 21, 2024 meeting, the Commission directed the Commission Secretary to again attempt to contact the Officeholder. The Commission secretary sent two emails to the Officeholder (on December 30, 2024 and January 8, 2025). (Attachment 3.) The Secretary also attempted to contact the Officeholder via telephone but found that the number the City has on file for the Officeholder is no longer in service. As of the date of this report, the Secretary has not received any communication from the Officeholder and no additional filings have been submitted by the Officeholder.

The Secretary recommends the Commission review this matter and direct staff to take action it deems appropriate, consistent with the Commission’s Procedures.

Attachments:

1. Excerpt from City Clerk’s referral as published in October 17, 2024 meeting agenda packet
2. Notice from Secretary to Officeholder (Oct. 25, 2024)
3. Emails from Commission Secretary (Dec. 30, 2024 & Jan. 8, 2025)



City Clerk Department

September 25, 2024

To: Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Referral of Non-Filers to the Fair Campaign Practices Commission

This memo serves as an official referral to the Fair Campaign Practices Commission for the non-filing of campaign disclosure statements required under the Berkeley Election Reform Act.

Treasurers for the following committees were properly noticed of their requirement to file campaign statements no later than July 31, 2024 for the semi-annual reporting period ending June 30, 2024.

1. Andy Kelley for Rent Board 2020

Ending cash balance of previous report: \$302.83 (Statement period 7/1/2022 – 12/31/2022). The notices were sent on July 19 and July 24.

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.

2. Campaign for Police Accountability

Ending cash balance of previous report: \$0.00 (7/1/2022 – 12/31/2022). The notices were sent on July 19 and July 24.

In addition, this committee was referred to the FCPC on September 19, 2023 for non-filing the semi-annual statement due on July 31, 2023 and on March 20, 2024 for non-filing the semi-annual statement due on December 31, 2023.

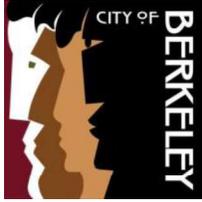
The Elected official below was properly noticed of their requirement to file an officeholder campaign statement, Form 470, covering the calendar year 2024.

3. Vanessa Danielle Marrero, Rent Stabilization Board Commissioner

The notices were sent on July 19 and July 24.

These filers have failed to file the required statements and are being referred to the Fair Campaign Practices Commission for enforcement. Detailed information regarding each filer case, including relevant correspondence, is attached to this memorandum.

Please confirm receipt of this referral and provide notice of any next steps in the enforcement process to my office and to the committees being referred. My staff is available if you have any questions regarding this matter.



City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Officeholder Vanessa Danielle Marrero (dmarrero@gmail.com)

Statement Information

Filing Due Date 7/31/2024

Statement Covers Calendar Year 2024

Notifications to Filer

Date 7/19/2024 Type 1st Notification (Letter and Email)

Date 7/24/2024 Type Reminder (Email)

Date 8/7/2024 Type 1st Notice of Non-Filing (Letter and Email)

Date 9/11/2024 Type 2nd Notice of Non-Filing (Letter and Email)

Date _____ Type _____

Additional Information



City Clerk Department

July 18, 2024

Vanessa Danielle Marrero
1819 Addison Street, #4
Berkeley, CA 94703

Dear Vanessa:

As an elected official without an open campaign committee, you are required to complete and file the enclosed [Form 470](#) (Officeholder Campaign Statement – Short Form). This statement covers calendar year 2024 and is due to my office by **Wednesday, July 31, 2024.**

Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additionally, if you plan to raise or spend \$1,000 or more during calendar year 2024, you are required to create a campaign committee and file the Form 460 (Recipient Committee Campaign Statement).

Please contact my staff at (510) 981-6908 or elections@berkeleyca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville
City Clerk

cc: Fair Campaign Practices Commission

Burgara, Denise

From: Elections
Sent: Wednesday, July 24, 2024 1:04 PM
To: 'vdmarrero@gmail.com'
Cc: Elections
Subject: Notification regarding officeholder filing requirement (due by July 31, 2024)
Attachments: 2024-07-18 Marrero.pdf

Importance: High

Categories: Denise responding

Hello,

This is a reminder of the upcoming filing deadline outlined in the attached correspondence.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

Email: elections@berkeleyca.gov
Website: <https://berkeleyca.gov/your-government/elections>

From: Elections <elections@berkeleyca.gov>
Sent: Friday, July 19, 2024 10:06 AM
To: 'vdmarrero@gmail.com' <vdmarrero@gmail.com>
Cc: Elections <elections@berkeleyca.gov>; FCPC (Fair Campaign Practices Commission) <FCPC@berkeleyca.gov>
Subject: Notification regarding officeholder filing requirement (due by July 31, 2024)
Importance: High

Good morning,

Please see the attached correspondence pertaining to your upcoming officeholder filing requirement. Hard copy to follow by mail.

If you have any questions regarding this matter, please contact our office at elections@berkeleyca.gov or (510) 980-6908.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

Burgara, Denise

From: Elections
Sent: Wednesday, August 7, 2024 1:38 PM
To: dmarrero@gmail.com
Cc: Elections
Subject: Notice of Non-Filing Form 470 (Due July 31)
Attachments: 2024-08-07 Marrero_NONF_470.pdf

Importance: High

Categories: Denise responding

Hello Vanessa,

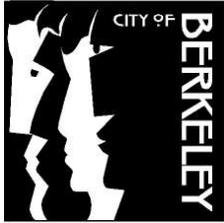
Please see the attached Notice of Non-Filing Form 470 campaign statement. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

Email: elections@berkeleyca.gov

Website: <https://berkeleyca.gov/your-government/elections>



City Clerk Department

August 7, 2024

VIA Email and U.S. Mail

Vanessa Danielle Marrero
1819 Addison Street, #4
Berkeley, CA 94703

NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Vanessa:

As an officeholder without an active campaign committee, you were required to complete and file **Form 470**, Campaign Statement, Short Form, covering the 2024 calendar year, with the City Clerk no later than July 31, 2024. A review of your file indicates that you have not yet filed a statement as requested in my letter of July 19, 2024.

The Political Reform Act prohibits filing officers from extending a filing deadline. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing. Enclosed please find a Form 470 and a Request for Waiver of Liability form.

Please do not hesitate to contact my staff at (510) 981-6908 or elections@berkeleyca.gov if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Enc.

cc: Fair Campaign Practices Commission

Officeholder and Candidate Campaign Statement — Short Form - AND - Form 470 Supplement

CALIFORNIA
FORM
470

Who Uses Form 470:

Form 470 is for use by officeholders and candidates who:

- do not have a controlled committee;
- do not anticipate receiving contributions totaling \$2,000 or more during the calendar year; and
- do not anticipate spending \$2,000 or more during the calendar year.

Officeholders and candidates who have a controlled committee or who have raised or spent \$2,000, file the Recipient Committee Statement — Form 460.

Exceptions:

The following individuals seeking or holding office are not required to file campaign disclosure statements (Form 470 or Form 460):

- candidates for county central committee offices that do not raise or spend \$2,000 or more in a calendar year;
- officeholders whose salaries are less than \$200 per month and judicial candidates who have not made or received contributions or made expenditures during non-election years; and
- judges who do not receive contributions and who make personal expenditures of less than \$1,000 or more in non-election years.

Period Covered:

The period covered is always the calendar year (January 1 through December 31).

\$2,000 Threshold:

To determine if \$2,000 has been raised or spent, or will be raised or spent, the candidate's personal funds for the filing fee or statement of qualifications are excluded.

A campaign bank account must be established if the candidate receives contributions from other persons.

When to File:

Ensure campaign deadlines are met. Go to www.fppc.ca.gov for campaign disclosure filing schedules.

If the Form 470 is filed in connection with an election, or on or before the filing deadline for the first campaign statement required for the calendar year, no additional campaign statements need to be filed for that calendar year as long as total contributions received remain less than \$2,000 and total expenditures made remain less than \$2,000. In most cases, July 31 is the filing deadline for the first campaign statement required to be filed by officeholders and candidates not being voted upon.

The Form 470 is filed in connection with an election if it is filed with the declaration of candidacy, or as a first preelection statement in connection with an election, covering the year of the election. If, after filing Form 470, receipts or expenditures reach \$2,000 or more, see the attached Form 470 Supplement for important reporting requirements.

Where to File:

State Elections:

State officeholders, state candidates, candidates and members of CalPERS and CalSTRS, judges and judicial candidates must file the original and one copy with:

Secretary of State
Political Reform Division
1500 11th Street, Room 495
Sacramento, CA 95814
Phone (916) 653-6224
Fax (916) 653-5045
www.sos.ca.gov

Additional Copies:

A copy of the Form 470 must also be filed with the candidate's county of domicile's filing officer. CalPERS and CalSTRS board candidates must file a copy of the Form 470 with the relevant CalPERS or CalSTRS office and not the candidate's county of domicile.

Local Elections:

- Elected officers and candidates for local multi-county agencies file an original and one copy with the elections official for the county with the largest number of registered voters in the district and one copy with the candidate's county of domicile.
- Elected county officeholders and candidates for county offices file an original and one copy with the elections official for that county.
- Elected city officeholders and candidates for city offices file an original and one copy with the city clerk.

Note: A local agency may impose additional requirements.

Amendments: If you are filing an amendment to a previously filed statement, give a brief explanation of the amendment. Be sure to enter the calendar year covered by the statement you are amending and the date of election, if applicable.

This form was prepared by the Fair Political Practices Commission (FPPC). For detailed information on campaign reporting requirements and the Information Practices Act of 1977, see the FPPC Campaign Disclosure Manual.

ITEM NO. 13-ATTACHMENT 1

**Officeholder and Candidate
Campaign Statement –
Short Form**

Date Stamp	CALIFORNIA FORM 470 <small>For Official Use Only</small>
Date of election if applicable: (Month, Day, Year)	<input type="checkbox"/> Amendment (Explain Below)

1. Statement Covers Calendar Year 20 _____ .

2. Officeholder or Candidate Information

NAME OF OFFICEHOLDER OR CANDIDATE _____

OFFICE SOUGHT OR HELD _____

STREET ADDRESS _____

JURISDICTION (LOCATION) _____

CITY _____ STATE _____ ZIP CODE _____

AREA CODE/DAYTIME PHONE NUMBER _____

OPTIONAL: FAX / E-MAIL ADDRESS _____

DISTRICT NUMBER (IF APPLICABLE) _____

4. Committee Information

List all committees of which you have knowledge that are primarily formed to receive contributions or to make expenditures on behalf of your candidacy.

COMMITTEE NAME AND I.D. NUMBER	COMMITTEE ADDRESS	NAME OF TREASURER

5. Verification

I declare under penalty of perjury that to the best of my knowledge I anticipate that I will receive less than \$2,000 during the calendar year and that I have used all reasonable diligence in preparing this statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ DATE

By _____ SIGNATURE OF OFFICEHOLDER OR CANDIDATE

**Officeholder and Candidate
Campaign Statement
Form 470 Supplement**

Amendment (Explain Below)

Date Stamp

**CALIFORNIA
FORM**

**470
SUPPLEMENT**

For Official Use Only

SEE INSTRUCTIONS ON REVERSE

This form is written notification that the officeholder/candidate listed below has received contributions totaling \$2,000 or more or has made expenditures of \$2,000 or more during the calendar year.

1. Officeholder or Candidate Information

NAME OF OFFICEHOLDER OR CANDIDATE

STREET ADDRESS

CITY

STATE

ZIP CODE

AREA CODE/DAYTIME PHONE NUMBER

OPTIONAL: FAX / E-MAIL ADDRESS

2. Office Sought

OFFICE SOUGHT

DISTRICT NUMBER
(IF APPLICABLE)

DATE OF ELECTION (MONTH, DAY, YEAR)

3. Date Contributions Totalling \$2,000 or More Were Received or Date Expenditures of \$2,000 or More Were Made

(MONTH, DAY, YEAR)

Instructions for Completing Form 470 Supplement

Form 470 Supplement:

If an officeholder or candidate files the Form 470 for an election year and later receives contributions (including monetary and non-monetary contributions, loans, and the candidate's personal funds) totaling \$2,000 or more or makes expenditures totaling \$2,000 or more during the same calendar year, the officeholder or candidate must send a written notice within 48 hours. Use the attached Form 470 Supplement or follow the instructions below for preparing the notice.

When to File:

The notice must be sent within 48 hours of receiving contributions totaling \$2,000 or more or making expenditures of \$2,000 or more.

Method of Delivery:

The notice must be sent by guaranteed overnight delivery service, personal delivery, fax, or email. Regular mail may not be used.

Where to File:

- Secretary of State's Office;
- local filing officer with whom the officeholder/candidate is required to file the originals of his/her campaign statements; and
- each candidate seeking the same office.

Contact your filing officer for candidate addresses.

Officeholder/Candidate Information:

Enter the officeholder/candidate's full name, residential or business address and daytime telephone number.

Office Sought:

- Enter the title of the office sought;
- the district number, if any; and
- the date of the election.

Date Contributions/Expenditures Were Made or Received:

Enter the date monetary or non-monetary contributions totaling \$2,000 or more (including the candidate's personal funds) were received or the date expenditures of \$2,000 or more were made.

Amendments: If you are filing an amendment to a previously filed statement, give a brief explanation of the amendment.

Note: Once an officeholder or candidate reaches the \$2,000 threshold in receipts or expenditures, in addition to filing the Form 470 Supplement, other forms are required. See FPPC Campaign Disclosure Manual 1 for state candidates or Manual 2 for local candidates.

ITEM NO. 13-ATTACHMENT 1

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			

Burgara, Denise

From: Elections
Sent: Wednesday, September 11, 2024 9:36 AM
To: dmarrero@gmail.com
Cc: Elections
Subject: Second Notice of Non-Filing (Form 470 due by July 31, 2024)
Attachments: 2024-09-10 Marrero_2NONF_470.pdf; 470 ADA.pdf

Importance: High

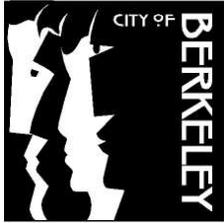
Categories: Denise responding

Hello Vanessa,

Please see the attached second Notice of Non-Filing Form 470 campaign statement. Hard copy to follow by mail.

Sincerely,

Denise Burgara, MPA
Assistant City Clerk
City of Berkeley
2180 Milvia Street, 1st Floor
Berkeley, CA 94704
elections@berkeleyca.gov



City Clerk Department

September 10, 2024

VIA Email and U.S. Mail

Vanessa Danielle Marrero
1819 Addison Street, #4
Berkeley, CA 94703

2ND NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Vanessa:

As an officeholder without an active campaign committee, you were required to complete and file **Form 470**, Campaign Statement, Short Form, covering the 2024 calendar year, with the City Clerk no later than July 31, 2024. A Notice of Non-Filing was sent on August 7, 2024. **A review of your file indicates that you have not yet filed a statement.**

The Political Reform Act prohibits filing officers from extending a filing deadline. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing. Enclosed please find a Form 470 and a Request for Waiver of Liability form.

If the statement is not filed by **September 24, 2024**, the matter will be referred to the Berkeley Fair Campaign Practices Commission for enforcement action. Please do not hesitate to contact my staff at (510) 981-6908 or elections@berkeleyca.gov if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Enc.

cc: Fair Campaign Practices Commission

From: [FCPC \(Fair Campaign Practices Commission\)](#)
To: dmarrero@gmail.com
Cc: [Kitt Saginor](#); [Numainville, Mark L.](#)
Subject: FCPC Referral: Failure to File Campaign Statement
Date: Friday, October 25, 2024 11:36:00 AM
Attachments: [2024-09-25 Filing Officer Referral to FCPC.docx.pdf](#)

Restricted

Hello Ms. Marrero,

Please be informed that the City's Fair Campaign Practices Commission (FCPC) received the attached referral from the City Clerk regarding your failure to file a Form 470 (Short Form Officeholder and Candidate Campaign Statement) for the year 2024. Officeholders are required to continue filing a Form 470 annually in any year in which they anticipate they will not receive contributions or make expenditures over \$1,000. (BMC § 2.12.270.C.1.)

Your Form 470 for 2024 was due on July 31, 2024. Prior to the July 31, 2024 deadline, the City Clerk provided you with two notifications reminding you of your filing obligation. Following the deadline, the City Clerk has sent you two notices that the filing is late.

The FCPC has enforcement authority and may levy fines for violations of the City's campaign reporting laws. **Please file your Form 470 for 2024 as soon as possible.**

This matter will appear again on the agenda for the FCPC's November 21, 2024 regular meeting. City staff are free to answer any questions you may have about this filing.

Sincerely,

Sam Harvey

Samuel J. Harvey

Secretary

Fair Campaign Practices Commission / Open Government Commission

City of Berkeley

2180 Milvia Street, 4th Floor

Berkeley, CA 94704

fcpc@cityofberkeley.info

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Harvey, Samuel

From: Harvey, Samuel
Sent: Wednesday, January 8, 2025 3:26 PM
To: Marrero, Vanessa; dmarrero@gmail.com; Marrero, Vanessa
Cc: FCPC (Fair Campaign Practices Commission)
Subject: FW: FCPC Referral: Failure to File Campaign Statement
Attachments: 2024-09-25 Filing Officer Referral to FCPC.docx.pdf

Importance: High

Hello Ms. Marrero,

I am following up on my December 30th message to you. I attempted to reach you via telephone but found that the number we have on file for you ((916) 527-4109) is no longer in service.

Please note that, at its November 21, 2024 meeting, the City's Fair Campaign Practices Commission (FCPC) considered the attached referral from the City Clerk regarding your failure to file a Form 470 (Short Form Officeholder and Candidate Campaign Statement) for the year 2024. Officeholders are required to continue filing a Form 470 annually in any year in which they anticipate they will not receive contributions or make expenditures over \$1,000. (BMC § 2.12.270.C.1.)

The FCPC requested that I attempt again to contact you regarding your outstanding filing. This matter will come before the FCPC again at its January 16, 2025 meeting. The FCPC has enforcement authority and may levy fines for violations of the City's campaign reporting laws.

Please file your Form 470 for 2024 as soon as possible.

Please feel free to contact me with any questions.

Regards,

Sam



Samuel J. Harvey
Secretary
Fair Campaign Practices Commission / Open Government Commission
City of Berkeley
2180 Milvia Street, 4th Floor
Berkeley, CA 94704
fcpc@berkeleyca.gov

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ITEM NO. 13-ATTACHMENT 3

error, please reply immediately to the sender and destroy all copies of this message and any attachments without reading or disclosing their contents. Thank you.

From: Harvey, Samuel
Sent: Monday, December 30, 2024 10:20 AM
To: dmarrero@gmail.com; Marrero, Vanessa <VMarrero@berkeleyca.gov>
Cc: FCPC (Fair Campaign Practices Commission) <FCPC@berkeleyca.gov>
Subject: FCPC Referral: Failure to File Campaign Statement
Importance: High

Hello Ms. Marrero,

Please note that, at its November 21, 2024 meeting, the City's Fair Campaign Practices Commission (FCPC) considered the attached referral from the City Clerk regarding your failure to file a Form 470 (Short Form Officeholder and Candidate Campaign Statement) for the year 2024. Officeholders are required to continue filing a Form 470 annually in any year in which they anticipate they will not receive contributions or make expenditures over \$1,000. (BMC § 2.12.270.C.1.)

The FCPC requested that I attempt again to contact you regarding your outstanding filing. This matter will come before the FCPC again at its January 16, 2025 meeting. The FCPC has enforcement authority and may levy fines for violations of the City's campaign reporting laws.

Please file your Form 470 for 2024 as soon as possible.

Please feel free to contact me with any questions.

Regards,

Sam



Samuel J. Harvey
Deputy City Attorney
City of Berkeley
2180 Milvia Street, 4th Floor
Berkeley, CA 94704
o: (510) 981-6988
c: (510) 704-3229
sharvey@berkeleyca.gov

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From: FCPC (Fair Campaign Practices Commission)
Sent: Friday, October 25, 2024 11:37 AM

To: dmarrero@gmail.com

Cc: Kitt Saginor <ksaginor@gmail.com>; Numainville, Mark L. <MNumainville@berkeleyca.gov>

Subject: FCPC Referral: Failure to File Campaign Statement

Restricted

Hello Ms. Marrero,

Please be informed that the City's Fair Campaign Practices Commission (FCPC) received the attached referral from the City Clerk regarding your failure to file a Form 470 (Short Form Officeholder and Candidate Campaign Statement) for the year 2024. Officeholders are required to continue filing a Form 470 annually in any year in which they anticipate they will not receive contributions or make expenditures over \$1,000. (BMC § 2.12.270.C.1.)

Your Form 470 for 2024 was due on July 31, 2024. Prior to the July 31, 2024 deadline, the City Clerk provided you with two notifications reminding you of your filing obligation. Following the deadline, the City Clerk has sent you two notices that the filing is late.

The FCPC has enforcement authority and may levy fines for violations of the City's campaign reporting laws. **Please file your Form 470 for 2024 as soon as possible.**

This matter will appear again on the agenda for the FCPC's November 21, 2024 regular meeting. City staff are free to answer any questions you may have about this filing.

Sincerely,

Sam Harvey

Samuel J. Harvey

Secretary

Fair Campaign Practices Commission / Open Government Commission

City of Berkeley

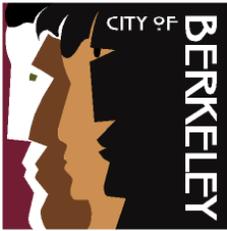
2180 Milvia Street, 4th Floor

Berkeley, CA 94704

fcpc@cityofberkeley.info

CONFIDENTIALITY NOTICE

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City Clerk Department

Date: November 18, 2024
 To: Sam Harvey, Secretary, Open Government Commission
 From: Mark Numainville, City Clerk
 Subject: Referral of Non-Filing by Quarterly Lobbyist Filer

The Lobbyist Registration Act requires certain local government lobbyists to file quarterly disclosures of lobbying activity with the City Clerk Department. The following lobbyist has not filed for the January 1 – March 31, 2024, April 1 – June 30, 2024 and July 1 – September 30, 2024 reporting periods:

Lobbyist Filer	Employer
Yuri Sadiki-Torres	Northern California Land Trust (NCLT)

Notice of the filing requirement for the reporting period was sent to quarterly lobbyist filers by the City Clerk Department on April 16, 2024, July 22, 2024 and October 18, 2024. Past due notices were sent on June 4, 2024, August 21, 2024 and November 13, 2024.

Lobbyists are required to file a final disclosure form and registration form indicating that all lobbying activities have terminated. Berkeley Municipal Code § 2.09.120 states that in the case of an in-house local government lobbyist, the lobbyist employer or agent thereof, may complete and file the required forms.

My office recommends referral of these matters to the Open Government Commission for consideration of: 1) Whether or not the failure to file quarterly disclosure report and terminating registration report is a violation of the Lobbyist Registration Act; and 2) Appropriate enforcement action as determined by the Commission.

**Commissioners' Manual - Recommendations for revision?
Prepared for the Open Government meeting on January 16
Kitt Saginor, January 9, 2025**

Background. During the shutdown, meeting procedures for Boards and Commissions were adjusted for remote participation, and temporary changes were made to the Commissioners' Manual. Some of those changes have become permanent, and other updates are needed for the Manual which was last revised in 2019. Last fall, I became aware that the City Clerk's office is preparing revisions to the Manual, to be presented to the City Council sometime this Spring. If there are also changes that the Open Government Commission would like to recommend, this may be an opportunity for the City Clerk's Office and the City Council to consider those as well - if we act swiftly. To expedite our discussion for the January meeting, I have prepared this report.

Find the [Commissioners Manual 2019](#) here.

https://berkeleyca.gov/sites/default/files/documents/Commissioners%20Manual%202019%20WCAG_Final.pdf

Changes that the City Clerk's Office is expected to make:

References to the Police Review Commission will be changed to the Police Accountability Board.

II.C. ACCOMMODATIONS FOR COMMISSIONERS WITH DISABILITIES. p. 31 Changes in line with recent settlement of legal case.

II. D. STIPEND INFORMATION. pp. 31-32. Should be corrected to current requirements and dollars.

II.F. COMMISSION ORGANIZATION 5) Temporary Subcommittees/Ad Hoc Subcommittees. p. 38 and elsewhere. The designation of ad hoc subcommittees as subject to the Brown Act, and various passages concerning those requirements should be permanently deleted.

IV. D. MEETING LOCATION AND ACCESSIBILITY p. 56. Changes to accommodations for disabilities and for remote participation in accordance with recent settlement of legal case.

IV. G. DISTRIBUTION OF COMMISSION AGENDA PACKETS
p. 60

When all necessary documents are submitted from the commissioners by the deadlines noted above, the secretary will mail complete agenda packets, first-class postage, to commissioners no later than seven days before the meeting. All written communications sent to the commission shall be distributed to all commissioners in the packet or at the next meeting. Any commissioner may opt to receive the agenda packet in electronic format only. This request must be made in writing to the secretary of the commission.

....

Secretaries must maintain a list of persons requesting mailed notice and agenda packets pursuant to Government Code Section 54954.1. These rules require that any person who requests a copy of the agenda and agenda packet in writing must be mailed a copy of the agenda and packet at the time that the agenda is posted or a distribution is made to a majority of the commission. Such a written request for agendas and packets is effective for the calendar year in which it is requested and must be renewed January 1 of each year. Failure to follow this requirement will not result in the invalidation of the action taken by the legislative body. Per City policy, a fee to cover the cost of mailing and such agendas and supporting documents should be charged. The Brown Act requires that the secretary maintain a continuously updated list of persons who have requested agendas and agenda materials in writing. I am assuming that this will be changed to reflect that packets are primarily distributed electronically.

Changes that the Open Government Commission may wish to recommend:

The current version of the manual applies to board members as well as commissioners, but this is stated only in a footnote to a sentence in the middle of the fourth paragraph of the introduction. This should be explicitly stated within the text of the first sentence of the introduction. Better would be to amend the title of the manual to “**Commissioners’ and Board Members’ Manual**” to accurately reflect the scope of the manual. Best would be to amend the title AND change references throughout the manual from “commissions” to “commissions and boards” and references to “commissioners” to “commissioners and board members.” Likewise, the “**Commissioner Roster**” should be retitled “**Commissioners and Board Members Roster.**”

II.C. ACCOMMODATIONS FOR COMMISSIONERS WITH DISABILITIES. p. 31

Individuals with disabilities who need accommodations to participate at a City of Berkeley meeting should make their requests to the commission secretary who will work with the Disability Compliance Program to evaluate the individual’s request and will determine the appropriate method, if any, of accommodation. Individuals must make a disability-related accommodation request at least 72 hours in advance of meetings to ensure that the City has an adequate opportunity to provide reasonable accommodation.

Suggest last sentence:

Individuals must make a disability-related accommodation request 72 hours in advance of meetings or with as much advance notice as possible. The City may not be able to provide reasonable accommodation with less than 72 hours notice.

Rationale: a person may experience a disability less than 72 hours in advance of a meeting, but with enough time for the City to provide reasonable accommodation. Example, a person could be in an accident a few days before a meeting, but be stabilized with access to a computer and zoom two days before a meeting that has remote participation capability.

III. A. COORDINATION WITH CITY COUNCIL

3) Communicating to the City Council pp.41-42

Upon the final vote of a commission to send an item to Council, the secretary submits a completed commission report for the Council agenda to the agenda process no later than three weeks after receiving the final text from the commission.

Recommend change from three weeks to one or two weeks?

Rationale: a longer delay is no longer necessary with contemporary electronic communication.

See Also VI.C COMMISSION REPORTS TO COUNCIL 5) Timeline, p. 75

Commissions may also transmit their findings or recommendations to the Council in the form of a letter. This type of communication is more timely; however, the Council cannot take any official action based solely on a written communication from a commission. Sending a letter to the City Council requires the authorization of the commission. Once approved by the commission, the secretary submits the letter to the City Clerk.

Recommend add “within 24 hours”.

Rationale: Implication that it will happen swiftly, but time is not specified.

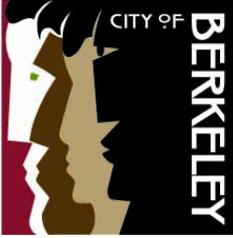
III. A. COORDINATION WITH CITY COUNCIL

4) Council Meeting Procedures and Commission Participation. p. 42

Questions & Answer Box asks:

If a commission places a report on the Council agenda as a Consent item, will it be heard at the beginning of the meeting?

This question and its answer implies that a commission or board specifies whether an item will be on Consent or Action, changed only by the full Council. - This is clarified elsewhere in the Manual, but it should also be clear here that the Commission only **requests** placement of an item on Consent or Action. Actual placement of the item on the published agenda is determined by the A&RP Committee.



Fair Campaign Practices Commission
Open Government Commission

Date: January 16, 2025
To: Fair Campaign Practices Commission and Open Government Commission
From: Sam Harvey, Secretary
Subject: Adoption of 2025 FCPC-OGC Joint Concurrent Meeting Schedule

The FCPC and OGC (“Commissions”) must set their annual meeting schedule for 2025. Traditionally, the Commissions have met in a concurrent meeting on each third Thursday of the month at 6:30 p.m. in the Cypress Room at 2180 Milvia Street.

In recent years, the Commissions have not had a regular meeting scheduled in August or December consistent with the City Council’s recess schedule. The proposed schedule below does not include a regular meeting date for August, but does include a regular meeting date in December. The Commissions may schedule additional meetings as needed throughout the year.

The proposed schedule also includes a regular meeting date for January 2026, at which the Commissions will adopt a schedule for the remainder of 2026.

The Commission Secretary has generated the following proposed schedule for the remainder of the year, which the Commissions should feel free to adjust as they see fit:

- Thursday, February 20
- Thursday, March 20
- Thursday, April 17
- Thursday, May 15
- Thursday, June 19
- Thursday, July 17
- Thursday, September 18
- Thursday, October 16
- Thursday, November 20
- Thursday, December 18
- Thursday, January 15, 2026

All meetings to begin at 6:30 p.m.



Fair Campaign Practices Commission
Open Government Commission

DATE: January 16, 2025

TO: Fair Campaign Practices Commission & Open Government Commission

FROM: Sam Harvey, Commission Secretary

SUBJECT: Election of Commission Officers

City commissions must annually elect a Chair and Vice Chair. Pursuant to the FCPC's Rules of Procedure, the Chair and Vice Chair are to be elected at the February regular meeting. The purpose of this agenda item is to allow the Commissions an opportunity to discuss the process prior to the February officer election.

The Chair and Vice Chair are elected by the majority of the commission for a one-year term and hold office until their successors are elected or until their terms as members of the commission expire. No commissioner shall serve as Chair for more than two consecutive years. There is no term limit for Vice Chair.

The FCPC's Rules of Procedure outline the following responsibilities for the Chair:

1. Preside at all Commission meetings
2. Appoint committees and chairpersons of committees
3. Approve the agenda prior to distribution
4. Sign correspondence on behalf of the Commission
5. Administer oaths and affirmations to persons testifying before the Commission
6. Provide guidance to the Secretary regarding staff execution of Commission business, including, but not limited to, investigations, reviewing campaign statements and audits of candidates and committees
7. Represent the Commission in dealings with the City Manager, the City Attorney, and other City staff
8. Represent the Commission before the City Council
9. Exercise the authority of the Commission with regard to administrative Matters

The role of the Vice-Chair is to assume the above roles in the absence of the Chair.

Chapter 2.12 ELECTION REFORM ACT

Article 1. General Provisions

2.12.005 Title for citation.

This chapter shall be known and may be cited as the "Berkeley Election Reform Act of 1974." (Ord. 4700-NS § 100, 1974)

2.12.010 Findings.

The people find and declare as follows:

- A. Local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth.
- B. Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.
- C. Costs of conducting election campaigns have increased greatly in recent years, and candidates have been forced to finance their campaigns by seeking large contributions from persons and organizations who thereby gain disproportionate influence over governmental decisions.
- D. The influence of large campaign contributors is increased because existing laws for disclosure of campaign receipts and expenditures have proved to be inadequate.
- E. Previous laws regulating campaign practices have suffered from inadequate enforcement. (Ord. 4700-NS § 101, 1974)

2.12.015 Purpose.

The people have enacted the ordinance codified in this chapter to accomplish the following purposes:

- A. Receipts and expenditures in municipal election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.
- B. The amounts that may be expended in municipal elections should be listed in order that the importance of money in such elections may be reduced.
- C. Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this chapter will be vigorously enforced. (Ord. 4700-NS § 102, 1974)

2.12.020 Liberal construction.

This chapter should be liberally construed to accomplish its purposes. (Ord. 4700-NS § 103, 1974)

2.12.025 Reports and statements--Signature and verification requirements.

Reports and statements filed under this chapter shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge it is true and complete. A report or statement filed by a committee shall be signed and verified by the treasurer, and a report or statement filed by any other organization shall be signed and verified by a responsible officer of the organization or by an attorney or a certified public accountant. Every person who signs or verifies any report or statement required to be filed under this chapter which contains material which he or she knows to be false is guilty of perjury. For a report or statement submitted as an electronic filing pursuant to Section [2.12.032](#), a secure electronic signature shall

meet the requirements of this section. (Ord. 7309-NS § 5, 2013; Ord. 4700-NS § 104, 1974)

2.12.030 Reports and statements--Filed where.

Reports or statements filed under this chapter shall be filed with the City Clerk. (Ord. 4700-NS § 105, 1974)

2.12.032 Requirement to file statements and reports electronically.

A. The following elected officers, candidates, committees, or other persons required to file campaign reports or statements under this Chapter and Title 9, Chapter 4 of the California Government Code (commencing with Section [84100](#)), are required to submit all reports or statements as an electronic filing:

1. A Participating Candidate, as defined in [2.12.158](#), and any Participating Candidate's campaign committee, regardless of the monetary amount of contributions received or expenditures made;
2. An elected officer, candidate, committee, or other person who receives contributions totaling one thousand dollars (\$1,000) or more, or makes expenditures totaling one thousand dollars (\$1,000) or more, in a calendar year.

B. Once an elected officer, candidate, committee, or other person is required to submit reports or statements as an electronic filing, that elected officer, candidate, committee, or other person shall continue to use electronic filing until the committee has officially terminated or the elected officer, candidate or other person has no further filing obligations.

C. An elected officer, candidate, committee, or other person that must file pursuant to this Chapter, but is not a Participating Candidate or such a candidate's campaign committee as set forth in subsection A.1 and has not met the \$1,000 threshold in subsection A.2, may submit required reports or statements as an electronic filing or in paper format.

D. In any instance in which the original report, statement, or other document is required to be filed with the Secretary of State and a copy of that report, statement, or other document is required to be filed with the City of Berkeley, the copy may be submitted as an electronic filing. (Ord. 7564-NS § 2, 2017; Ord. 7309-NS § 2, 2013)

2.12.033 Filing procedures.

A. Electronic filing procedures shall be administered in accordance with California Government Code Section [84615](#).

B. Notwithstanding any other provision of law, any statement, report or other document submitted as an electronic filing pursuant to Section [2.12.032.A](#) shall serve as the filing of record and shall not be required to be filed with the City Clerk in paper format. (Ord. 7309-NS § 3, 2013)

2.12.035 Reports and statements--Filing fees prohibited.

No fee or charge shall be collected by the City Clerk for the filing of any report or statement or for the forms upon which the reports or statements are to be prepared. (Ord. 4700-NS § 106, 1974)

2.12.040 Statements--Public inspection requirements.

Campaign statements are to be available for public inspection during regular City business hours, at the office of the City Clerk and at the Berkeley Public Library during the normal hours it is open to the public. Copies of the statements or parts of statements shall be provided by the City Clerk at a price of not more than ten cents per page copied. The data contained in any campaign report or statement submitted as an electronic filing shall be available free of charge on the Internet in an easily understood format that is searchable and downloadable. The data made available on the Internet shall not contain the street name

and building number of any person or entity representative listed on the report or statement or any bank account number required to be disclosed pursuant to this Chapter or state law. (Ord. 7309-NS § 6, 2013: Ord. 4700-NS § 107, 1974)

2.12.045 Preservation from date of filing.

All reports, statements and information filed with the City Clerk shall be preserved for at least four years from the date upon which it was required to be filed under the terms of this chapter. (Ord. 5895-NS § 1, 1988: Ord. 4977-NS § 1 (part), 1977: Ord. 4700-NS § 108, 1974)

2.12.050 Reports and statements--City Clerk responsibilities.

With respect to reports or statements filed with him or her pursuant to this chapter, the City Clerk shall:

- A. Supply the necessary forms and manuals prescribed by the commission;
- B. Notify in advance all candidates and known committees of the dates campaign statements are required;
- C. Report apparent violations of this chapter to the appropriate agencies; and
- D. Complete and maintain a current list of all reports and statements filed with his or her office. (Ord. 4700-NS § 109, 1974)

2.12.051 Amendment or repeal of chapter.

This chapter may be amended or repealed by the procedures set forth in this section. If any portion of subsection A is declared invalid, subsection B shall be the exclusive means of amending or repealing this chapter.

- A. This chapter, including the amendments adopted by Ordinance No. [7,524-N.S.](#) and its successors, may be amended to further its purpose by ordinance passed by a vote of the City Council of not less than two-thirds vote of its membership, following a public hearing, if at least thirty days prior to passage the amendment has been approved by the Berkeley Fair Campaign Practices Commission by not less than two-thirds vote of its membership, and has been distributed to the news media and to every person regularly receiving communications from the commission.
- B. This chapter may be amended or repealed by initiative approval of the voters of the City of Berkeley. (Ord. 7524-NS § 3.1, 2016: Ord. 5895-NS § 2, 1988)

2.12.055 Items of value--Report requirements.

Whenever in this chapter the amount of goods, services, facilities or anything of value other than money is required to be reported, the amount shall be the estimated fair market value at the time received or expended, and a description of the goods, services or facilities shall be appended to the report or statement. (Ord. 4700-NS § 110, 1974)

2.12.060 Applicability--Severability.

If any provision of this chapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this chapter, to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this chapter are severable. (Ord. 4700-NS § 111, 1974)

2.12.065 Electronic posting of contributions prior to elections.

The City shall post in at least two public locations and electronically on the City website during the seven days before each municipal election a list of all persons contributing fifty dollars or more to any candidate or committee in that election and the amounts of the contributions reported through the filing deadline for the

second pre-election statements. The City shall additionally publish in one or more newspapers at least once in the seven days before each municipal election a notice listing the locations of the posted information. The City shall direct publication of the notice in such newspaper or newspapers as are best suited to reach the largest number of Berkeley residents in a cost-effective manner. (Ord. 7234-NS § 1, 2012: Ord. 6513-NS § 1, 1999: Ord. 5895-NS § 1, 1988: Ord. 4946-NS, 1976: Ord. 4700-NS § 112, 1974)

Article 2. Definitions

2.12.070 Interpretation.

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this article shall govern the interpretation of this chapter. (Ord. 4700-NS § 200, 1974)

2.12.075 Adjusting an amount for cost of living changes.

"Adjusting an amount for cost of living changes" means adjusting upward or downward by the percent change in the Consumer Price Index as last computed in accordance with State of California Government Code, Section 82001. (Ord. 4977-NS § 1 (part), 1977: Ord. 4700-NS § 201, 1974)

2.12.080 Campaign statement.

"Campaign statement" means an itemized report which is prepared on a form prescribed by the commission and which provides the information required by Sections 2.12.245 through 2.12.325. (Ord. 4700-NS § 202, 1974)

2.12.085 Candidate.

"Candidate," for the purposes of this chapter, means a candidate for a Berkeley municipal elective office. "Candidate" means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution, or makes an expenditure, or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any office-holder who is the subject of a recall election and any candidate for his or her office, but does not include the proponents or opponents of a recall. The proponents or opponents of a recall are for the purposes of this chapter the proponents or opponents of a measure. (Ord. 4700-NS § 203, 1974)

2.12.090 Commission.

"Commission" means the Berkeley Fair Campaign Practices Commission. (Ord. 4700-NS § 204, 1974)

2.12.095 Committee.

"Committee" means any person or combination of persons that directly or indirectly receives contributions which total more than one thousand dollars in a calendar year or makes expenditures exceeding more than one thousand dollars in a calendar year for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party. (Ord. 7875-NS § 1, 2023: Ord. 4945-NS § 1 (part), 1976: Ord. 4700-NS § 205, 1974)

2.12.100 Contribution.

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the

nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; a candidate's own money or property used on behalf of his or her candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee must otherwise report under the terms of this chapter. The term "contribution" further includes any transfer, gift, loan, advance, deposit, forgiveness of indebtedness, payment of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term "contribution" shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term "contribution" include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars, nor shall it include food and beverages the value of which for any one event is no more than fifty dollars. (Ord. 4945-NS § 1 (part), 1976; Ord. 4700-NS § 206, 1974)

2.12.105 Controlled committee.

"Controlled committee" means a committee either directly or indirectly controlled by a candidate or committee, or which acts jointly with a candidate or controlled committee in the making of expenditures or the receipt or solicitation of contributions. A committee is deemed controlled if another committee or candidate exercises significant influence over its actions or decisions. A committee may be controlled with respect to one or more candidates and independent with respect to other candidates. (Ord. 5895-NS § 2, 1988)

2.12.110 Cumulative amount.

"Cumulative amount" in a campaign statement means the amount contributed or expended since the closing date of the most recent post-election statement which has been filed by the filer. If the filer has not previously filed a campaign statement pursuant to any of these sections, the cumulative amount is the amount contributed or expended since June 4, 1974. (Ord. 4700-NS § 208, 1974)

2.12.115 Elected officer.

"Elected officer" means any person who holds an elective officer or has been elected to an elective office but has not yet taken office. A person who is appointed to fill a vacant elective office is an elected officer. (Ord. 4700-NS § 209, 1974)

2.12.120 Election.

"Election" means any primary, general, special or runoff election held in the City, including an initiative, referendum or recall election. (Ord. 5895-NS § 1, 1988; Ord. 4700-NS § 210, 1974)

2.12.123 Election cycle.

"Election cycle" means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending on the date of the next general election for that office or seat. (Ord. 7524-NS § 3.2 (part), 2016)

2.12.125 Elective office.

"Elective office" means any elective office as defined in the Berkeley City Charter. (Ord. 4700-NS § 211, 1974)

2.12.127 Electronic filing.

"Electronic filing" means the submission of required reports and statements in an electronic format approved by the Secretary of State and the City Clerk. (Ord. 7309-NS § 4, 2013)

2.12.130 Expenditure.

"Expenditure" means a payment, pledge or promise of payment of money or anything of value or other obligation, whether or not legally enforceable, for goods, materials, services or facilities in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or adoption of one or more measures. The term "expenditure" includes any transfer, payment, gift, loan, advance, deposit, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly by one committee to another committee. "Expenditure" also includes the forgiving of a loan or the repayment of a loan by a third party. (Ord. 4700-NS § 212, 1974)

2.12.135 Filer.

"Filer" means any person filing or required to file any statement or report under this chapter. (Ord. 4700-NS § 213, 1974)

2.12.137 Fund.

"Fund" means the Fair Elections Fund created by City Charter Article III Section 7. (Ord. 7524-NS § 3.2 (part), 2016)

2.12.138 General election.

"General election" means an election held on the first Tuesday following the first Monday of November pursuant to City Charter Article III Section 4. (Ord. 7524-NS § 3.2 (part), 2016)

2.12.140 Independent committee.

"Independent committee" means a committee which is not controlled either directly or indirectly by a candidate or controlled committee, and which does not act jointly with a candidate or controlled committee in connection with the receipt or solicitation of contributions or the making of expenditures. A committee may be controlled with respect to one or more candidates and independent with respect to other candidates. (Ord. 4700-NS § 214, 1974)

2.12.142 Independent expenditure.

"Independent expenditure" means an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee. (Ord. 6096-NS § 2 (part), 1991)

2.12.145 Late contribution.

"Late contribution" means any contribution of one hundred dollars or more, but less than one thousand dollars, received after the closing date of the last campaign statement required to be filed prior to an election and contributions of one thousand dollars or more received within the reporting period specified in California Government Code Section [82036](#). (Ord. 7296-NS § 1, 2013; Ord. 4700-NS § 215, 1974)

2.12.150 Mass mailing.

"Mass mailing" means two hundred or more identical or nearly identical pieces of mail, but does not include a form letter or other mail which is sent in response to a request, letter or other inquiry. (Ord. 4700-NS § 216, 1974)

2.12.155 Measure.

"Measure" means any City Charter amendment, ordinance or other proposition submitted to a popular vote at an election, whether by initiative, referendum or recall procedure or otherwise, or circulated for the

purposes of submission to a popular vote at any election, whether or not the proposition qualifies for the ballot. (Ord. 4700-NS § 217, 1974)

2.12.156 Nomination period.

"Nomination period" means the period specified by state law during which candidates must submit nomination papers for City offices. (Ord. 7524-NS § 3.2 (part), 2016)

2.12.158 Participating candidate.

"Participating candidate" means a candidate who qualifies for Fair Elections campaign funding. (Ord. 7524-NS § 3.2 (part), 2016)

2.12.160 Period covered.

"Period covered" by a statement or report required to be filed by this chapter means, unless a different period is specified, the period beginning with the day after the closing date of the most recent statement or report in question. If the person filing the statement or report has not previously filed a report or statement of the same type, the period covered begins on June 4, 1974. Nothing herein shall exempt any person from disclosing transactions which occurred prior to June 4, 1974 according to the law then in effect. (Ord. 4700-NS § 218, 1974)

2.12.165 Persons.

"Persons" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (Ord. 4700-NS § 219, 1974)

2.12.167 Qualified contribution.

"Qualified Contribution" means a monetary contribution, excluding loans, made directly in aid of the nomination or election of one or more candidates not greater than fifty dollars (\$50)* made by a natural person resident of the City of Berkeley. This dollar amount may be adjusted for cost-of-living changes by the Commission through regulation, pursuant to Section [2.12.545](#).

*The dollar amounts in this code section are adjusted for inflation every two years. The current dollar amounts are posted [online](#).

(Ord. 7691-NS § 1, 2020; Ord. 7564-NS § 3, 2017; Ord. 7524-NS § 3.2 (part), 2016)

2.12.168 Qualifying period.

"Qualifying period" means the period beginning on the day after the date of the most recent general election for the specific office or seat that a candidate is seeking and ending at the close of regular business hours, 14 days before the date of the election for which the candidate is seeking office. (Ord. 7875-NS § 2, 2023; Ord. 7524-NS § 3.2 (part), 2016)

Article 3. Fair Campaign Practices Commission

2.12.170 Established--Number of members.

There is established in Berkeley municipal government the Berkeley Fair Campaign Practices Commission. The commission shall have nine members, including the chairperson. (Ord. 4700-NS § 300, 1974)

2.12.175 Term--Appointments and reappointments.

Each member of the commission shall serve for the same term as the councilmember appointing them. Members of the commission may not be reappointed by the same councilmember. All initial appointments shall be made by September 1, 1974. A member whose term has expired shall serve until his or her

successor is appointed. (Ord. 4700-NS § 301, 1974)

2.12.180 Quorum.

A majority of the appointed members shall constitute a quorum. (Ord. 4700-NS § 302, 1974)

2.12.185 Election of chairperson.

The commission shall elect its own chairperson. (Ord. 4700-NS § 303, 1974)

2.12.186 Vice-chairperson.

The commission shall elect a vice-chairperson who shall serve the same term of office as the chairperson and who shall assume the powers of the chairperson in his or her absence. (Ord. 5574-NS § 2 (part), 1983)

2.12.190 Vacancy filling.

Vacancies on the commission shall be filled, within thirty days, by appointment of the same official, or his or her successor, who appointed the prior holder of the position. Appointments to fill vacancies shall be for the unexpired term of the member whom the appointee succeeds. A vacancy or vacancies shall not impair the right of the remaining members to execute all of the powers of the board. (Ord. 4700-NS § 304, 1974)

2.12.195 Members--Qualifications and restrictions.

Each member of the commission shall be a resident of Berkeley and registered to vote in Berkeley elections. No member of the commission, during his or her tenure, shall hold or seek election to any other public office, serve as an officer of any political party or partisan organization or participate in or contribute to a Berkeley municipal election campaign. No member of the commission shall endorse, support, oppose or work on behalf of or against any candidate or measure in a Berkeley election. Each member of the commission shall use his or her best efforts to remain independent of candidates and measures in Berkeley elections. (Ord. 4700-NS § 305, 1974)

2.12.196 Avoidance of political conflict of interest.

In addition to the limitations imposed on members of the commission by Section [2.12.195](#), each member of the commission shall use his or her best efforts to be independent of and impartial in relation to any person during the time such person is the subject of an investigation by or proceeding before the commission. Such persons include elected officers, current and previous candidates, and committees, as well as any officers or employees of such persons. (Ord. 5574-NS § 2 (part), 1983)

2.12.200 Staff powers and duties.

The commission shall have a staff which shall act in accordance with commission policies and regulations and with applicable law to investigate violations and bring proper court action and to assist the commission in the performance of its duties. (Ord. 4700-NS § 306, 1974)

2.12.205 Administrative responsibility.

The commission has the primary responsibility for the impartial, effective administration of this chapter. (Ord. 4700-NS § 307, 1974)

2.12.210 Rules and regulations--Authority.

The commission may adopt, amend and rescind rules and regulations to carry out the purposes of this chapter, and to govern the procedures of the commission. (Ord. 4700-NS § 308, 1974)

2.12.215 Additional duties.

The commission shall, in addition to its other duties:

A. Prescribe forms for reports, statements, notices and other documents required by this chapter;

- B. Prepare and publish manuals and instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with and enforcement of this chapter, and explaining the duties of persons and committees under this chapter;
- C. Provide assistance to agencies and public officials in administering the provisions of this chapter;
- D. Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this chapter. (Ord. 4700-NS § 309, 1974)

2.12.220 Opinions.

Any person may request the commission to issue an opinion with respect to his or her duties under this chapter. The commission shall issue the opinion within fourteen days. No person who acts in good faith of an opinion issued to him or her by the commission shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published. The commission may request the City Attorney to issue an opinion, in which case the City Attorney shall issue the opinion within fourteen days. (Ord. 4700-NS § 310, 1974)

2.12.225 Investigation authority and procedures.

Upon the sworn complaint of any person or on its own initiative, the commission shall investigate possible violations of this chapter. Within seven days after the receipt of a complaint under this section, the commission shall notify in writing the person who made the complaint of the action, if any, which the commission has taken or plans to take on the complaint, together with the reasons for such action or nonaction. (Ord. 4700-NS § 311, 1974)

2.12.227 Subpoena--Testimony under oath.

After the commission has made a finding of probable cause of a violation of the Berkeley Election Reform Act (BERA) or this chapter, in any investigation or hearing conducted by the commission, the commission may:

- A. Subpoena witnesses, take testimony under oath and require the production of records by subpoena; and
- B. Issue orders requiring any person believed to have information relevant to matters under examination to submit written answers under penalty of perjury to written questions, and specify a reasonable date by which such answers must be submitted. (Ord. 5574-NS § 2 (part), 1983)

2.12.230 Notice and hearing on violations.

After the commission determines there is probable cause for believing that a provision of this chapter has been violated and makes a good faith effort to give reasonable notice to the person or persons involved in the allegation, it may hold a hearing to determine if a violation has occurred, and may determine an appropriate remedy if a violation is found. The hearing pursuant to this section shall be conducted in an impartial manner, consistent with the requirements of due process. A record shall be maintained of the proceedings, and a report summarizing the facts, issues, and any remedial actions shall be issued by the commission following the conclusion of the hearing.

The commission shall conduct such hearings and proceedings with respect to determinations of probable cause pursuant to adopted procedures. All interested persons may participate in the hearing. (Ord. 5895-NS § 1, 1988; Ord. 4700-NS § 312, 1974)

2.12.231 Violation--Penalties.

When determining an appropriate remedy for a violation of this Chapter as specified in Section [2.12.230](#), the

Commission may order any of the following:

- A. Cease and desist violation of this Chapter.
- B. File any reports, statements, or other documents or information required by this Chapter.
- C. Pay a monetary penalty of up to \$1,000.00 per violation, or up to the amount or value of the unlawful or undisclosed contribution or expenditure, whichever is greater, to the Fair Elections Fund of the City. (Ord. 7564-NS § 4, 2017; Ord. 7234-NS § 2, 2012)

2.12.235 Judicial review of actions.

Any person may seek judicial review of any action of the commission. (Ord. 4700-NS § 313, 1974)

2.12.240 Meetings to be open to the public.

All meetings of the commission shall be open to the public. (Ord. 4700-NS § 314, 1974)

Article 4. Disclosure Requirements and Procedures

2.12.245 Campaign treasurer--Appointment required--Powers and duties.

A. Each candidate and each committee shall appoint a campaign treasurer. A candidate may appoint himself or herself as his or her campaign treasurer. No contribution and no expenditures shall be accepted or made by or on behalf of a candidate or committee at a time when there is a vacancy in the office of treasurer.

B. No expenditure shall be made by or on behalf of a candidate or committee without the authorization of the treasurer or that of his or her designated agent.

C. All contributions received by a person acting as an agent of a candidate shall be reported promptly by such person to the candidate or any of his or her designated agents. All contributions received by a person acting as an agent of a committee shall be reported promptly by the recipient to the committee's treasurer or any of his or her designated agents. "Promptly," as used in this section, means not later than five days before the closing date of any campaign statement required to be filed by the treasurer, and immediately if the contribution was received less than five days before the closing date. All contributions shall be separated from and may not be commingled with any personal funds of the recipient or any other person. (Ord. 4700-NS § 400, 1974)

2.12.250 Campaign expenditure and contribution account--Establishment required-- Procedure for use.

A. A campaign treasurer for each candidate and for each and every committee shall establish and manage a campaign expenditure and contribution checking account for the candidate or committee. All monetary contributions to the candidate, to a person on behalf of the candidate or to a person on behalf of a committee shall be placed in the candidate's or committee's checking account promptly.

B. Amounts shall be paid by the campaign treasurer from the campaign contribution checking account only upon receipt of a bill or voucher from a person furnishing goods or services to the candidate or committee, which bill or voucher itemizes and identifies the goods or services furnished or to be furnished and lists the unit and total price therefor. All payments of fifty dollars or more shall be made by check, credit card or debit card, and payable to the person furnishing the goods or services to a candidate or committee.

C. In the event that, after payment has been made for all goods and services furnished in connection with the campaign of a candidate or committee, there remains a balance in the checking account of the

candidate or committee, the campaign treasurer shall liquidate the contribution checking account consistent with California Government Code Section [89510](#) et seq., and applicable state regulations, before terminating the campaign committee.

D. No committee or candidate shall accept or receive a non-monetary contribution with a fair market value in excess of fifty dollars unless the contributor provides the campaign treasurer with a receipt or voucher that itemizes and identifies the goods or services contributed and states the fair market value of such goods or services. Participating candidates or their controlled committees shall not accept or receive a non-monetary contribution with a fair market value in excess of fifty dollars (\$50) and must retain an itemized receipt or voucher for all non-monetary contributions. The campaign treasurer shall maintain all receipts and vouchers for a period of four years from the date of the final report.

E. Participating Candidates or their controlled committees shall not accept or receive a non-monetary contribution with a fair market value in excess of fifty dollars (\$50) and must retain an itemized receipt or voucher for all non-monetary contributions. The campaign treasurer shall maintain all receipts and vouchers for a period of four years from the date of the final report.

F. The campaign treasurer shall make available to the commission, the City Attorney, the City Clerk, the District Attorney, the California Attorney General and the California Secretary of State, or their designees, on demand, the details of any account requested and the records supporting it. In addition, the campaign treasurer shall sign a waiver permitting the aforementioned authorities or their designees to inspect the campaign account records maintained by the bank in which the campaign account is opened, and shall maintain a record of every contribution received and every disbursement made from the account, which record shall include copies of cancelled checks, bank records, bills and vouchers. Such record shall be maintained for a period of four years from the date of the final report.

G. If, prior to the date of the filing of the final report, or during a reasonable period of time not to exceed six months thereafter, the commission reasonably believes a reporting or disclosure requirement has been violated by a candidate or committee, the commission shall be empowered to conduct or cause to be conducted an independent audit of the books and records of such candidate or committee. The cost of such audit shall be borne by the commission. After an audit is completed and a written report presented to the commission, the commission shall make a determination whether there is a probable cause for a violation. If cause for violation is found, the provisions of Section [2.12.230](#) of this chapter shall apply.

H. All requests from Participating Candidates for Fair Elections funds must be submitted within thirty (30) days after the date of the election in order to be eligible for distribution of Fair Elections funds in that election cycle. Any request for matching Fair Elections funds received more than thirty (30) days after the election will not be eligible for disbursement for Fair Elections funds. (Ord. 7564-NS § 5, 2017; Ord. 7296-NS § 2, 2013; Ord. 6859-NS § 1, 2005; Ord. 5895-NS § 1, 1988; Ord. 4947-NS §§ 1, 2, 1976; Ord. 4733-NS § 1, 1974; Ord. 4700-NS § 401, 1974)

2.12.255 Statement of organization--Committee required to file.

A. Subject to the exception in Section [2.12.255\(B\)](#), every committee under Section [2.12.095](#) of this chapter shall file with the City Clerk a statement of organization, as defined in Government Code Section [84101](#) et. seq. , or its successors, within ten days after qualifying as a committee pursuant to Section [2.12.095](#).

B. Every committee that qualifies during the period between the closing date of the last pre-election statement and the election shall file with the City Clerk, by hand delivery or by such means as the commission may prescribe, a statement of organization no later than the close of the next business day.

C. The date on which a committee qualified, and not the date on which the committee filed its statement of

organization, shall determine the committee's obligation to file the campaign statements and late contribution reports required by this chapter. All committees, whether qualified before or after the date of the final pre-election statement, but before the date of an election, are subject to late contribution reporting requirements. (Ord. 7875-NS § 3, 2023: Ord. 5895-NS § 1, 1988: Ord. 4700-NS § 402, 1974)

2.12.260 Statement of organization--Information required.

Repealed by [Ord. 7875-NS](#).

2.12.265 Statement of organization--Change of information--Amendment required.

Repealed by [Ord. 7875-NS](#).

2.12.270 Campaign statement--Filing requirements.

A. Each candidate and each committee shall file no fewer than two campaign statements prior to an election, excluding run-off elections, and one campaign statement following the election, excluding run-off elections. Campaign statements shall be filed in accordance with the filing dates prescribed by state law. The semi-annual campaign statement that is filed pursuant to state law following an election shall serve as the post-campaign statement required by this section. If state law does not establish the filing dates for campaign statements, the commission shall set the necessary filing dates.

B. Each candidate and committee involved in a run-off election, and each committee supporting or opposing a candidate participating in a run-off election, shall file one campaign statement prior to the run-off election in addition to any other campaign statements required by this section and one campaign statement following the run-off election. The semi-annual statement that is filed pursuant to state law following a run-off election shall serve as the post-campaign statement required by this section. The campaign statements shall be filed in accordance with the filing dates prescribed by state law. If state law does not establish the filing dates for campaign statements in run-off elections, the commission shall set the necessary filing dates.

C.

1. Notwithstanding subsections [A](#) and [B](#) of this section, a candidate or officeholder who plans to receive contributions or make expenditures of less than the committee threshold in Section [2.12.095](#) in a calendar year may file a short form campaign statement for that calendar year as prescribed by state laws and regulations. The period covered by the short form is the calendar year. If the candidate or officeholder who has filed a short form campaign statement for activity in the calendar year makes expenditures or receives contributions that exceed the committee threshold in Section [2.12.095](#), they must file campaign statements as required by subsections [A](#) or [B](#), or other applicable sections of Chapter [2.12](#).

2. During the six months prior to an election in which the candidate or officeholder is being voted upon, a candidate or officeholder who files a short form campaign statement and subsequently receives contributions or makes expenditures exceeding the committee threshold in Section [2.12.095](#) during the calendar year shall send written notification to the City Clerk, and each candidate or officeholder contending for the same office, as follows:

(a) The notification shall be sent within forty-eight hours of receiving contributions or making expenditures exceeding the committee threshold in Section [2.12.095](#);

(b) The notification shall include the name and address of the candidate or officeholder, the elective office for which the short form campaign statement was filed, the date of the election, and the date contributions exceeding the committee threshold in Section [2.12.095](#) or more were received or

expenditures exceeding the committee threshold in Section [2.12.095](#) were made;

(c) The notification shall be sent by guaranteed overnight delivery, personal delivery, or facsimile transmission. (Ord. 7889-NS § 2, 2023: Ord. 6329-NS § 2, 1996: Ord. 4700-NS § 410, 1974)

2.12.271 Campaign statements--Additional filing requirements.

A. Each committee that makes expenditures in excess of \$250* in support of or in opposition to a measure must, in addition to campaign statements required by Section [2.12.270](#) of this Chapter, file campaign statements on the following dates: (1) no later than April 30 for the period January 1 through March 31; and (2) no later than October 31 for the period July 1 through September 30. If the committee has earlier pre-election statement filing deadlines, the earlier deadlines apply.

*The dollar amounts in this code section are adjusted for inflation every two years. The current dollar amounts are posted [online](#).

B. Any additional filing requirement under this section shall cease upon the occurrence of any of the following dates, whichever occurs first: (1) the election day on which the measure is voted upon, (2) six months after the measure fails to qualify for the ballot, (3) six months after an ordinance subject to referendum is repealed by the City Council, or (4) six months after an elected official subject to recall resigns or otherwise leaves office. (Ord. 7234-NS § 3, 2012)

2.12.272 Slate mailer organizations' reporting requirements.

A. Slate mailer means a mass mailing which supports or opposes a total of four or more candidates or ballot measures.

B. For the purposes of this chapter, a slate mailer organization shall be defined as an organization which meets the definition of California Government Code Section [82048.4](#).

C. A slate mailer organization which produces one or more slate mailers supporting or opposing inter alia any candidate for Berkeley elective office or any Berkeley measure shall file one copy of its campaign reports with the City Clerk. Campaign reports are those reports slate mailer organizations are required to file pursuant to California Government Code Sections [84218](#), [84219](#), [84220](#) and [84221](#). (Ord. 6096-NS § 2 (part), 1991)

2.12.275 Campaign statement--Verification.

A candidate shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control. The verification shall be in accordance with the provisions of Section [2.12.025](#) except that it shall state that he or she has made reasonable inquiry into the truthfulness and completeness of such campaign statements and that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed pursuant to Section [2.12.025](#). (Ord. 4700-NS § 411, 1974)

2.12.280 Campaign statement--Information required.

Each campaign statement required by this article shall contain the following information:

A. Under the heading "receipts," the total amount of contributions received, and under the heading "expenditures," the total amount of expenditures made during the period covered by the campaign statement and cumulative amount of such totals;

B. The total amount of contributions received during the period covered by the campaign statement from

persons who have given fifty dollars or more;

C. The total amount of contributions received during the period covered by the campaign statement from persons who have given less than fifty dollars;

D. The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received fifty dollars or more;

E. The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received less than fifty dollars;

F. The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement;

G. The full name of each person from whom a contribution or contributions totalling fifty dollars or more has been received together with his or her street address, occupation, and the name of his or her employer, if any, or the principal place of business if he or she is self-employed, the amount which he or she contributed, the date on which each contribution was received during the period covered by the campaign statement, and the cumulative amount he or she contributed. In the case of committees which are listed as contributors, the campaign statement shall also contain the full name and street address of the treasurer of the committee. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated in regard to the lender, together with the date and amount of the loan, and if the loan has been repaid, the date of payment and by whom paid;

H. The full name and street address of each person to whom an expenditure or expenditures totalling fifty dollars or more has been made, together with the amount of each separate expenditure to each person during the period covered by the campaign statement; a brief description of the consideration for which the expenditure was made; the full name and street address of the person providing the consideration for which an expenditure was made if different from the payee; and in the case of committees which are listed, the full name and street address of the treasurer of the committee;

I. In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures for or against each such candidate or measure;

J. The full name, residential and business address and telephone number of the filer or, in the case of a campaign statement filed by a committee, the name and telephone number of the committee and the committee's street address;

K. In a campaign statement filed by a candidate, the full name and street address of any committee, of which he or she has knowledge, which has received contributions or made expenditures on behalf of his or her candidacy, along with the full name, street address and telephone number of the treasurer of such committee. (Ord. 4948-NS (part), 1976: Ord. 4700-NS § 412, 1974)

2.12.283 Campaign statement--Additional information required from participating candidates. Each participating candidate shall file reports of receipts and expenditures of Fair Elections funds at such times and in such manners as the Commission may by regulation prescribe, including, but not limited to, reports containing information necessary to verify that qualified contributions received by participating candidates and Fair Elections funds spent by participating candidates comply with the restrictions and requirements of this chapter. (Ord. 7524-NS § 3.3, 2016)

2.12.285 Campaign statement--Candidate statement in lieu permitted when.

Repealed by [Ord. 7296-NS](#).

2.12.290 Campaign statement--Consolidation permitted when.

Repealed by [Ord. 7296-NS](#).

2.12.295 Report of late contributions.

All candidates and committees, including committees qualified under Section [2.12.095](#) but prior to filing required statements under Section [2.12.255](#) of this chapter, shall report all late contributions received by identifying the full name, street address, occupation, and the name of the employer, if any, or principal place of business if self-employed, of the contributor. Late contributions of one hundred dollars or more, but less than one thousand dollars, shall be reported to the City Clerk within forty-eight hours of receipt; late contributions of one thousand dollars or more shall be reported to the City Clerk within twenty-four hours of receipt. Such reports do not require an original signature. Late contributions shall be reported on subsequent campaign statements in addition to reports filed pursuant to this section. (Ord. 7309-NS § 7, 2013; Ord. 5895-NS § 1, 1988; Ord. 4700-NS § 415, 1974)

2.12.297 Late independent expenditures preceding election.

A. Disclosure of Expenditures. Any person that makes a late independent expenditure as defined in California Government Code Section [82036.5](#) shall file the required report with the City Clerk within 24 hours of making the expenditure. The City Clerk shall post a copy of the report to the City's website within two business days after receiving the report. Late independent expenditures shall be reported on subsequent campaign statements in addition to the reports filed pursuant to this section. The person shall also provide to the City Clerk three copies of the communication funded by the expenditure.

B. Contents of Report. The report shall specify:

- a. Each candidate or measure supported or opposed by the expenditure;
- b. The amount spent to support or oppose each candidate or measure;
- c. Whether the candidate or measure was supported or opposed;
- d. The date and amount of each expenditure;
- e. A description of the type of communication for which the expenditure was made;
- f. The name and address of the person making the expenditure; and
- g. The name and address of the payee.

C. Notification to Candidates of Expenditures. The City Clerk shall notify all candidates and committees in each affected race by first class mail within two business days of receiving a report filed pursuant to this section.

D. Exemption for Regularly Published Newsletters. For purposes of the notification required by subsection [\(A\)](#) of this section, payments by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication, shall not be required to be reported. (Ord. 7296-NS § 3, 2013; Ord. 7234-NS § 4, 2012)

2.12.300 Contributions--Written instrument required when.

All monetary contributions of fifty dollars or more shall be made by written instrument containing the name of the donor and the name of the payee. (Ord. 4948-NS (part), 1976: Ord. 4700-NS § 420, 1974)

2.12.305 Contributions--From persons using other than legal name prohibited.

No contribution shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes. (Ord. 4700-NS § 421, 1974)

2.12.310 Contributions--By persons on behalf of other persons prohibited.

No contribution shall be made, directly or indirectly, of anything belonging to another person or received from another person on the condition that it or part of it be used as a contribution. No contribution shall be made, directly or indirectly, by any person on behalf of another person. (Ord. 4700-NS § 422, 1974)

2.12.315 Expenditures--Report requirements--Scope.

No expenditure shall be made, other than overhead or normal operating expenses, by an agent or independent contractor, including but not limited to an advertising agency, on behalf of or for the benefit of any candidate or committee unless it is reported by the candidate or committee as if the expenditure were made directly by the candidate or committee. The agent or independent contractor shall make known to the candidate or committee all information required to be reported by this section. This section is intended as a limitation and does not authorize any expenditures which are otherwise prohibited by this chapter. (Ord. 4700-NS § 423, 1974)

2.12.320 Anonymous contributions--Restrictions--Payment to City required when.

No person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling more than fifty dollars in a calendar year. An anonymous contribution of more than fifty dollars shall not be kept by the intended recipient but instead shall be promptly paid to the City Auditor for deposit in the Fair Elections - Fund of the City. (Ord. 7564-NS § 6, 2017: Ord. 4948-NS (part), 1976: Ord. 4700-NS § 424, 1974)

2.12.325 Mass mailings--Copies to commission.

A copy of every mass mailing in support of or in opposition to a candidate or measure shall be sent to the commission. Such copies sent to the commission shall be public record. (Ord. 4977-NS § 1 (part), 1977: Ord. 4700-NS § 425, 1974)

2.12.330 Mass mailings by independent expenditure.

When a mass mailing which supports or opposes any candidate for Berkeley elective office or the qualification, passage or defeat of a ballot measure is paid for by independent expenditures a completed statement in the following form must appear on the envelope and on each page or fold of the mass mailing in no less than 10-point type, not subject to the half-tone or screening process, and in a printed or drawn box set apart from any other printed matter in the mailing:

NOTICE TO VOTERS

(Required by City of Berkeley)

This mailing is not authorized or approved by any City of Berkeley election official, candidate for elective office or campaign committee.

It is paid for by

(Name)

(Address, City, State)

(Ord. 6096-NS § 2 (part), 1991)

2.12.335 Disclosure on campaign communications of certain contributions and loans.

A. Campaign communications supporting or opposing any candidate or measure shall include the name of the committee and the phrase “Major Funding Provided By” immediately followed by the name of the contributor, the city of domicile, and the total cumulative sum of contributions by each of the top four contributors over \$250* to the committee funding the expenditure made within six months of the expenditure. For purposes of this section, the term “contributor” shall include lender, and committees shall aggregate contributions and any loan balances from the same person when determining the total cumulative sum of contributions from a contributor.

*The dollar amounts in this code section are adjusted for inflation every two years. The current dollar amounts are posted [online](#).

B. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be used. For purposes of this section, “campaign communication” means any of the following items:

1. One thousand or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
2. Paid advertisements, including but not limited to advertisements in newspapers, magazines, and on the Internet;
3. One thousand or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.

C. For purposes of this section, “campaign communication” does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; posters, yard or street signs, billboards, supergraphic signs, skywriting, and similar items; television, cable, satellite, and radio broadcasts or advertisements; communications paid for by a newspaper, radio station, television station or other recognized news medium; and communications from an organization to its members.

D. When a new contribution changes the list of contributors required to be disclosed on campaign communications under subsection A, campaign communications must be updated on the following schedule:

1. For printed campaign communications under subsection B.1 or subsection B.2, disclosures must be updated within seven calendar days to include current disclosure information every time an order to reproduce the campaign communication is placed, or any time the campaign communication is reprinted;
2. For e-mails or pre-recorded telephone calls under subsection B.3, disclosures must be updated to include current disclosure information within seven calendar days. (Ord. 7253-NS § 1, 2012)

Article 5. Expenditure Limitations

2.12.405 Measures--Compensation for petition circulation--Disclosure.

If compensation is received by any person for obtaining signatures or for the circulation of petitions to place a measure on the ballot, the terms of such compensation shall be clear and visible on the signature sheet of the petition. (Ord. 5895-NS § 1, 1988; Ord. 4700-NS § 517, 1974)

Article 6. Limitations on Contributions

2.12.415 Persons other than candidate--Maximum permitted amount.

No person other than a candidate shall make and no campaign treasurer shall solicit or accept any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to such candidate to exceed two hundred fifty dollars (\$250). The Commission shall adjust the dollar amount in this Section for cost of living changes pursuant to Section [2.12.075](#) in March of every odd-numbered year, or as soon thereafter as practicable. Such adjustments shall be rounded to the nearest ten dollars (\$10). For purposes of this section single election is a primary, general, special, runoff or recall election. (Ord. 7857-NS § 1, 2023; Ord. 7793-NS § 1, 2021; Ord. 5895-NS § 1, 1988; Ord. 4700-NS § 600, 1974)

2.12.435 Excess amounts--Payment to City required.

If any person is found guilty of violating the terms of this chapter, each campaign treasurer who received part or all of the contribution or contributions which constitute the violation shall pay promptly, from available campaign funds, if any, the amount received from such persons in excess of the amount permitted by this chapter to the City for deposit in the Fair Elections Fund of the City. (Ord. 7524-NS § 3.4, 2016; Ord. 4700-NS § 604, 1974)

2.12.440 Contributions from certain organizations and business entities prohibited.

No proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, including non-profit corporations, or labor union shall make a contribution to any candidate or committee (supporting or opposing any candidate) directly or indirectly, and no campaign treasurer (of any such committee) shall solicit or accept such contribution. (Ord. 6096-NS § 1, 1991; Ord. 4701-NS § 1 (part), 1974; Ord. 4700-NS § 605, 1974)

Article 7. Enforcement--Penalties For Violation

2.12.445 Complaints--Filing, investigation and commission action.

Any person who believes that a violation of any portion of this chapter has occurred may file a complaint with the commission. If the commission determines that there is reason to believe a violation of this chapter has occurred, it shall make an investigation. If the commission has reason to believe that a violation of this chapter has occurred or is about to occur, it may institute action at law or equity to enforce and compel compliance with the provisions of this chapter. (Ord. 4700-NS § 710, 1974)

2.12.450 Actions for compliance--Who is authorized to institute.

Any resident of the City who believes that a violation of this chapter has occurred or is about to occur, may institute such action at law or equity for injunctive relief and to compel compliance with the provisions of this chapter. (Ord. 4700-NS § 711, 1974)

2.12.455 Actions for compliance--Procedure required and commission authority.

Before instituting an action pursuant to Section [2.12.450](#), a person must file a written request with the commission asking it to commence the action. The request shall include a clear statement of the facts indicating that a cause of action exists. The commission shall respond within seven days after receipt of the request stating whether or not it intends to file the action. If the commission states that it intends to file the action and files the action within ten days thereafter, no other action may be brought by any person unless the action brought by the commission is dismissed without prejudice. If the commission states that it does not intend to file the requested action or fails to do so, then the resident requesting that the action be brought may file and prosecute the action to enforce or compel compliance with this chapter. (Ord. 4700-NS § 712, 1974)

2.12.460 Violation--Deemed misdemeanor--Penalty.

Any person who knowingly or wilfully violates any provision of this chapter is guilty of a misdemeanor punishable by a fine for each violation of three times the amount the person failed to report properly, or unlawfully contributed, expended, gave or received. (Ord. 4700-NS § 700, 1974)

2.12.465 Actions for compliance--Disposition of amounts recovered.

If a judgment is entered against the defendant or defendants in an action brought under Section [2.12.450](#), the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited in the Fair Elections Fund of the City. In an action brought by the Commission or the City Attorney, the entire amount recovered shall be paid to the Fair Elections Fund of the City. (Ord. 7524-NS § 3.5, 2016: Ord. 4700-NS § 701, 1974)

2.12.470 Violation--Candidate's office forfeited when.

If after his or her election a candidate receives a final judgment of conviction of a violation of any provision of this chapter, the office of such candidate shall be forfeited and such office shall become vacant immediately thereupon, or on the date upon which the candidate, if he or she is not an incumbent, would otherwise take office. (Ord. 4700-NS § 702, 1974)

2.12.475 Violation--Candidacy terminated when.

If a candidate receives a final judgment of conviction of this chapter at any time prior to his or her election, his or her candidacy shall be terminated immediately and he or she shall be no longer eligible for election. (Ord. 4700-NS § 703, 1974)

2.12.480 Violation--Persons ineligible for candidacy--Time limit.

No person convicted of a violation of this chapter shall be a candidate for City elective office for a period of four years from and after the date of his or her conviction. A plea of nolo contendere shall be deemed a conviction for purposes of this section. (Ord. 4948-NS (part), 1976: Ord. 4700-NS § 704, 1974)

2.12.485 Late filing penalties.

Any candidate or committee whose only requirement to file a campaign statement or report is pursuant to Sections [2.12.270](#), [2.12.295](#), or [2.12.297](#) of this chapter and who files such report or reports after the deadlines imposed in these sections, shall, in addition to any other penalties or remedies established by this chapter, be liable for the penalties enumerated in California Government Code Section [91013](#), which is incorporated herein. (Ord. 7234-NS § 5, 2012: Ord. 6096-NS § 2 (part), 1991)

Article 8. Berkeley Fair Elections Act of 2016

2.12.490 Title and purpose.

This Article shall be known as the Berkeley Fair Elections Act of 2016. Its purposes are to:

- A. Diminish the public perception of corruption and strengthen public confidence in the governmental and election processes.
- B. Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- C. Help reduce the influence of private campaign contributions on Berkeley government.
- D. Reduce the impact of wealth as a determinant of whether a person becomes a candidate.
- E. Foster more meaningful participation in the political process.
- F. Provide candidates who participate in the program with sufficient resources with which to communicate with voters.
- G. Increase the accountability of elected officials to the constituents who elect them, as opposed to the contributors who fund their campaigns.
- H. Free candidates from the time needed to raise campaign money, and allow officeholders more time to carry out their official duties. (Ord. 7524-NS § 3.6 (part), 2016)

2.12.495 Offices covered.

Candidates for the offices of Mayor, City Council, Auditor, Board of Education, and Rent Stabilization Board shall be eligible to participate in the public campaign financing program established by this chapter. (Ord. 7793-NS § 2, 2021; Ord. 7524-NS § 3.6 (part), 2016)

2.12.500 Eligibility for Fair Elections campaign funding.

A. To be eligible to be certified as a participating candidate, a candidate must:

1) During the qualifying period for the election involved, choose to participate in the Fair Elections program by filing with the City a written application for certification as a participating candidate in such form as may be prescribed by the Commission, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:

a)The candidate has complied with the restrictions of this chapter during the election cycle to date;

b)The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

c)The candidate will comply with the requirements of this Act during the remainder of the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

2)Meet all requirements to be eligible to hold the office sought:

a)For the office of Mayor, Councilmember, Auditor, or School Director, the requirements as set forth in Sections 9 and 10 of Article V of the Charter of the City of Berkeley; or

b)For the office of Commissioner of the Rent Stabilization Board, the requirements as set forth in Section 121 of Article XVII of the Charter of the City of Berkeley.

3)Before the close of the qualifying period, collect and submit at least 30 qualified contributions, from at least 30 unique contributors, of at least ten dollars (\$10)*, for a total dollar amount of at least five-hundred dollars (\$500)*.

a) Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's signature, printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualified contribution is to help the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.

b) A contribution for which a candidate has not obtained a signed and fully completed receipt shall not be counted as a qualified contribution.

4) Maintain such records of receipts and expenditures as required by the Commission;

5) Obtain and furnish to the Commission or City staff any information they may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such Commission or City staff;

6) Not make expenditures from or use his or her personal funds or funds jointly held with his or her spouse, domestic partner, or unemancipated children in connection with his or her election except as a monetary or non-monetary contribution to his or her controlled committee of \$250* or less. Contributions from a participating candidate to his or her own controlled committee are not eligible for matching funds.

7) Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50)* made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50)*. The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50)*;

8) Not solicit or direct contributions in connection with any election during the election cycle in which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50)* made by a natural person non-resident of Berkeley, or non-monetary contributions with fair market value not greater than fifty dollars (\$50)* to such candidate's-controlled committee.

9) Not accept loans from any source.

10) The City has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission shall adopt regulations setting forth guidelines for what constitutes a minor violation under this provision.

*The dollar amounts in this code section are adjusted for inflation every two years. The current dollar amounts are posted [online](#).

B. At the earliest practicable time after a candidate files with the City a written application for certification as a participating candidate, the City shall certify that the candidate is or is not eligible. Eligibility can be revoked if the Commission determines that a candidate has committed a substantial violation of the requirements of this Act, in which case all Fair Elections funds shall be repaid.

C. At the discretion of the Commission or at the applying candidate's request, the City's denial of eligibility is subject to review by the Commission. The Commission's determination is final except that it is subject to a prompt judicial review pursuant to Section [2.12.235](#).

D. If the City or Commission determines that a candidate is not eligible, the candidate is not required to comply with provisions of this Act applicable only to participating candidates. (Ord. 7793-NS § 3, 2021: Ord. 7723-NS § 1, 2020: Ord. 7691-NS § 2, 2020: Ord. 7674-NS § 1, 2019: Ord. 7564-NS § 7, 2017: Ord. 7524-NS § 3.6 (part), 2016)

2.12.505 Fair Elections fund payments.

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section [2.12.505.B](#).

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:

- 1)\$129,000* for a candidate running for the office of Mayor;
- 2)\$43,000* for a candidate running for the office of City Council;
- 3)\$20,000* for a candidate running for the office of Auditor;
- 4)\$20,000* for a candidate running for the office of Board of Education;
- 5)\$8,000* for a candidate running for the office of Rent Stabilization Board.

*The dollar amounts in this code section are adjusted for inflation every two years. The current dollar amounts are posted [online](#).

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

- 1)All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections [2.12.280](#) and [2.12.283](#).
- 2)All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the City's certification of a participating candidate's eligibility, or as soon thereafter as is practicable. City staff shall report a certification or denial to the Commission no later than the Commission's next regular meeting, consistent with the Brown Act.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section [2.12.235](#).

H.

1. Unspent campaign funds of any Participating Candidate who does not qualify as a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City no later than the date of the election for which the funds were distributed. All funds returned under this paragraph must be accompanied by any required supporting documentation. In such cases, the participating candidate must return the unspent funds to the City, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions, prior to refunding any contributions to individual contributors.

2. Any campaign funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.

3. All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.

4. The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.

5. After the deadline to return unspent funds in [2.12.505.H.2](#), a participating candidate may continue to raise funds in accordance with Article [8](#) of Chapter [2.12](#) to pay campaign-related debt from the most recent election. Any such contributions received shall not be eligible for matching funds.

I. Any request by a Participating Candidate for a refund of any amount of unspent campaign funds previously repaid to the City, for a qualified campaign expenditure or other permissible campaign purpose, shall be submitted to the Commission to approve, in whole or in part, or deny. The Commission shall make a final determination on the refund within 45 days of receipt.

J. Requests for matching funds may be submitted no later than 30 days after Election Day for the election at which the participating candidate qualified as a candidate.

K. Upon approval of a participating candidate's Initial Qualifying Request, the candidate is prohibited from withdrawing from the Public Financing Program and receiving contributions pursuant to Section [2.12.415](#) for the same office at the same election for which they are a participating candidate. (Ord. 7875-NS §§ 6--8, 2023; Ord. 7793-NS § 4, 2021; Ord. 7723-NS § 2, 2020; Ord. 7691-NS § 3, 2020; Ord. 7674-NS § 2, 2019; Ord. 7564-NS § 8, 2017; Ord. 7524-NS § 3.6 (part), 2016)

2.12.507 Return of Contributions by Participating Candidates.

A. Notwithstanding the requirements in Section [2.12.505.H.1](#), if a participating candidate returns a qualified contribution for which they have requested and received matching funds, they must immediately return all said matching funds to the City.

B. Notwithstanding the requirements in Section [2.12.505.H.1](#), a participating candidate may return a non-qualified contribution to the contributor at any time without triggering any requirement that they return matching funds. (Ord. 7875-NS § 9, 2023)

2.12.510 Candidate statement notice.

A candidate certified as a Fair Elections program participant shall be identified as such by a notice prominently posted on the City website. (Ord. 7875-NS § 10, 2023; Ord. 7524-NS § 3.6 (part), 2016)

2.12.515 Transition rule for current election cycle.

During the first election cycle that occurs after Council implementation of this Act, a candidate may be certified as a participating candidate, notwithstanding the acceptance of contributions other than qualified contributions before the date of enactment that would, absent this Section, disqualify the candidate as a participating candidate, provided that any funds other than qualified contributions accepted but not expended before the effective date of this Act shall be:

A. Returned to the contributor;

B. Held in a special campaign account and used only for retiring a debt from a previous campaign; or

C. Submitted to the City for deposit in the Fair Elections Fund. (Ord. 7524-NS § 3.6 (part), 2016)

2.12.520 Special municipal elections.

The provisions of this chapter apply to special municipal elections as defined in City Charter Article III Section 4. The Commission shall adjust the deadlines in this Act to account for the circumstances of the special municipal election. (Ord. 7524-NS § 3.6 (part), 2016)

2.12.525 Campaign accounts for participating candidates.

A. During an election cycle, each participating candidate shall conduct all campaign financial activities through a single campaign expenditure and contribution account as required by Section [2.12.250](#).

B. A participating candidate may maintain a campaign account other than the campaign account described in subsection A if the other campaign account is for the purpose of retiring a campaign debt that was incurred during a previous election campaign in which the candidate was not a participating candidate.

C. Contributions for the purposes of a retiring a previous campaign debt that are deposited in the kind of "other campaign account" described in subsection B shall not be considered "contributions" to the candidate's current campaign.

D. Participating candidates shall file reports of financial activity related to the current election cycle separately from reports of financial activity related to previous election cycles. (Ord. 7524-NS § 3.6 (part), 2016)

2.12.530 Use of Fair Elections funds.

A. A participating candidate shall use Fair Elections funds and contributions only for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle.

B. A participating candidate shall not use Fair Elections funds or contributions for:

1) Costs of legal defense in any campaign law enforcement proceeding under this Act, or penalties arising from violations of any local, state, or federal campaign laws;

2) The candidate's personal support or compensation to the candidate the candidate's family, or a business in which the candidate or candidate's immediate family member has a ten (10) percent or greater ownership interest;

3) Indirect campaign purposes, including but not limited to:

a) Any expense that provides a direct personal benefit to the candidate, including clothing and other items related to the candidate's personal appearance;

b) Capital assets having a value in excess of five hundred dollars (\$500)* and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles;

c) A contribution or loan to the campaign committee of another candidate or to a party committee or other political committee;

d) An independent expenditure as defined in Berkeley Municipal Code Section [2.12.142](#) as may be amended;

e) Any payment or transfer for which compensating value is not received

*The dollar amounts in this code section are adjusted for inflation every two years. The current dollar amounts are posted [online](#).

C. The term "Contribution" is defined in [2.12.100](#) and includes "Qualified Contributions" as defined in [2.12.167](#) and contributions from non-residents of Berkeley as described in [2.12.500.A.7](#).

D. The dollar amounts in Section [2.12.530.B.3.b](#) may be adjusted for cost-of-living changes by the Commission through regulation, pursuant to Section [2.12.545](#). (Ord. 7793-NS § 5, 2021: Ord. 7691-NS § 4, 2020: Ord. 7674-NS § 3, 2019: Ord. 7564-NS § 9, 2017: Ord. 7524-NS § 3.6 (part), 2016)

2.12.535 Administrative modification of timelines.

Notwithstanding any provision in this chapter to the contrary, the Commission may alter any of the time periods or deadlines listed herein if it finds that they are impracticable, so long as the readjusted period or deadline meets the objectives of this chapter. (Ord. 7524-NS § 3.6 (part), 2016)

2.12.540 Insufficient funds in the program.

If the Commission determines that there are insufficient funds in the Fair Elections Fund to fund adequately all participating candidates, the Commission shall notify participating candidates that the Commission will not likely be capable of distributing to all participating candidates the maximum aggregate amount of Fair

Elections funds payments permissible under Section [2.12.505.B](#). Under such circumstances, at such time as the Commission is unable to fulfill a valid application for Fair Elections funds submitted by a participating candidate pursuant to Section [2.12.505.C](#), the participating candidate may solicit for such candidate's controlled committee and accept any contributions permissible under City law and shall no longer be subject to the restriction on use of personal funds established by Section [2.12.500.A.6](#). (Ord. 7524-NS § 3.6 (part), 2016)

2.12.545 Cost of living adjustments.

A. The Commission shall adjust the dollar amounts specified in Sections [2.12.167](#), [2.12.271](#), [2.12.335](#), [2.12.500.A.3](#), [2.12.500.A.6](#), [2.12.500.A.7](#), [2.12.500.A.8](#), [2.12.505.B](#) and [2.12.530.B.3.b](#) for cost of living changes pursuant to Section [2.12.075](#) in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections [2.12.167](#), [2.12.500.A.3](#) and [2.12.530.B.3.b](#) and one thousand dollars (\$1,000) with respect to Section [2.12.505.B](#).

B. As soon as practicable after adoption of the amendments providing for the adjustment of Sections [2.12.271](#) and [2.12.335](#), but no later than December 31, 2024, the Commission shall perform an initial adjustment of the dollar amounts in those sections. (Ord. 7889-NS § 1, 2023; Ord. 7875-NS § 11, 2023; Ord. 7857-NS § 2, 2023; Ord. 7691-NS § 5, 2020; Ord. 7564-NS § 10, 2017; Ord. 7524-NS § 3.6 (part), 2016)

2.12.550 Fair Elections Act penalties.

In addition to other enforcement and penalty provisions of this Article:

A. It is a violation of the law for candidates to accept more Fair Elections Act benefits than those to which they are entitled or misuse such benefits or Fair Elections funding.

B. If a participating candidate knowingly or willfully accepts or spends Fair Elections funding in violation of this Act, then the candidate shall repay to the Fair Elections Fund an amount equal to twice the value of Fair Elections funding unlawfully accepted or spent.

C. The Commission shall, after a hearing held pursuant to Section [2.12.230](#), have the authority to impose the fine created by this section upon a two-thirds vote. (Ord. 7524-NS § 3.6 (part), 2016)

2.12.555 Violation--Persons ineligible for public funds--Time limit.

No person who commits a substantial violation of this chapter shall be eligible to receive public funds for a period of four years from and after the date that the Commission determines, upon a two-thirds vote, that such a violation has occurred, following a hearing held pursuant to Section [2.12.230](#). The Commission shall by regulation state the criteria to be satisfied in order to make a finding of a substantial violation. (Ord. 7524-NS § 3.6 (part), 2016)

2.12.560 Review by Commission.

After each of the first two election cycles that occur after Council implementation of this Act, the Commission shall review the Fair Elections program and make recommendations to Council for policy changes to improve and refine the program. (Ord. 7524-NS § 3.6 (part), 2016)