

San Bernardino County Campaign Accountability Commission

Bylaws

ARTICLE I – Identification

Section 1: Name

The San Bernardino County Campaign Accountability Commission.

Section 2: Office

777 E. Rialto Avenue, San Bernardino, CA 92415

or such address where the Commission may be located from time to time

Telephone Number: 909.387.8300

Web Page: <https://elections.sbcounty.gov/cac/>

E-mail address: SBC_CAC@rov.sbcounty.gov.

Section 3: Authority, Statutory Requirements, other Laws and Policies

The Commission shall comply with all applicable laws, including, but not limited to, the San Bernardino County Campaign Finance Reform Ordinance,” (San Bernardino County Code sections 12.4301 *et seq.*), the Ralph M. Brown Act (Government Code sections 54950 *et seq.*), and the Political Reform Act of 1974 (Government Code sections 81000 *et seq.*),

ARTICLE II – Mission Statement

The Mission of the Commission is to enforce the San Bernardino County Campaign Finance Reform Ordinance.

In order to accomplish the Mission of the San Bernardino County Campaign Accountability Commission, the Commission shall:

1. Enforce the provisions of the County Campaign Finance Reform Ordinance.
2. Recommend new bylaws for the County Campaign Finance Reform Commission, as needed.

ARTICLE III – Commission

Section 1: Oath of Public Office

Acceptance of the Oath of Public Office constitutes a Commissioner's sworn responsibility to public trust. Members are required to serve well and to faithfully discharge their duties and responsibilities diligently and consistent with the laws of the San Bernardino County, and all pertinent state and federal laws.

Section 2: Function

The Commission shall have responsibility for the impartial administration, implementation and/or enforcement of the County Campaign Finance Reform Ordinance. It shall have no jurisdiction over any other State or County laws or codes.

Section 3: Duties and Responsibilities

The Commission shall:

- a. Conduct reviews and, where necessary, audits of campaign finance disclosures and supporting materials consistent with the Commission's jurisdiction as articulated in the County Campaign Finance Reform Ordinance.
- b. Conduct investigations and enforcement proceedings on matters relating to the County Campaign Finance Reform Ordinance.
- c. Perform any other duties as set forth in the County Campaign Finance Reform Ordinance.

Section 4: Excused or Unexcused Absences

Membership on the Commission is an important civic function. Members of the Commission recognize that, among their obligations in service, attendance at regular and special meetings is an important component. It is the policy of the Commission that all Commissioners strive to attend meetings whenever possible and that, when absence from scheduled meetings is necessary, that staff be notified as far in advance as feasible. Prior notification of absence from Commission and Committee meetings constitutes an excused absence. Unexcused absences may subject the commissioner to removal in accordance with the provisions of County Code Section 12.4314(b)(1).

Section 5: Legal Advisor

The Commission may retain outside legal counsel who shall be the legal advisor to the Commission. The legal advisor shall work with the County Counsel's office to ensure consistency with applicable federal laws, State laws and County codes.

ARTICLE IV – OFFICERS

Section 1: Officers

The Officers of the Commission are a Chairperson and Vice-Chairperson.

Section 2: Chairperson

The Chairperson shall preside at all meetings of the Commission and is an ex-officio non-voting member of any standing committees, if one is convened. The Chairperson is accountable to the Commission as a whole in setting policy and shall also perform such other duties as may be assigned by the Commission.

Section 3: Vice Chairperson

The Vice Chairperson shall perform the duties and responsibilities that may be delegated by the Chairperson, and the assignments traditionally assigned to that office. In the absence or disability of the Chairperson, the Vice Chairperson shall perform the duties as described in Article IV, Section 2.

Section 4: Term for Officers

The Officers of the Commission shall serve a two-year term of office, commencing with the January meeting of the Commission each calendar year in which an election occurs. Officers of the Commission may serve more than one term, if re-elected.

Section 5: Process for Election of Officers

Officers shall be selected through nomination by another Commissioner and election by a two-thirds vote of the entire Commission. Elections for Officers shall occur at the January meeting of each odd-numbered year. If a vacancy occurs in one of the Commission's Offices, the Commission may nominate and elect, by two-thirds vote of the entire Commission, another Commissioner to serve the remainder of the vacant Office's term.

ARTICLE V – Committees

Section 1: Committee Chairs

The Commission may appoint individual commissioners to perform specific tasks or functions. With respect to committees that are formed, the Chairperson shall appoint commissioners to serve as members and as Committee Chair.

Section 2: Committee Meetings

Committees shall meet at the call of their Chairs, or as deemed necessary by a majority of the Committee membership. All meetings must comply with public notice requirements.

Section 3: Committee Quorum

A majority of the members of a committee is a quorum.

ARTICLE VI – Meetings

Section 1: Quorum

At all meetings of the full Commission, the presence of a majority of the members shall constitute a quorum for all purposes. The act of the majority of the members of the Commission shall be the act of the full membership, except as provided in County Code section 12.4314 (d) which provides that a two-thirds vote is required for all enforcement actions.

Section 2: Public Input

All interested persons shall be allowed to express their views (oral and/or written) at Commission meetings regarding matters within the jurisdiction of the Commission.

All Commission meetings shall provide opportunity for public comment on items not on the agenda but within the jurisdiction of the Commission.

Public comment on items on the agenda shall be invited at the beginning of the meeting immediately following the call to order, before any vote or action is taken by the Commission on an item. Each person wishing to speak on an item may do so, however the Commission may limit the individual and total time for public comment according to limits allowed by law.

Section 3: Meeting Minutes

Minutes shall be taken at every regular and special Commission and committee meeting and shall be approved by majority vote of the Commission. Approved minutes shall be posted on the Commission's web page.

Section 4: Regular Meetings

Regular meetings shall be held at least quarterly, or as necessary to accomplish the mission of the Commission.

Section 5: Notice of Meetings

Notices and agendas of all regular and special Commission meetings shall be posted at the County Registrar of Voter's office, and on the Commission's web page. Notice of regular meetings shall be posted at least 72 hours before the meeting. Notice of special meetings shall be posted at least 24 hours before the meeting.

Section 6: Closed Sessions

The Commission is authorized to hold closed (non-public) sessions at regular and special meetings in accordance with the Ralph M. Brown Act (Brown Act) for purposes of confidential discussions or deliberation of enforcement matters. Upon consultation with the legal advisor, and the determination that a closed session is both authorized and appropriate under the circumstances, the Chairperson of the Commission may call for a closed session. Appropriate notice will be given of all closed sessions.

Section 7: Special Meetings

The Chairperson of the Commission may call special meetings to address specific matters pursuant to public notice requirements.

ARTICLE VII -Agenda Requirements

Section 1: Agenda Preparation

The agenda is prepared through the joint effort of the Chairperson and the County Registrar's Office. The County Registrar's Office shall work with the Commission Chairperson to develop the agenda for all meetings. The agenda shall contain a meaningful description of each item to be transacted or discussed at the Commission meeting so as to alert a person of average intelligence whose interests may be affected by the item that he or she may have reason to attend the meeting or seek more information about the item.

Section 2: Consent Calendar

A consent calendar is the portion of the printed agenda which lists routine matters that are expected to be non-controversial and on which there are no questions. There will be no separate discussions on a Consent Calendar item unless a request is made by a Commission member or the public, in which event the matter shall be removed from the consent Calendar and considered as a separate item.

ARTICLE XIII – Voting

Section 1: Voting and Abstention

Each member present at a commission or Committee meeting may vote on all matters put to a vote, unless the member has been advised by the legal advisor that he or she may have a conflict of interest regarding the item.

Section 2: Voting by Proxy

Voting by proxy is prohibited.

ARTICLE IX – Parliamentary Procedure

Section 1: Robert's Rules of Order (Newly Revised)

Except where the County Code or other rules provide to the contrary, or in the case of emergency, meetings shall be governed by Robert's Rules of Order (newly revised).

ARTICLE X – Standards of Conduct

Section 1: Code of Ethics

In accepting the Oath of Office, Commissioners shall maintain the highest standards of professional and personal conduct. They shall support the mission, goals and objectives of the County Campaign Accountability Commission; instill in the public a sense of

confidence about the Commissioners' conduct and intentions; uphold all laws and regulations; and refrain from using their official positions to secure special advantage or benefit for themselves or others.

In order to set the highest standards of conduct, including the appearance of propriety in the operation of government, and in order to assure public confidence in governing institutions, the Commission commits itself to:

- Encouraging and promoting integrity in government by education and example;
- Fairly and objectively enforcing the County's laws and regulations;
- Being accountable for its rules of procedure and decisions;
- Treating all staff, members of the public, and colleagues with courtesy, respect, objectivity, and fairness;
- Assuring honesty in all matters that come before the Commission, both individually and collectively;
- Conducting all business in a timely manner and in public meetings, with full disclosure of policies, procedures, and decision-making processes, except in those matters as specified by the Brown Act that may be dealt with in closed session;

Reviewing its actions, recommendations, and procedures periodically to determine if the Commission has adhered to its Code of Ethics and Mission in all respects.

ARTICLE XI – Enforcement Proceedings

Section 1: Filing a Complaint

A complaint alleging a violation of law may be submitted by any person, including a member of the public. Complaints may be sworn or informal, as discussed in greater detail below.

A. Sworn Complaints. Sworn complaints must be made in writing on a form designated by the Executive Director or in a writing that contains all the information requested in the Director's designated form.

1. Content of Sworn Complaints. Sworn complaints must be signed by the complainant under penalty of perjury. Sworn complaints should include the following facts:

The name and address of the respondent;

The facts constituting an alleged violation(s) of law;

The names and addresses of witnesses, if any; and

Copies of documents or other evidence that may be relevant to proving the fact(s) constituting the alleged violation(s), if any.

2. Effect of Sworn Complaints. The County Registrar's Office must process, and send to outside enforcement counsel for evaluation, all sworn complaints, pursuant to procedure outlined in Section 4, Preliminary Review.

B. Informal Complaints. Informal complaints may be submitted by telephone, in person, or in a writing.

1. Content of Informal Complaints. An informal complaint should include the name of the person or organization believed to have violated the law and the facts of the alleged violation. A complaint submitted on the prescribed complaint form that does not meet the requirements of a sworn complaint will be considered an informal complaint.

C. Anonymous Complaints. Complaints may be submitted anonymously. Such complaints will be treated as informal complaints.

Section 2: Review of Complaints

A. Preliminary Review. Upon receipt of a sworn or informal complaint, the outside enforcement counsel will conduct a preliminary review of the complaint to determine whether there is reason to believe a violation of the County Campaign Finance Reform Ordinance may have occurred. This preliminary review may include reviewing documents, communicating with the complainant or respondent, and any other inquiry to determine whether a full investigation is warranted.

B. Notification of Respondent. Within 5 business days of receiving a sworn or informal complaint, the outside enforcement counsel shall notify any named respondents in the complaint. The complaint notification shall provide each respondent with an opportunity to provide a response to the complaint within 14 calendar days of the date the notification letter was transmitted to the respondent.

C. Complaint Dismissal. If, based on the allegations and information contained in a complaint, and the outside enforcement counsel's preliminary review, the outside enforcement counsel determines that no violation of the County Campaign Finance Reform Ordinance has likely occurred, the Commission may dismiss the complaint. Reasons for dismissal include but are not limited to:

1. The complaint does not include enough information to support further investigation.
2. Credible evidence clearly refutes the allegation.
3. The allegations, if true, do not constitute a violation of law.

4. The complaint contains an expression of opinions, rather than specific allegations.
5. The allegations contained in the complaint are already under investigation, or already have been resolved, by the Commission or another law enforcement agency.
6. Dismissal, rather than initiating an investigation, would better serve the interest of justice.

D. Case Settlements – The outside enforcement counsel may negotiate a proposed settlement with respondent(s) at any time

Section 3. Investigation

A. Opening of Investigation. If the outside enforcement counsel determines there is reason to believe a violation of law has occurred, the outside enforcement counsel will open an investigation, with the concurrence of the Commission. The decision of whether to open an investigation shall be made within 30 days of the expiration of the 14-day response period in Section 2, Subsection B.

B. Notice of Investigation. All respondents subject to investigation pursuant to Subsection A shall be notified by the Clerk of the Commission that an investigation will be commenced within 5 business days of the determination that an investigation will be commenced.

C. Requests for Records. The outside enforcement counsel may request records reasonably related to the alleged violations from respondents and other relevant persons and entities. If records are not provided pursuant to these requests, the outside enforcement counsel, in coordination with the Registrar of Voters, may contact the County Counsel's office to determine any remedies that may be available.

D. Ex Parte Communication. Once an investigation is opened and until the Commission has made a final decision or order, whether by stipulation or otherwise, members of the Commission will not engage in oral or written communications with the parties, the media or any member of the public outside of a Commission meeting, witness interview or examination, or settlement conference regarding the merits of an enforcement action.

E. Confidentiality. The investigation will be conducted in a confidential manner. Records of any investigation will be considered confidential information to the extent permitted by state law. All investigative documents, including notes and memoranda, created prior to the probable cause determination, such as the complaint, will remain confidential. All investigative documents, including notes and memoranda, created by the Executive Director and his or her staff after the probable cause determination shall be Confidential.

Section 4. Post-Investigation.

A. Completion of Investigation. At the conclusion of any investigation, the outside enforcement counsel shall report the findings of the investigation, along with a recommendation as to the disposition of the case to the Commission. The Commission shall determine whether to find no violation occurred, or to initiate an administrative hearing process against respondent(s).

B. Case Settlement. At any time after the filing of a complaint the outside enforcement counsel may reach a proposed case settlement with respondent(s), consistent with the penalties and timeframes articulated in the County Campaign Finance Reform Ordinance. Any proposed settlement shall be subject to the approval of the Commission.

B. Accusation. If the Commission determines that a violation may have occurred, based upon the findings of the investigation, and no proposed settlement is reached, the Commission shall direct the outside enforcement counsel to issue an Accusation to respondent(s). The Accusation is the initiation of the administrative hearing process. The Accusation shall contain:

- Identification of the alleged violations;
- A summary of the laws at issue;
- A statement of the evidence gathered through the investigation, including any exculpatory and mitigating information of which Staff has knowledge;
- Notification that the respondent has the right to respond in writing to the Accusation;
- Notification that the respondent has the right to request an administrative hearing, at which the respondent(s) may be present in person and represented by legal counsel or another representative; and
- Any other relevant material or argument.

Section 5. Pre-Hearing Matters

A. Hearing. Following the issuance of an Accusation, the Commission will proceed with a hearing on the merits of the complaint. The Commission shall serve as the hearing officer for hearings on the merits held after an Accusation is issued.

B. Scheduling and Notice of Hearing on Merits. The County Registrar's Office will schedule the hearing on the merits, and deliver written notice of the date, time, and location of the commencement of the hearing, to each respondent at least 30 calendar days prior to the commencement of the hearing.

C. Discovery. The outside enforcement counsel and each respondent will be entitled to pre-hearing discovery in accordance with the provisions of the California Administrative

Procedure Act, Government Code, Title 2, Division 3, Part 1, Chapter 5, section 11500 et seq.

D. Hearing Briefs. The outside enforcement counsel will, and any respondent may, submit a hearing brief. The briefs will outline significant legal arguments and list evidence and witnesses to be presented at the hearing and may attach anticipated evidence, including documents and declarations. The briefs are not required to list anticipated rebuttal evidence or rebuttal witnesses. The outside enforcement counsel's Hearing Brief will be delivered to the Commission and all parties to the proceeding no later than 30 calendar days prior to the date the hearing on the merits commences. The respondent(s)' responsive brief will be due no later than 15 calendar days prior to the date the hearing on the merits commences, and Staff's rebuttal brief will be submitted no later than 5 calendar days prior to the date the hearing on the merits commences.

E. Recordings. Every hearing on the merits will be recorded digitally. The Commission will retain the tapes until the opportunity for legal challenge has been exhausted. Copies of a tape will be available upon request.

Section 6. Hearing on the Merits

A. General Rules and Procedures.

1. Commencement. The Accusation will be the charging document for the hearing on the merits.

2. Public Hearing. The hearing on the merits will be open to the public. Commissioners are prohibited, prior to a final determination on the merits of a complaint, from engaging in oral or written communications regarding the merits of a complaint or enforcement action with any person or entity. After a final determination on the merits of a complaint, Commissioners may discuss matters on the public record.

3. Standard of Proof. The Commission may determine that a respondent has committed a violation of law only if a person of ordinary caution and prudence would conclude, based on a preponderance of the evidence, that the respondent has committed or caused the violation.

4. Rules of Evidence. All evidence admissible in an administrative proceeding governed by the California Administrative Procedure Act will be admissible in a hearing on the merits. The outside enforcement counsel and each respondent will have the right to call and examine witnesses under oath or affirmation, to introduce exhibits, to cross-examine and impeach witnesses, and to rebut any evidence presented.

B. Finding of Violation. The Commission will determine whether the respondent(s) has committed a violation of law. A finding of a violation will be supported by findings of fact and conclusions of law and must be based exclusively on the record of the proceedings before the Commission.

C. Penalty Factors. When deciding on an order and penalties, the Commission will consider all the relevant circumstances surrounding the case, including but not limited to:

- The severity of the violation;
- The presence or absence of any intention to conceal, deceive, or mislead;
- Whether the violation was willful;
- Whether the violation was an isolated incident or part of a pattern;
- Whether the respondent has a prior record of violations of law;
- The degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations.

D. Finding of No Violation. If the Commission determines that there is insufficient evidence to establish that the respondent has committed a violation of law, or if the Commission determines that there is sufficient evidence to establish that the respondent has not committed a violation of law, the Commission will publicly announce this fact. No further action will be taken by the Commission to review or investigate the allegations contained in the complaint.

E. Default Orders. If the County Registrar's Office followed the notice of hearing procedures identified in these Regulations, and the respondent(s) failed to appear before the Commission for a hearing on any matter, then the Commission may enter an order adverse to the interests of the respondent(s) who failed to appear. The County Registrar's Office bears the burden of proving that the respondent(s) was properly served in accordance with these regulations. A default order is a final administrative order or decision.

ARTICLE XII - Bylaw Amendments

These bylaws shall be reviewed annually or as necessary. They may be amended at any regular meeting of the Commission by majority vote of those present and submitted to the County Board of Supervisors for approval, as provided for by County Code section 12.4314 (g).