



A. INTRODUCTION

In June 2016, the County of Orange created a Campaign Finance and Ethics Commission. An individual who has been accused (“party accused”) of violating the County Campaign Reform Ordinance, the Lobbyist Registration and Reporting Ordinance, the Gift Ban Ordinance or Sections 6 and 9 of the Code of Ethics has two administrative hearing stages prior to Superior Court review.

The following guidelines have been set forth so interested individuals have a clear understanding of the procedures related to the administrative hearings.

B. DEFINITIONS

1. *Administrative Hearing* means an administrative hearing, closed to the public unless, otherwise requested by the party accused, for the purpose of ascertaining whether a violation of the County of Orange Campaign Reform Ordinance, the Lobbyist Registration and Reporting Ordinance, the Gift Ban Ordinance or Sections 6 and 9 of the Code of Ethics has been committed by the party accused.
2. *Commission* means the County of Orange Campaign Finance and Ethics Commission consisting of five members selected by the Board of Supervisors, to provide oversight of the County’s Campaign Reform Ordinance, Lobbyist Registration and Reporting Ordinance, the Gift Ban Ordinance and sections 6 and 9 of the County Code of Ethics and Commitment to Public Service.
3. *Executive Director* means the Executive Director of the Campaign Finance and Ethics Commission.
4. *Ex parte communication* means written or oral communications to the Hearing Officer or any member of the Commission about a matter pending before the decision making body not included in the public record and made outside of a public hearing.
5. *Hearing Officer* means an individual who is part of the group of attorneys maintained by the Clerk of the Board, as authorized by the Board of Supervisors, to serve as hearing officers for administrative hearings.



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6. *Issued* means the date the recommendation or decision is mailed to the parties to the hearing.
7. *Letter of Resolution* means a letter advising the party accused, and any person who, in writing informed or complained to the Executive Director concerning any such violation, that the alleged violation has been resolved and the manner by which it was resolved.
8. *Notice of Violation* means a document prepared by the Executive Director that identifies the laws allegedly violated by the party accused, the acts or omissions with which the party accused is charged, and the penalties the Executive Director is seeking to impose for each violation listed.
9. *Party Accused* means an individual or group who has been issued a Notice of Violation.
10. *Preponderance of the Evidence* means that evidence sufficient has been presented to conclude that it is more likely than not a violation of County Campaign Reform Ordinance, the Lobbyist Registration and Reporting Ordinance, the Gift Ban Ordinance and/or Sections 6 and 9 of the Code of Ethics has been committed and that the party accused committed or caused the violation.
11. *Remedial Measures* may include but is not limited to the following: a) file any and all reports, statements or other documents or information required by law; b) amend any and all reports, statements or other documents or information found deficient; c) return any and all amounts found to be unauthorized; d) pay any assessed fines.
12. *Statement of Decision* means a writing that includes a summary of evidence presented at the Administrative Hearing and findings of fact and conclusions of Hearing Officer.



C. RULES OF GENERAL APPLICATION

13. JURISDICTION

These procedures apply to proceedings under the County of Orange Campaign Reform Ordinance, Lobbyist Registration and Reporting Ordinance, the Gift Ban Ordinance and sections 6 and 9 of the County Code of Ethics and Commitment to Public Service. Any conflicts between these procedures and the provisions of a County of Orange ordinance will be decided consistent with the provisions of the ordinance.

14. EX PARTE COMMUNICATION

- a. No person, nor his or her agent, employee, or representative, who is interested in a matter pending before a Hearing Officer or the Commission shall communicate ex parte, directly or indirectly, with the Hearing Officer or any member of the Commission concerning the merits of a matter. All procedural questions should be directed to the Office of the Campaign Finance and Ethics Commission:

1300 S. Grand Avenue
Building B, Third Floor, Room 390
Santa Ana, CA 92705
Office line: 714-645-3844
Facsimile: 714-645-5739
Toll free: 844-623-8442
Monday – Friday 8am to 5pm
info@ocethics.com

- b. If prohibited ex parte communication is made to or by a Hearing Officer or any member of the Commission, the substance of such communication shall be publicly disclosed at the beginning of the hearing, and such communication shall not be relied upon in any decision related to the matter. Moreover, proper discretion shall be exercised by the Hearing Officer or the member of the Commission on whether to disqualify himself or herself from that particular matter.



15. HEARINGS

- a. The Hearing Officer and Commission may issue subpoenas to compel the attendance of persons and things at a Hearing.
- b. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses, impeach any witness, and present any relevant evidence to rebut the evidence presented against him or her. The hearing need not be conducted according to technical rules relating to evidence and witnesses.
- c. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. However, hearsay evidence may only be used for the purpose of supplementing or explaining other evidence and shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil or criminal action.
- d. All testimony shall be given under oath or affirmation to tell the truth. Either the Hearing Officer or Commission Chair shall administer the oath or affirmation.
- e. If, in the opinion of the Hearing Officer or a majority of the Commission, more information is necessary to make a decision or recommendation, or there is insufficient time scheduled to hear all of the testimony on the matter, a hearing may be continued to another date. If continued to a specific time and place, and posted on the door of the hearing room, no further notice of that hearing need be given.
- f. Any hearing participant, may, preferably prior to the hearing in writing, state reasonable grounds for a continuance. The Hearing Officer or Commission shall have the discretion to grant or deny any request for continuance, including one made orally at the hearing, if based on reasonable grounds.



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- g. Participants, witnesses or observers shall conduct themselves with civility and deal courteously with all involved in the proceedings. Failure to do so will result in removal from the hearing.
- h. Although representation by legal counsel is not required at the hearings, all parties participating in the hearings may be represented at the hearings by legal counsel of their choice.
- i. The Hearing Officer and Commission may impose reasonable limitations on the number of witnesses heard and the nature and length of the testimony from each witness.
- j. Unless otherwise specified, all forms of legal authority, including briefs, staff reports and other legal memoranda upon which a party will be relying or presenting at the hearing, must be submitted to the Hearing Officer or Commission at least one (1) week in advance of the scheduled hearing date.
- k. NO later than one week before a hearing all parties shall serve on all other parties a list of all witnesses and a copy of all exhibits or documents that the party anticipates offering into evidence at the hearing. Failure to do so may result in the witness or the document being excluded from the hearing.

16. COMPUTATION OF TIME

Computation of any period of time referenced by these procedures shall begin with the first day following the occurrence of the act or event initiating such period of time. When the last day of the time period falls on a Saturday, Sunday or a County holiday, the time period shall be extended to the next following business day.

D. PROCEEDINGS BEFORE A HEARING OFFICER

17. JURISDICTION

A party accused of any violation of the County Campaign Reform Ordinance, the Lobbyist Registration and Reporting Ordinance, the Gift Ban Ordinance or Sections 6 and 9 of the Code of Ethics may request an Administrative Hearing. Unless otherwise



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stipulated, the Executive Director and the party accused shall have an Administrative Hearing before a Hearing Officer selected by the Clerk of the Board within 21 calendar days of such request.

18. RULES

- a. Administrative Hearings shall be conducted by a Hearing Officer who will determine whether the Executive Director has proved, by preponderance of the evidence, that the alleged violation(s) occurred and that the party accused committed or caused the violation(s).
- b. The Hearing Officer shall determine, on all the evidence presented to him or her, whether by preponderance of the evidence, an alleged violation(s) occurred and that the party accused committed or caused the violation(s) within fifteen (15) days following the conclusion of the hearing.
- c. The Hearing Officer shall notify all parties of his or her decision in writing through a Statement of Decision. The Hearing Officer's Statement of Decision shall provide the basis for his/her decision and state that any appeal to the Commission shall be made by written demand and served upon the Office of Campaign Finance and Ethics Commission within 30 days of the mailing of the decision.
- d. In the event that the Hearing Officer determines that no violation has occurred, no further proceedings, civil action or referrals shall thereafter be filed or maintained relating to such alleged violation, and no further action by the Commission is required.

E. PROCEEDINGS BEFORE THE CAMPAIGN FINANCE AND ETHICS COMMISSION

19. JURISDICTION

The party accused may appeal a Hearing Officer's Statement of Decision to the Commission. The Commission shall hold a *de novo* hearing within 21 days of receiving a written demand to appeal the Statement of Decision to determine whether, by



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preponderance of the evidence, the party accused committed an alleged violation or violations.

20. RULES

- a. After the Office of Campaign Finance and Ethics Commission receives a timely written demand from the party accused, the Office shall provide the party accused with a notice of administrative appeal. The notice shall contain the Hearing Officer's Statement of Decision as well as the date, time and location of the appeal hearing before the Commission. The notice shall also inform the party accused that they have a right to attend the administrative appeal, and may be represented by legal counsel or any other representative of their choosing.
- b. The Commission shall determine, within 20 days of the conclusion of the administrative appeal whether, based on the preponderance of the evidence, that an alleged violation(s) occurred and that the party accused committed or caused the violation(s). The Commission shall notify all parties of its decision in writing including a summary of evidence presented at the administrative appeal and findings of fact and conclusions of the Commission.
- c. The Commission's determination shall be deemed final.
- d. If the Commission concludes that a violation of the County Campaign Reform Ordinance, the Lobbyist Registration and Reporting Ordinance, the Gift Ban Ordinance and/or Sections 6 and 9 of the Code of Ethics has occurred and the party accused committed or caused the violations, it shall, in its writing, issue an administrative order. Such administrative order may require the offending party to perform the following actions:
 1. Comply with the penalties found in the Notice of Violation;
 2. Cease and desist the violation;
 3. File any reports, statements or other documents or information required by law;
 4. Perform Remedial Measures;
 5. Pay a monetary penalty to the General Fund of the County of up to \$5,000 for each violation or three times the amount which the violator



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failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater.

21. RECORD OF HEARING

Commission appeals shall be electronically recorded. An electronic duplication of the recording can be requested prior to an appeal to the Superior Court however, the cost of such copying shall be paid by the requester according to the County's adopted fee schedule.

22. APPEAL OF A COMMISSION DECISION/ORDER

- a. Judicial review of a Commission decision/order may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. The ninety-day statute of limitations contained in California Code of Civil Procedure section 1094.6 shall apply to judicial review of enforcement decisions made by the Commission.
- b. Content of the Administrative Record
 1. The administrative record shall consist of the following materials:
 - (a.) The notice of appeal to the Commission;
 - (b.) The hearing officer's decision;
 - (c.) All evidence received which shall include oral testimony given at the hearing, all exhibits and other materials admitted as evidence;
 - (d.) A statement of all matters officially noticed;
 - (e.) A recommendation containing the findings and conclusions of the Commission;
 - (f.) The transcribed recording of the hearing
- c. On appeal to the Superior Court the Office of Campaign Finance and Ethics Commission shall produce the administrative record contingent upon payment by the appellant of reasonable fees for the record which includes payment for transcription by a certified court reporter of the electronic recording of the hearing.