



Ventura County
Campaign Finance Ethics Commission

OPERATING AND HEARING POLICIES AND PROCEDURES

Adopted September 12, 2017

Ventura County Campaign Finance Ethics Commission
Telephone: (805) 654-2251

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OPERATING PROCEDURES

ARTICLE I — IDENTIFICATION

Section 1.01: Name

Ventura County Campaign Finance Ethics Commission ("Commission")

Section 1.02: Contact Information

Clerk of the Campaign Finance Ethics Commission
800 South Victoria Avenue, L1920 Ventura, CA 93009-1920
Telephone: (805) 654-2251
Fax: (805) 677-8711
E-mail: Brian.Palmer@ventura.org

County Executive Office, Campaign Finance Staff
800 South Victoria Avenue, L1940 Ventura, CA 93009-1920
Telephone: (805) 477-1994
E-mail: CF.Compliance.Officer@ventura.org

Section 1.03: Authority, Statutory Requirements, Other Laws and Policies

The Commission was created by Ventura County Ordinance No. 4506, the "Ventura County Campaign Finance Reform Ordinance," which was adopted on March 7, 2017. The current Ordinance No. 4510 was amended and adopted on April 25, 2017 and is codified at Article 6 (commencing with section 1261), of Chapter 2 of Division 1 of the Ventura County Ordinance Code ("Ordinance"). The Commission shall comply with all applicable laws, including, but not limited to, the Ralph M. Brown Act (Government Code section 54950, et seq.), and the Political Reform Act of 1974 (Government Code section 81000, et seq.). (Source: Ordinance, § 1301(h).) The Commission adopts these Operating Procedures pursuant to the Ordinance. (Source: Ordinance, § 1301(t).)

ARTICLE II — MISSION STATEMENT

To preserve public confidence in our county government through the prompt and fair enforcement of local governmental campaign finance ethics laws.

ARTICLE III — ETHICS COMMISSION

Section 3.01: Number and Appointing Authority

The Commission shall consist of five members appointed by the Board of Supervisors, with one appointment being made from each Supervisor's nomination. (Source: Ordinance, § 1301(b).)

Section 3.02: Term of Appointment

The members of the Commission shall serve for a term that coincides with the nominating Supervisor's term. (Source: Ordinance, § 1301(f).)

Section 3.03: Vacancy and Removals

If a member of the Commission is unable to complete his or her full term, or when the Commissioner's term expires, the Board of Supervisors shall appoint a replacement nominated by the Supervisor whose nominee is no longer serving. Commissioners may be removed for good cause by a majority vote of the Board of Supervisors. (Source: Ordinance, § 1301(f).)

Section 3.04: Compensation

Commissioners may be volunteers or may be compensated. (Source: Ordinance, § 1301(a).)

Section 3.05: Function

The Commission shall enforce the provisions of the Ordinance as set forth in § 1301 of the Ordinance.

Section 3.06: Duties and Responsibilities

The Commission shall:

- (a) Operate in as cost effective a manner as possible while focusing on the timely and accurate release of appropriate campaign finance information.
 - (b) Propose to adopt, amend, and rescind rules and procedures to carry out the purposes and provisions of the Ordinance. However, such adoption, amendment, or rescission shall be subject to the approval of the Board of Supervisors.
 - (c) Establish procedures for issuing subpoenas and for delegation of the power and authority to issue subpoenas to attorneys involved in matters before the Compliance Officer or Commission.
 - (d) Have the power and authority to:
 - (1) Issue subpoenas to compel the attendance and testimony of witnesses.
 - (2) Administer oaths and affirmations.
 - (3) Take evidence and require by subpoena the production of any books, papers, records, documents, or other items material to the performance of the Commission's duties or exercise of its powers.
 - (e) Make any written reports and proposed settlements that are public information available to the public and affected parties at least five calendar days in advance of acting upon a complaint or settlement.
 - (f) Adopt, after review by the County Counsel, any and all forms that it deems appropriate for carrying out its authorized purposes.
- (Source: Ordinance, §§1301(i),(m),(q) and (t)-(i), (l)-(m), 1303.)

Section 3.07: Complaints

- (a) Complaints alleging violation of the Ordinance be filed within three years of the date of

the alleged violation by residents of Ventura County, the Compliance Officer or the County Clerk. (Source: Ordinance, § 1299(a).)

- (b) The Commission shall receive and consider formal complaints alleging violations of the Ordinance submitted in writing using the complaint form provided by the Clerk of the Board of Supervisors. Complaints must be accompanied by all available credible evidence supporting the allegations in the complaint. Except for complaints filed by the Compliance Officer or County Clerk, complaints must be signed by the Complainant under penalty of perjury and be accompanied by the required filing fee (\$35 per complaint). (Source: Ordinance, § 1299(a).)
- (c) Upon the filing of a complaint, the County Executive Office shall provide a copy of the complaint to the party alleged to have committed the violation and to the Compliance Officer. (Source: Ordinance, § 1299(b).)
- (d) When the Commission determines on the basis of a public hearing that a violation of the Ordinance has occurred, it may require the violator to do all or any of the following:
 - (1) Cease and desist violation of the Ordinance.
 - (2) File any reports, statements, or other documents or information required by the Ordinance.
 - (3) Pay a monetary penalty of up to five thousand dollars (\$5,000) per violation to the General Fund of the County of Ventura.
 - (4) Pay a fine up to three times the amount or value not properly reported or improperly received or expended to the County General Fund. (Source: Ordinance, § 1301(r).)
- (e) When the Commission determines that no violation has occurred, it shall publish a declaration so stating. (Source: Ordinance, § 1301(s).)

ARTICLE IV — OFFICERS

Section 4.01: Officers

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

Section 4.02: Chair

The Commission shall elect a Chair at its initial meeting and annually thereafter, or when a vacancy in the office occurs. (Source: Ordinance, § 1301(g).)

Section 4.03: Chair Duties

The Chair presides over meetings and shall sign all orders of the Commission.

Section 4.04: Vice Chair

The Commission shall elect a Vice-Chair at its initial meeting and annually thereafter, or when a vacancy in the office occurs. In the absence or disability of the Chair, the Vice Chair shall perform the duties as described in section 4.03.

ARTICLE V — COMPLIANCE OFFICER

Section 5.01: Appointing Authority

The Compliance Officer is appointed by the Board of Supervisors.

Section 5.02: Duties and Responsibilities of Compliance Officer

The Compliance Officer shall receive and investigate complaints of alleged violations of the Ordinance as set forth in the Ordinance and these Operating and Hearing Policies and Procedures. The Compliance Officer shall also provide to candidates, committees and complainants written advice regarding compliance with the Ordinance.

ARTICLE VI — COMMISSION STAFF

Section 6.01: Legal Staff

The County Counsel shall provide the Commission such legal staff and services necessary to perform its duties and responsibilities. (Source: Ordinance, § 1301(k).) In cases where the County Counsel has declared a conflict of interest, outside legal counsel will be retained for the Commission.

Section 6.02: Administrative Staff

The County Executive Officer or his or her designee shall provide the Compliance Officer and Commission such administrative staff and services necessary to perform their duties and responsibilities.

- (a) The County Executive Officer or his or her designee shall provide administrative services to the Compliance Officer as follows:
 - 1) Receive complaints filed with the Clerk of the Board of Supervisors alleging violation of the Ordinance and forward them to the Compliance Officer;
 - 2) Engage services of attorneys and investigators as appropriate and as approved by the Compliance Officer;
 - 3) Assist with issuance of Subpoenas Duces Tecum; and
 - 4) Provide other support and assistance as reasonably required by the Compliance Officer.
- (b) The County Executive Officer or his or her designee shall provide administrative services to the Commission as follows:
 - 1) Prepare, post and distribute meeting agendas and materials. The agenda will be developed in conjunction with the Chair of the Commission, and include input from Commissioners;
 - 2) Receive all submissions from parties in relation to any matter before the Commission for inclusion on the agenda for Commission meetings or for consideration by the Commission;
 - 3) Process requests for Subpoenas and Subpoenas Duces Tecum from parties to an Evidentiary Hearing;
 - 4) In cases where the County Counsel has declared a conflict of interest, engage services of attorneys as needed; and
 - 5) Provide other support and assistance as reasonably required by the Commission.

ARTICLE VII — COMMISSION MEETINGS

Section 7.01: Meetings Open to the Public

In accordance with the Ralph M. Brown Act, Commission meetings shall be conducted in full view of the public and news media except for matters requiring confidentiality, such as personnel matters and anticipated or pending litigation in which the Commission is or anticipates being a party as discussed in section 7.08.

Section 7.02: Meeting Schedule

Regular Commission meetings shall be held as necessary when there are matters requiring the attention of, or action by the Commission.

Section 7.03: Location of Meetings

Regular Commission meetings shall be held at the Ventura County Government Center, Hall of Administration, Board Meeting Room, 800 South Victoria Avenue, Ventura, California. The Commission may change the location of a meeting to accommodate members of the Commission or for any other reason deemed appropriate by the Commission.

Section 7.04: Notice of Meetings

Notices and agendas of all regular and special Commission meetings shall be posted at the Ventura County Government Center, Hall of Administration, in a place freely accessible to the public. Notice of regular meetings shall be posted at least 72 hours before the meeting in the same manner as agendas are posted for Ventura County boards and commissions that are governed by the Ralph M. Brown Act, Government Code section 54950 et seq., including, but not limited to, posting on the Agendas, Documents and Broadcasts page of the County of Ventura website and on the Commission's web page. Notice of special meetings shall be posted at least 24 hours before the meeting and given to members of the public and all media outlets that have requested notification.

Section 7.05: Quorum

At all meetings of the Commission, the presence of a majority (3) of the members shall constitute a quorum for all purposes. The act of the majority of the members of the Commission present at the meeting shall be the act of the full membership.

Section 7.06: Public Comment

All interested persons shall be allowed to express their views at Commission meetings regarding matters within the jurisdiction of the Commission. All Commission meetings shall provide an opportunity for public comment on matters not listed on the agenda but within the jurisdiction of the Commission. Such opportunity for public comment shall appear as an item on the agenda. Each person wishing to speak before the Commission shall be allowed to do so subject to the Commission's right to limit the individual and total time for public comment as specified in writing on the Commission's agenda. Public comment shall be allowed on

each matter listed on the agenda before any vote or action is taken by the Commission on an item.

Section 7.07: Meeting Minutes

Minutes shall be taken at every regular and special Commission meeting and shall be approved by a vote of the Commission pursuant to section 7.05.

Section 7.08: Closed Sessions

The Commission is authorized to hold closed (non-public) sessions at regular and special meetings for purposes of confidential discussions, such as the discussion of job performance, or to meet with legal counsel regarding anticipated or pending litigation in which the Commission is, or anticipates being, a party. Upon consultation with the legal advisor from the County Counsel, and the determination that a closed session is both authorized and appropriate under the circumstances, the Chair of the Commission may call for a closed session. Appropriate notice shall be given of all closed sessions.

Section 7.09: Special Meetings

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

ARTICLE VIII — AGENDA REQUIREMENTS

Staff will develop the agenda for all meetings in conjunction with the Chair and with input from Commissioners. The agenda shall contain a meaningful description of each item to be transacted or discussed at the Commission meeting so as to alert those whose interests may be affected by the item that they may have reason to attend the meeting or seek more information about the item.

ARTICLE IX — VOTING

Section 9.01: Voting and Abstention

Each member present at a Commission meeting shall vote on all matters put to a vote unless the member has a financial interest or other conflict of interest which legally precludes that member from participating in the matter or the member is required to recuse him or herself from a matter under section 1301(d) of the Ordinance and section 14.06, below.

Section 9.02: Voting by Proxy

Voting by proxy is prohibited.

ARTICLE X — STANDARDS OF CONDUCT

Section 10.01: Standards

A Commissioner shall perform his or her duties without bias or prejudice. A Commissioner shall not, in the performance of his or her duties as a Commissioner, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status or political belief or affiliation. Commissioners shall support the mission, goals, and objectives of the 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:

- (a) Encouraging and promoting integrity in government by education and example;
- (b) Fairly and objectively enforcing the County's campaign finance reform laws and regulations;
- (c) Being accountable for its rules of procedure and decisions, and stimulating accountability of all elected officials;
- (d) Treating all staff, members of the public, and colleagues with courtesy, respect, objectivity, and fairness;
- (e) Assuring honesty in all matters that come before the Commission, both individually and collectively; and,
- (f) 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.

Section 10.02: Representation of the Commission

Except for comments made during open session of Commission meetings, a Commissioner shall not make any public comment about the substance, merits, or parties to a pending or impending proceeding before the Commission. A Commissioner shall not make any nonpublic comments about the substance, merits, or parties to a pending or impending proceeding before the Commission that might substantially interfere with a fair hearing or proceeding before the Commission.

The Commission Chair shall act as the media liaison for the Commission and all other Commissioners shall refer media contacts to the Chair. Whenever a Commissioner communicates with the news media, or appears at a public hearing, or before another County department to discuss existing or proposed legislation or policy, the Commissioner shall make every reasonable effort to explain to the Commissioner's audience whether the Commissioner is expressing an opinion, view, or position that is the view of that individual Commissioner or a view, position, or opinion of the Commission as a whole. Whenever the Commission learns that a view, position, or opinion of the Commission as a whole has been misinterpreted or misrepresented in the media, at a hearing, or in a public forum, the Commission, through the Chair or the Chair's appointed representative, may clarify the

Commission's true position as soon as practicable.

HEARING PROCEDURES

ARTICLE XI — PURPOSE

The purpose of these procedures is to establish a uniform set of rules and procedures to be followed by the Commission and all persons subject to the Ordinance subsequent to the filing of a Complaint alleging violation of the Ordinance. At the discretion of the Commission or when warranted by good cause, deviations from these procedures are permissible.

ARTICLE XII — DEFINITIONS

For purposes of these procedures:

Section 12.01: Evidentiary Hearing

Evidentiary Hearing means a hearing before the Commission open to the public, at which the allegations of the Complaint are adjudicated and at which the Compliance Officer and Respondent may introduce evidence, including live testimony and documentary evidence, in support of their claims or defenses.

Section 12.02: Commission

"Commission" means the Ventura County Campaign Finance Ethics Commission.

Section 12.03: Complainant

"Complainant" means the person or entity who files a written complaint alleging violation of the Ordinance.

Section 12.04: Investigation

"Investigation" means an official inquiry, conducted by or under the direction of the Compliance Officer that includes, but is not limited to, interviews of witnesses and a review of documents, reports, and other material which are relevant to whether a violation of the Ordinance has occurred.

Section 12.05: Respondent

"Respondent" means a person or entity that is alleged in a complaint to have violated the Ordinance.

Section 12.06: Subpoena

"Subpoena" means a written order of the Commission requiring a witness's appearance at an Evidentiary Hearing to give testimony.

Section 12.07: Subpoena Duces Tecum

"Subpoena Duces Tecum" means a written order of either the Compliance Officer or the Commission requiring the production of books, papers, records, or other items material to the alleged violation of the Ordinance at issue.

Section 12.08: Other Terms

Other terms used in these procedures shall be defined in accordance with their usage in common language.

ARTICLE XIII — PRE-HEARING PROCEDURES

Section 13.01: Complaint Filing

Complaints alleging violations of the Ordinance, along with the supporting evidence, shall be filed with the Clerk of the Board of Supervisors. The Clerk of the Board of Supervisors shall mark each filed complaint as received and forward the complaint to the County Executive Officer or his or her designee. The County Executive Officer or his or her designee shall then forward the complaint to the Compliance Officer.

Section 13.02: Initial Complaint Review

The Compliance Officer shall perform an initial review of each complaint to determine: (a) whether the complaint alleges facts that, if true, would constitute a violation of the Ordinance; and (b) whether there is any credible evidence supporting the allegations in the complaint. During the initial review, the Compliance Officer shall review evidence submitted with the complaint, evidence submitted by the Respondent and other evidence identified in the course of the initial review. The Compliance Officer must make a good-faith effort to issue to the Commission a written opinion within five working days of his or her receipt of a complaint as to whether the complaint merits further investigation or should be dismissed. If the Compliance Officer cannot issue an opinion within five working days, the Compliance Officer shall notify the Commission in writing as to when the initial review will be completed.

Section 13.03: Initial Review Findings

If the Compliance Officer's initial review finds that a complaint fails to allege facts that, if true, would constitute a violation of the Ordinance, and/or that there is no credible evidence to justify further investigation of the complaint, or if adequate exculpatory evidence is identified, the Compliance Officer shall recommend to the Commission that the complaint be dismissed. Before finalizing his or her recommendation, the Compliance Officer shall discuss the case with the Complainant. Both the Complainant and the subject of the complaint shall be promptly notified of the Compliance Officer's findings and recommendation. A recommendation of dismissal shall be reviewed by the Commission at a public hearing. The Commission may sustain the recommendation and order the complaint dismissed or may overrule the recommendation and provide direction to the Compliance

Officer for further action.

Section 13.04: Investigation

For any complaint not recommended for dismissal after initial review, the Compliance Officer shall conduct an investigation and determine whether sufficient evidence exists to establish that a violation of the Ordinance has occurred. The Compliance Officer shall consider the allegations of the complaint, the evidence submitted with the complaint, and any other information discovered during the investigation that would indicate whether a violation of the Ordinance has or has not occurred.

The Compliance Officer shall have the power and authority to require by Subpoena Duces Tecum the production of any books, papers, records, documents or other items material to the performance of the Compliance Officer's duties or exercise of his or her powers. Willful failure to obey a Subpoena Duces Tecum constitutes contempt.

Section 13.05: Insufficient Evidence

If, after the investigation is complete, the Compliance Officer concludes that either the evidence is insufficient to establish that a violation of the Ordinance has occurred or the evidence establishes that no violation of the Ordinance has occurred, the Compliance Officer shall prepare a written report of that conclusion and shall recommend to the Commission that the complaint be dismissed. The Compliance Officer shall strive to submit the recommendation for dismissal to the Commission within 40 calendar days after the Compliance Officer's receipt of a complaint. If additional time is required, the Compliance Officer shall report the reasons to the Commission.

A recommendation of dismissal after investigation shall be reviewed by the Commission at a public hearing. The Commission may sustain the recommendation and order the complaint dismissed or may overrule the recommendation and provide direction to the Compliance Officer for further action.

Section 13.06: Sufficient Evidence

If the Compliance Officer concludes on the basis of the investigation that sufficient evidence exists to establish that a violation of the Ordinance has occurred, the Compliance Officer shall offer to enter into a proposed voluntary settlement agreement with the Respondent. The proposed settlement may require the Respondent to do one or more of the following:

- (1) Cease and desist violation of the Ordinance;
- (2) File any reports, statements, or other documents or information required by the Ordinance;
- (3) Pay a monetary penalty of up to \$5,000 per violation to the General Fund of the County of Ventura; and
- (4) Pay a fine of up to three times the amount or value not properly reported or

improperly received or expended.

The Compliance Officer shall primarily consider the deterrent effect of the settlement on future violations by others. Before agreeing to a settlement agreement, the Compliance Officer shall discuss with the Complainant the proposed settlement rationale and fairly consider the input of the Complainant.

If a proposed voluntary settlement agreement is reached, the Compliance Officer shall (a) provide a copy of the proposed settlement to the Complainant and (b) submit to the Commission, within 40 calendar days after the Compliance Officer's receipt of the complaint, a written report of the Compliance Officer's findings and the proposed settlement signed by the Compliance Officer and the Respondent. A proposed settlement shall be reviewed by the Commission at a public hearing. A proposed settlement agreement shall become final and effective only upon acceptance by the Commission. If the Commission does not accept the proposed settlement agreement, the Commission shall schedule an Evidentiary Hearing on the matter and then may take any action allowed by the Ordinance. If the Compliance Officer needs more than 40 calendar days after receipt of the complaint to complete the investigation and settlement discussion, the Compliance Officer shall submit a written report to the Commission identifying the reason for the additional time and the time when the Compliance Officer believes the report will be ready.

If no proposed voluntary settlement agreement is reached in a timely manner, then the Compliance Officer shall submit to the County Executive Office a request to set the matter for an Evidentiary Hearing. The Evidentiary Hearing shall be scheduled not less than 90 days and not more than 150 days from the date the Compliance Officer submits the request for an Evidentiary Hearing. At the Evidentiary Hearing, the Compliance Officer shall present to the Commission the evidence supporting the allegations in the complaint. Within five working days of the Compliance Officer's request to set the matter for an Evidentiary Hearing, the County Executive Officer or his or her designee shall serve written notice to all parties of the time, date and location of the Evidentiary Hearing.

Section 13.07: Subpoenas and Subpoenas Duces Tecum

Once a matter has been set for an Evidentiary Hearing, the Commission may issue Subpoenas and Subpoenas Duces Tecum at the request of any party for a witness's attendance or production of documents at the Evidentiary Hearing. Compliance with the provisions of Code of Civil Procedure section 1985 shall be a condition precedent to the issuance of a Subpoena Duces Tecum. All costs related to a Subpoena or Subpoena Duces Tecum, including witness and mileage fees, shall be borne by the party requesting the Subpoena or Subpoena Duces Tecum. Failure to obey a Subpoena or Subpoena Duces Tecum constitutes contempt.

Requests for a Subpoena or Subpoena Duces Tecum should be submitted in writing to the designated staff in the County Executive Office. The Commission may delegate to attorneys representing parties in matters before the Commission the power and authority to issue Subpoenas and Subpoenas Duces Tecum.

Section 13.08: Witnesses, Documents, and Statements

Any party to a matter pending before the Commission may request from any other party to the matter:

- (a) the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the Evidentiary Hearing; and
- (b) an opportunity to inspect and make a copy of any of the following in the possession or custody or under the control of any other party to the matter:
 - (1) A statement pertaining to the subject matter of the proceeding made by any party. Where the party is a committee, this section shall apply to statements made by an officer of the committee and/or the candidate if the committee is a controlled committee of a candidate;
 - (2) Statements of witnesses then proposed to be called to testify at the Evidentiary Hearing and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding who are not included in subdivision (b)(1) above; and
 - (3) All writings that any other party then proposes to offer in evidence.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electronic, including audio and/or video, or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Requests for information under this section must be made in writing no later than 45 calendar days prior to the date scheduled for the Evidentiary Hearing, unless a shorter time is ordered by the Commission. While no particular form must be used, the request must clearly and plainly state the information or items sought. Requests for information must be served on the party from whom the information is sought either personally or by mail. Concurrent with the service responsibilities set forth under this section the party seeking information shall ensure that all other parties to the Evidentiary Hearing are provided with a copy of the request for information. The party responding to the information request shall respond within 10 calendar days and shall provide all other parties to the Evidentiary Hearing with copies of all documents that are produced.

Section 13.09: Material Witness Depositions

In the event that a material witness is unavailable to testify at the Evidentiary Hearing, any party may move the Commission for an order that the testimony of that material witness be taken by deposition in the manner prescribed by law for depositions in civil actions under article 3 (commencing with section 2025.310) of chapter 9 of title 4 of part 4 of the Code of Civil Procedure. The motion shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of the testimony; a showing that the witness will be unable or cannot be compelled to attend the Evidentiary Hearing; and shall request an order requiring the witness to appear and testify before an officer named in the order for that purpose. A motion for an order for a deposition

shall be filed with the Commission and served on all parties no later than 45 calendar days before the date scheduled for the Evidentiary Hearing and at least 14 calendar days before the date scheduled for the hearing on the motion. Any opposition or response to the motion shall be filed with the Commission and served on all parties at least seven calendar days before the date scheduled for the hearing. No written reply to such opposition will be allowed. If the motion is granted, the moving party shall serve notice of the deposition and a copy of the signed order on the other parties at least 10 days before the deposition.

Parties seeking to file a motion for an order for a material witness deposition should first contact the designated staff in the County Executive Office to schedule the hearing. Once a date for the hearing is scheduled, all moving and opposition papers should be submitted to the designated staff in the County Executive Office.

Section 13.10: Motions to Compel

If a party claims that another party has failed to comply with a request for information made pursuant to this article, the party may request a hearing before the Commission for the purpose of seeking to compel production of the requested information. A motion to compel shall be filed with the Commission and served on all parties no later than 30 days before the date scheduled for the Evidentiary Hearing and at least 14 calendar days before the date scheduled for the hearing on the motion. Any opposition or response to the motion shall be filed with the Commission and served on all parties at least seven calendar days before the date scheduled for the hearing. No written reply to such opposition will be allowed.

Parties seeking to file a motion to compel should first contact the designated staff in the County Executive Office to schedule the hearing. Once a date for the hearing is scheduled, all moving and opposition papers should be submitted to the designated staff in the County Executive Office.

Section 13.11: Privileged Documents

Nothing in this Article shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

Section 13.12: Communications and Stipulations

Nothing in this article precludes the parties to the Evidentiary Hearing from engaging in discussions with one another on such matters as scheduling the Evidentiary Hearing, clarification of issues, exchanges of information, issuance of Subpoenas and Subpoenas Duces Tecum, the number and identity of witnesses, and the possibility of informal resolution (subject to the Commission's final action on any proposed settlement). The parties to the Evidentiary Hearing may stipulate as to any facts or matters which they have agreed are not in dispute.

Section 13.13: Witness Lists and Exhibits

No later than 10 calendar days prior to the Evidentiary Hearing, each party to the Evidentiary Hearing shall mail or deliver to all other parties and shall file with the Commission a list of all witnesses and a copy of all exhibits or documents that the party anticipates offering into evidence at the Evidentiary Hearing.

Section 13.14: Scheduled Public Hearings

The Compliance Officer and respondents, or their representatives, shall contact the designated staff in the County Executive Office to schedule any public hearing for the Commission to consider recommendations for dismissal, proposed settlements, motions and other matters or to hold an Evidentiary Hearing. The parties shall provide mutually available dates for the subject public hearing.

ARTICLE XIV — DISQUALIFICATION OF COMMISSION MEMBERS AND COMPLIANCE OFFICER

Section 14.01: Reasons for Disqualification

Members of the Commission and the Compliance Officer are subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified for cause in a court of law.

Section 14.02: Voluntary Disqualification; Non-Participation

A member of the Commission or the Compliance Officer may voluntarily disqualify himself or herself for any of the reasons listed in section 14.01. Once disqualified, that individual shall not participate in any discussion, deliberation, or voting pertaining to any matter that is the subject of the Evidentiary Hearing.

Section 14.03: Waiver of Disqualification

Notwithstanding section 14.02, the parties may choose to accept any member of the Commission or the Compliance Officer by waiving the disqualification in a written statement, signed by all parties, that recites the grounds for disqualification.

Section 14.04: Effectiveness

A waiver is effective only when signed by all parties, accepted by the Commission (and, where the Compliance Officer is the subject of the disqualification, also by the Compliance Officer), and included in the record of the Evidentiary Hearing.

Section 14.05: Motion to Compel Disqualification

Any party may seek to compel the disqualification of any member of the Commission and/or the Compliance Officer by filing an affidavit with the Commission, prior to the taking of evidence at an Evidentiary Hearing, stating with particularity the grounds upon which it is claimed that the member or Compliance Officer should be disqualified. A request to compel the disqualification of a member of the Commission shall be determined by a concurring vote of at least two members of the Commission. The Commissioner who is the subject of the request for disqualification shall not participate in the vote or in any deliberations or discussions preceding the vote. If two members are disqualified, the remaining Commissioner shall have full authority to decide the matter pursuant to section 7.05.

Section 14.06: Recusal

A Commissioner or the Compliance Officer must recuse himself or herself from any matter pertaining to an election for County office if either of the following applies:

1) the Commissioner or Compliance Officer, or his or her spouse, has ever made a campaign contribution to (A) a candidate in that election for the County office in question, (B) a candidate who was opposed to any of the candidates for the County office in question, or (C) an Independent Expenditure Committee, as defined in Section 1264(g) of the Ordinance, that has contributed to or expended funds for or against any person identified in (A) or (B). Disqualifying contributions include contributions made in connection with any campaign for elective office, at any time.

2) The matter involves an election in which the Supervisor who nominated the Commissioner for appointment to the Commission is or was a candidate. (Source: Ordinance, § 1301(d).)

The provision for waivers set forth in section 14.03 does not apply to the recusal of a Commissioner or Compliance Officer who is required to recuse him or herself under the Ordinance and this section.

ARTICLE XV — ATTENDANCE AND COUNSEL AT HEARING

Each party has the right to attend the Evidentiary Hearing and may be represented by legal counsel or any other representative of his or her choosing.

ARTICLE XVI — PROCEDURES FOR THE EVIDENTIARY HEARING

The procedures contained in this Article provide the basic procedures for the conduct of the Evidentiary Hearing.

Section 16.01: Public Hearings

Evidentiary Hearings shall be open to the public. Any written reports, recommendations and proposed settlements shall be made available to the public and affected parties at least five calendar days in advance of acting upon a complaint or proposed settlement.

Section 16.02: Basic Record of Proceedings

The following documents shall be made a part of the record: the notice of hearing; the complaint; the Compliance Officer's Evidentiary Hearing brief; any Evidentiary Hearing brief submitted by a Respondent; and any waivers as to the disqualification of a member of the Commission or the Compliance Officer.

Section 16.03: Opening Statements

The Compliance Officer shall make an opening statement. Each Respondent may make an opening statement immediately following the Compliance Officer's opening statement or may reserve an opening statement until after the Compliance Officer concludes his or her case.

Section 16.04: Compliance Officer's Case in Chief

The Compliance Officer puts on his or her case first and shall present the evidence supporting the allegations in the complaint.

Section 16.05: Respondent's Case

The Respondent puts on his or her case after the Compliance Officer concludes his or her case. If there is more than one Respondent, the order of presentation may be decided by mutual agreement of the Respondents or, if necessary, by the Chair of the Commission.

Section 16.06: Rebuttal Evidence

After the initial presentation of evidence by both sides, the parties, beginning with the Compliance Officer, may introduce evidence in rebuttal. Such evidence should be limited to matters already raised in the presentation of the Compliance Officer's or Respondent's case.

Section 16.07: Closing Arguments

Each party may make a closing argument. The Compliance Officer proceeds first. The Respondent(s) proceed after the Compliance Officer's closing argument. The Compliance Officer may conclude the closing arguments with a rebuttal.

Section 16.08: Motions for Nonsuit Not Authorized

These procedures do not authorize the making of a motion for nonsuit at any time during the Evidentiary Hearing.

Section 16.09: Continuances

The Commission may continue the Evidentiary Hearing for good cause shown by one of the parties to the Evidentiary Hearing or pursuant to stipulation by all parties.

Section 16.10: Evidentiary Burdens

The parties must establish each element or claim for which they have the burden of proof by a preponderance of the evidence.

Section 16.11: Court Reporters

Any party may arrange for a court reporter to be present to record the proceedings at an Evidentiary Hearing or other public hearing before the Commission. Costs of the court reporter shall be paid by the party who requested the court reporter; however, nothing shall preclude the parties from agreeing to share equally in the costs of the court reporter.

ARTICLE XVII — EVIDENCE

Section 17.01: Oaths

Oral evidence shall be taken only on oath. The oath may be administered by the Clerk of the Commission. The oath is obtained by an affirmative response to the following statement: "You do solemnly state, under penalty of perjury, that the evidence that you shall give in this matter shall be the truth, the whole truth, and nothing but the truth."

Section 17.02: Procedural Rights

Each party shall have the right to:

- (a) Call and examine witnesses;
- (b) Introduce exhibits;
- (c) Cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; and
- (d) Impeach any witness regardless of which party first called the witness to testify.

Section 17.03: Compliance Officer's Right to Call Respondent

The Compliance Officer may call and examine any Respondent as if under cross-examination even if that Respondent does not first testify in his or her own behalf.

Section 17.04: Rules of Evidence

The Evidentiary Hearing need not be conducted according to the provisions of the California Evidence Code. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable 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 the evidence over objection in civil actions.

Section 17.05: Hearsay Evidence

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

Section 17.06: Rules of Privilege

The rules of privilege shall be effective to the extent that they are applicable in a court of law as governed by the California Evidence Code.

Section 17.07: Commission's Discretion

The Commission has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

ARTICLE XVIII — RULINGS

Section 18.01: Commission Deliberations and Rulings

Upon completion of the presentation of evidence and closing arguments of the parties, the Commission shall deliberate in open session. Rulings of the Commission shall be made by motion, second, and a vote of the Commission.

Section 18.02: Commission Vote

A finding of a violation of the Ordinance and issuance of any orders and/or imposition of any penalties or fines shall require a vote of the majority of the Commissioners pursuant to section 7.05.

Section 18.03: Interlocutory Rulings

Rulings on motions or stipulations submitted to the Commission shall follow the procedures set forth in section 18.01. Approval of the requested action shall require a vote of the Commissioners pursuant to section 7.05.

Section 18.04: Commission Orders

Decisions of the Commission following Evidentiary Hearings or upon motions or stipulations shall be set forth in an Order signed by the Chair of the Commission. The Order shall be prepared by legal counsel to the Commission.

Section 18.05: Payment of Monetary Penalties by Stipulation

At the time a stipulation containing a monetary penalty is presented to the Commission and approved, the Respondent must produce and submit to the Compliance Officer a cashier's check made payable to the County of Ventura for the amount stipulated.

Section 18.06: Payment of Monetary Penalties by Commission Order

When a ruling and order of the Commission includes monetary penalty that was not stipulated to by the Compliance Officer and the Respondent, the amount of the penalty shall be due and

payable by the Respondent within five days after service of the written order on the Respondent.

Section 18.07: Collections

Monetary penalties that remain unpaid thirty (30) days after service on the Respondent of a written order by the Commission will be referred for appropriate collections remedies by the County.

ARTICLE XIX — EX PARTE COMMUNICATIONS

Section 19.01: Communications By and Between Commissioners

Once a complaint has been filed, members of the Commission shall not participate in any communications with the Compliance Officer, any party, representative of a party, or any person who has a direct or indirect interest in the outcome of the proceeding about the subject matter or merits of the case at issue, except at an open meeting of the Commission. This section does not prohibit Commission members from reviewing complaints and other written submissions that are properly served in accordance with section 19.02.

Section 19.02: Review of Written Submissions: Service Requirements

Except for the initial complaint, no pleading, letter, document, or other writing shall be filed by a party unless service of a copy thereof together with any exhibit or attachment is made on all other parties to the proceeding.

Section 19.03: Limitations

Communications prohibited under section 19.01 do not include communications between parties and staff to the Commission concerning matters of procedure or practice, including requests for continuances that are not in controversy. It also does not prohibit communications between a party and the Commission when the opposing party has failed to appear as set forth in Article XX.

Section 19.04: Disclosure of Ex Parte Communications

If, while the proceeding is pending, any member of the Commission receives a communication of a type that would be in violation of this Article, he or she shall promptly disclose the content of the communication on the record and give all parties an opportunity to address it.

ARTICLE XX — NON-APPEARANCE AND DEFAULT

Section 20.01: Hearing Upon Respondent's Failure to Appear

In the event a Respondent fails to appear at an Evidentiary Hearing, the Commission at its

discretion, may conduct the hearing notwithstanding the absence of the Respondent or, in the alternative, dispense with the Evidentiary Hearing and take under submission Respondent's express written admissions, stipulations entered into between the parties, and any other written evidence submitted by a party present at the Evidentiary Hearing. The Compliance Officer retains the burden of proving the charges in the complaint.

Section 20.02: Motion Following Respondent's Failure to Appear

In the event the Respondent fails to appear, and within seven business days after a decision by the Commission that the Respondent has committed a violation of the Ordinance, the Respondent may serve a written motion requesting that the Commission's decision be vacated and stating the grounds relied on. The Commission, in its discretion, may vacate the decision and grant a re-hearing on a showing of good cause. As used in this section, good cause includes, but is not limited to, any of the following:

- (a) Failure of the person to receive notice of the Evidentiary Hearing; or
- (b) Mistake, inadvertence, surprise, or excusable neglect of the party or the party's representative.

ARTICLE XXI — JUDICIAL REVIEW

Section 21.01: Writ of Mandate

Judicial review of any final order of the Commission may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure.

Section 21.02: Statute of Limitations

The 90-day statute of limitations contained in California Code of Civil Procedure section 1094.6 shall apply to judicial review of final orders of the Commission.

Section 21.03: Record of Proceedings

The record under judicial review shall include all (and only) those materials submitted to the Commission at or before the close of the Evidentiary Hearing and any duly certified audio, video, and/or transcribed record of oral proceedings before the Commission.