

Presentation to the Ethics Commission  
City of Long Beach

Performance audit of the City of Long Beach  
Ethics Program

Prepared for the City Auditor

September 9, 2020

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# Ethics defined

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Ethics are defined as a system of moral principles that define good and bad and what is expected of a group.

A municipality's ethics program should clearly set forth what is right and wrong for elected officials, appointed commissioners and committee members, employees, interns, volunteers, and contractors and vendors.

For the program to be effective, it must be clearly communicated to all staff and officials and demonstrably supported by executive management.

# City Ethics Program



## 3 Key Ethics Program Departments

City Attorney	Human Resources	City Auditor
<p>Prepares and interprets <i>Ethics Guide for Long Beach City Staff and Officials</i></p> <p>Provides ethics advice to elected officials and City staff.</p>	<p>Prepares and implements City policies and State laws regarding harassment and discrimination.</p>	<p>Operates City's Fraud Hotline and website for receiving reports and conducting investigations of fraud, waste, and abuse.</p>
Program administration		
City Clerk	City Manager	Non-CM departments
<p>Administers mechanisms for required disclosures of finances, gifts, etc. &amp; compliance with mandatory ethics training requirements.</p>	<p>Oversight over certain activities in direct report departments.</p>	<p>Separate oversight for enterprise departments and those headed by elected officials.</p>

# Key Ethics Program Documents



## A. *Ethics Guide for Long Beach City Staff and Officials:*

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|-------------------------|--|
| 1. Ethics               | 6. Public Records Act                    |
| 2. Accepting Gifts      | 7. Restrictions on Public Mailings       |
| 3. Financial Disclosure | 8. “Revolving Door” Restrictions         |
| 4. Use of City Tickets  | 9. Fraud Prevention and Reporting Policy |
| 5. Political Activities | 10. Brown Act                            |
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## B. Anti-Discrimination and Harassment Policies

## C. City Auditor’s Internal Fraud Hotline Policies and Procedures for Fraud, Waste and Abuse Reporting and Investigating

# Analysis of City of Long Beach Ethics Program Relative to 11 Standards from Best Practices

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1. Established Oversight & Clear Delegation of Responsibilities
2. Easily Accessible Comprehensive Written Ethics Policies & Procedures
3. Written Policies & Procedures Outlining Ethics Program Rules in Municipal Code
4. Clear Definition of “Ethics”
5. Clearly Identified Pathways to Report Alleged Violations, Anonymously or Not
6. Provide Advice & Information on Ethics-Related Issues
7. Establish & Publish Disciplinary Actions & Penalties for Violations
8. Publish Annual Reports with Reported Violations & Outcomes
9. Implement Proactive Measures & Checks for Effectiveness
10. Required & Regular Ethics Trainings for All Staff & Elected/Appointed Officials, Including Sexual Harassment & Discrimination Training
11. Retaliation Protection

## Standard #1. Established Oversight & Clear Delegation of Responsibilities

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- Many program elements in place in the City but no one entity provides management oversight & is accountable for ensuring ethics program effectiveness.
- Inconsistency in ethics program practices among City departments.
- The new Ethics Commission: opportunity to centralize program oversight and accountability.
  - Most surveyed cities have staff assigned to their ethics commission to support ethics programs.

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

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- There is no single comprehensive City document about its ethics program. Information dispersed in documents prepared by the City Attorney, the City Auditor, and the HR Department.
- Information should be readily available about:
  - the City's ethics rules and regulations
  - methods of obtaining advice on ethical matters
  - processes for filing complaints about suspected ethical misconduct,
  - retaliation protections, and
  - related matters.
- *City survey*: low rate of employee awareness of ethics program (27% respondents aware of all program elements); high rate of dissatisfaction with resources and information available about the program (22% have positive assessment of program resources).
- Many cities surveyed have comprehensive ethics program websites.

## Standard #3. Policies and Procedures Outlining Ethics Program in the City's Municipal Code

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- The Municipal Code contains only the City's high level Code of Ethics; no information outlining the ethics program structure and key procedures.
- Some cities surveyed have detailed information in their municipal codes: ethics commission structure & responsibilities, procedures, penalties for violations, etc.
- Measure CCC delegates authority to Commission over campaign financing, lobbying, conflicts of interest, governmental ethics, and "other areas".
  - Key aspects of program should be detailed in Code; "other areas" of Commission responsibility should be defined.





## Standard #4. Clear Definition of “Ethics” for the City

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- Absence of a clear definition in official City documents leaves the City without a commonly understood and agreed upon foundation for its ethics program.
- Definition should communicate the type of behavior acceptable for City officials, employees, & stakeholders.
- Definition should be comprehensive, incorporating traditional ethics areas such as conflicts of interest, but also:
  - accountability and transparency in City operations
  - inclusivity
  - respect for all employees & citizens
  - citizen engagement, and
  - prohibitions of discrimination and sexual harassment.

## Standard #5. Clearly Identified Pathways to Report Alleged Violations, Anonymously or not

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- City provides multiple pathways for employees and the public to report suspected ethical misconduct (a best practice).
- However, the City's various pathways are not all documented or communicated to employees.
- Most departments do not have ethics-related written policies and procedures (e.g., role of Administrative Officers in every department).
  - In 2019 City survey, only 55 percent of employees reported their suspected misconduct. Explanations for reluctance to report include:
    - believing complaints would not remain anonymous,
    - fear of retaliation from supervisors, management, or coworkers, and
    - not knowing whom to contact.



## Standard #6. Advice and Information on Ethics-Related Issues

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- The City does not have a publicized central source for providing advice and information on ethics issues to employees and the public.
- City needs clearly identified advice & referral ethics hotline.
- Employee Ethics Culture Survey: low awareness of the ethics program among City employees.
- Almost all surveyed cities report an ethics advice hotline/phone line.

## Standard #7. Established and Published Disciplinary Actions and Penalties for Violations

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- City does not have a published list of State and local penalties or disciplinary procedures and actions such as fines for ethical misconduct.
- Absence of such fines leaves City employees and the public uncertain about the impact and consistency of outcomes from filing complaints of suspected ethical misconduct.
- Low employee satisfaction level with reporting suspected ethical misconduct according to a 2019 survey.
  - One reason: belief that the corrective actions taken were not severe or complete enough.

## Standard #8. Annual Reports of Violations and Case Outcomes

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- The City does not publish Citywide ethics complaint caseloads & outcomes. Only the City Auditor produces annual report, but of just their investigations.
- City management, employees and the public do not have knowledge of the extent of complaints and ethical violations in the City, the effectiveness of the ethics program, and areas needing improvement.
- Annual Citywide summary report produced by the Ethics Commission could improve employee awareness of ethics program, consequences for violations:
  - Report number of complaints, investigations, and outcomes.

## Standard #9. Proactive Measures and Checks for Ethics Program Effectiveness

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- There are limited proactive measures or checks for acts of ethical misconduct in place in the City.
- A number of departments reported practices in place to prevent and/or detect ethics violations.
  - These practices are not consistently applied across the City and their effectiveness has not been proven (e.g., some departments require annual attestations of compliance with City's Ethics Code; some don't).
- City's boilerplate contract language should be strengthened:
  - Require contractors to affirm adherence to Code of Ethics, no provision of gifts or gratuities to City officials or employees.

## Standard #10. Required and Regular Ethics Trainings for all Officials and Employees: Ethics, Sexual Harassment, and Discrimination

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- The City requires ethics training for all new staff during onboarding. No further ethics training is required beyond that, no matter how long an employee works for the City.
- Some City departments require that their employees attend ethics training annually; other departments have no such requirement.
- Sexual harassment training has been required by the State for supervisory employees for years; as of January 2020, all employees must attend one hour of such training every two years.
  - Compliance with training requirements are not compiled and published for review by the Mayor, City Council, and City Manager.



## Standard #11. Retaliation Protection

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- Retaliation protection information is not well documented in the City's ethics program documents.
- Survey: employees reluctant to report suspected misconduct; they don't know their protections:
  - The Ethics Guide does not cover retaliation protection.
  - The City Auditor's Fraud Hotline website provides a summary of Whistleblower Act protections only.
  - HR Department policies state that retaliation is prohibited but no specific procedures or information about reporting retaliation provided.
- Many cities surveyed make these protections known in their codes.



# Compliance with State Financial Disclosure and Other Ethics Requirements

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- The City Clerk administers mandated financial, gift, and lobbyist contact disclosure requirements as well as reporting compliance with State-mandated training requirements for elected officials.
- However, the City Clerk has no enforcement authority.

# Financial disclosure compliance



- 21.6 percent of City officials and employees required to make financial disclosures to identify any potential conflicts of interest with their decision-making responsibilities, had not done so as of March 2019. No repercussions.

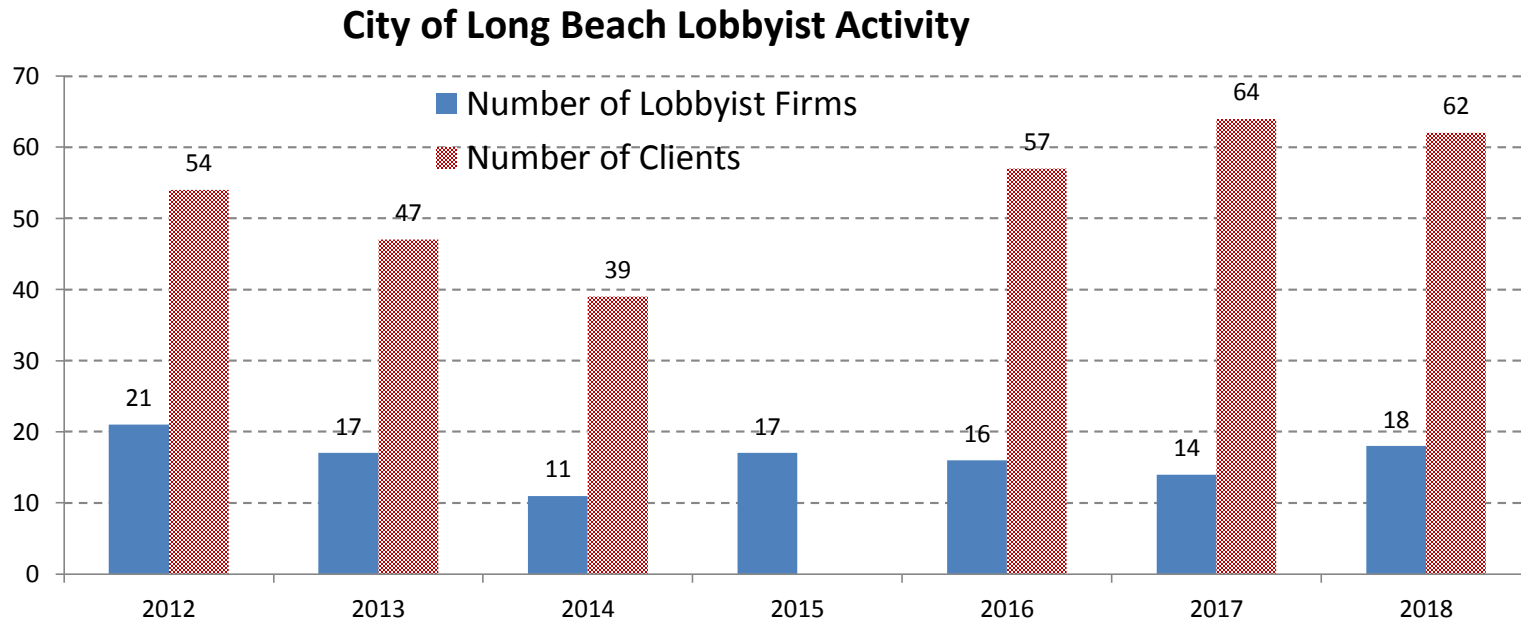
## Filing Status of Form 700 Filers as of March 2019

Form 700 Eligible Positions	Filed	Filed Late	Has Not Filed	Total Positions
Boards and Commissions	319	65	63	447
City Departments	<u>689</u>	<u>81</u>	<u>68</u>	<u>838</u>
Total Positions	1,008	146	131	1,285
		21.6%		
% of Total Positions	78.4%	11.4%	10.2%	100.0%
% of Boards and Commissions Positions	71.4%	14.5%	14.1%	100.0%
% of City Department Positions	82.2%	9.7%	8.1%	100.0%

# Gifts and lobbying



- Gift and lobbying information is reported as required but the City does not have mechanisms in place to ensure that all gifts received and all contacts with lobbyists are reported.
- Comparison of total 2018 reported gifts: San Jose = 44, Long Beach= 8.



# Ethics training

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- 38 of 235 City officials and employees (16.2 percent) required to take ethics training by State law had not done so as of early 2019.
  - 22 were out of compliance since 2015.
- Without any City penalties or enforcement mechanisms in place, there are no repercussions at the City level for not meeting these requirements.

# Questions and comments

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