



# AGENDA REPORT

**TO:** City Councilmembers,  
City Administrator Ed Reiskin

**FROM:** Whitney Barazoto, Director  
Public Ethics Commission

**SUBJECT:** Ticket Distribution Policy Ordinance

**DATE:** February 18, 2022

## **RECOMMENDATION**

**The Public Ethics Commission recommends that the City Council adopt a Ticket Distribution Policy Ordinance rescinding and superseding City Council Resolution 82032 to update local policy in alignment with state and local law and establish a Citywide ordinance to govern the distribution of tickets to events for the City of Oakland.**

## **EXECUTIVE SUMMARY**

The Public Ethics Commission (PEC or Commission) proposes a new ordinance to update and codify the City's policy for the distribution of City tickets, such as tickets to City-sponsored events, events at City facilities or pursuant to City contracts, and events for which tickets are provided to the City for promotional purposes.

Oakland's existing City Ticket Policy consists of a City Council Resolution that is now outdated in relation to state and local law and that also created problems that the PEC identified in its report, *Ensuring Ethical and Transparent Distribution of City Tickets* in 2017. Following that report, PEC staff engaged with City officials regarding both policy and process recommendations made by the Commission, resulting in some changes to the way tickets were being used prior to facilities being closed down due to COVID-19. Meanwhile, the California Fair Political Practices Commission (FPPC) amended state regulations in 2019 to tighten restrictions on the quantity of tickets that could be used by City officials and to add new requirements that must be included in a City Ticket policy, among other changes. As a result, the existing City Ticket Policy (City Council Resolution 82032) now is outdated and no longer satisfies state law requirements.

Lastly, with the adoption of the Government Ethics Act in 2014, the local framework for ethics laws and compliance consolidated all local prevention and enforcement of ethics rules with the Public Ethics Commission, including gift and use of City resources rules and exemptions, thereby necessitating that this ticket policy be adopted as an ordinance alongside Oakland's local ethics law for effective alignment on prevention and compliance activities.

Item: \_\_\_\_\_  
City Council Rules Committee  
March 3, 2022

The Public Ethics Commission therefore recommends adoption of the new ordinance as drafted by the PEC with input from commissioners and staff, the City Attorney's office, and members of the public through the PEC's public meeting process.

## **BACKGROUND AND ANALYSIS**

The Public Ethics Commission was created in 1996 and further strengthened with the passage of Measure CC on the November 2014 ballot, which amended the City Charter to enhance the PEC's authority, independence, and staffing.<sup>1</sup> That same year, City Council adopted a new Government Ethics Act that incorporates and supplements state ethics laws with a clear local framework of ethics rules to be enforced by the PEC. It also set out expectations for PEC prevention and collaboration work to provide ethics training, advice, and resources for government officials and employees, along with policy and systems recommendations for ethics reforms. Since that time, the Commission has developed a variety of ethics training and advice programs now available to City officials and employees, while also reviewing systems and policies to evaluate effectiveness and compliance with state and local ethics laws.

One of the policies reviewed by the Commission in recent years is City Council Resolution 82032, which was adopted in 2009 to allow for the receipt of event tickets by Councilmembers despite state rules that generally prohibit the receipt of such gifts. The PEC identified a number of issues with both the policy and the process of ticket distribution and use, including a large number of tickets (especially high-value tickets) going to elected officials for the stated purpose of "oversight of facilities" or "reviewing a facility's contribution" to blight abatement, job creation, or other causes, late or no disclosure of information regarding ticket use as required by state law, and inappropriate transfer of tickets to family members going in lieu of officials rather than accompanying the official as the official's guest on the "oversight" mission as intended by the legal framework. More detail on these and other issues can be found in the PEC's report, *Ensuring Ethical and Transparent Distribution of City Tickets*, as published by the Commission in 2017 and available on the Commission's website.

By way of legal background, the California Political Reform Act and regulations adopted by the Fair Political Practices Commission (FPPC) provide that event tickets received by public officials (elected officials and staff) are considered gifts to the public official and subject to state gift limits of \$520<sup>2</sup> per calendar year from a single source.<sup>3</sup> In Oakland, with the adoption of the Government Ethics Act in 2014, the gift limit is \$250 per calendar year, or \$50

---

<sup>1</sup> Oakland City Charter section 603.

<sup>2</sup> State gift limits are adjusted by the California Political Practices Commission every odd-numbered year per the California Political Reform Act, FPPC Regulation 18940.2.

<sup>3</sup> California Political Reform Act, Government Code section 89503, et seq.

if the gift-giver is or has recently done business with the City.<sup>4</sup> One exception to the state and local gift rule allows tickets to be received, distributed, and reported by the agency, instead of being considered a gift to the official, if that agency has adopted a written policy that identifies the public purpose served in distributing the tickets and the official adheres to the policy.<sup>5</sup>

FPPC Regulation 18944.1, as amended in 2019, outlines this exception and requires specific language to be included in the ticket distribution policy and followed by agency officials, including the following:

1. A provision setting forth the public purposes of the agency for which tickets or passes may be distributed;
2. A provision requiring that the distribution of any ticket or pass to, or at the behest of, an agency official accomplishes a state public purpose of the agency;
3. A provision prohibiting the transfer of any ticket received by an agency official pursuant to the distribution policy except to members of the official's immediate family or no more than one guest solely for their attendance at the event;
4. A provision prohibiting the disproportionate use of tickets or passes by a member of the governing body, chief administrative officer of the agency, political appointee, or department head.

The latter provision was specifically added by the state FPPC in 2019 in response to reported abuses, with Alameda county officials expressly mentioned in the discussion of the regulatory changes. This new provision is not included in the City Council's existing Ticket Policy Resolution 82032, thus making the current policy out of alignment with state law on this issue, among others, and in need of updating.

Further, while the focus of the PEC's report in 2017 was on the distribution of Coliseum and Arena event tickets to elected officials, those are not the only tickets that are subject to the state gift rules and a City ticket policy. Any public servant who is a Form 700 filer is subject to the local \$250 gift limit and \$50 disclosure requirement on the public servant's Form 700. Form 700 filers generally include all elected officials, board and commission members, designated staff positions (roughly one-third of city staff who are in decision-making roles), and consultants to the City. However, the current City Ticket Policy exists as a Council Resolution, applying only to City Councilmembers and not written with other City staff or officials in mind beyond Councilmembers. For example, the "Distributing Official" in the policy is the City Council's Executive Secretary, and the City Ticket Policy and ticket use data

---

<sup>4</sup> Oakland Government Ethics Act, O.M.C. Section 2.25, adopted in December 2014.

<sup>5</sup> California Fair Political Practices Commission Regulation 18944.1.

are both maintained on the City Council’s webpages. Unfortunately, this approach leaves out all other departments, city staff, and officials as potential recipients of tickets to events and suggests that the exemption is carved out for Councilmembers only and not for other City officials.

In addition to the limited application of the Ticket Policy resolution, the public purposes for which City tickets may be distributed are relatively narrow – essentially limited to “reviewing facilities” or “rewarding” staff, students, schools, nonprofits or community activists for their work. A review of policies in other cities shows broader, Citywide application of the policy across departments, a more public, online process for distributing tickets, and a broader, more inclusive list of public purposes that include promoting City-controlled activities or programs, enabling a public servant to work at the event as part of their City position, promoting local or regional businesses, and providing opportunities for economically-disadvantaged or underserved residents to engage in City activities, to name a few.

Lastly, the Ticket Policy Council Resolution 82032 was adopted in 2009, years before the creation and adoption of the Government Ethics Act in 2014 that provided the PEC with prevention and enforcement jurisdiction over ethics laws, and, specifically, rules regarding gifts and misuse of City resources. This new legal framework and PEC jurisdiction means the Ticket Policy should expressly refer to PEC education and enforcement jurisdiction to ensure effective implementation and compliance of its provisions.

**RECOMMENDATION**

To resolve the above issues, the Public Ethics Commission proposes the attached draft ordinance to rescind and supersede the existing Council Resolution and place the policy into an ordinance that provides Citywide application, guidance, and authority. The new policy aims to provide clear instructions for the distribution and use of City tickets, an expanded list of public purposes for which City tickets may be distributed, and updates that align the policy with state rules. It also articulates the PEC’s prevention and enforcement responsibilities consistent with other ordinances under the Commission’s jurisdiction.

**FISCAL IMPACT**

There are no cost implications on the City or Commission; tickets already are being distributed, a reporting system already is in place, and the PEC already has been providing advice and education on gift rules and the outdated policy.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** This new ordinance aims to ensure a clear and legally compliant policy and process for distributing City tickets reducing liability for legal violations and potentially enhancing public trust in the process. It also provides broader reasons for the use of City tickets that may increase opportunities for broader and more inclusive distribution of tickets – and sharing of the City’s resources – to a wider array of people in the community.

**Environmental:** There are no environmental opportunities.

**Race & Equity:** Social equity depends on a political and governmental system that ensures a fair and equal opportunity for all individuals of all racial and socio-economic groups to participate meaningfully in the governmental process. Clear and enforceable policies help to ensure that all participants understand and can access the City’s rules and procedures. Specifically, this new ordinance broadens the application of the City Ticket Policy to all City departments, staff, and officials, and it expands the reasons for using City tickets – both of which will provide greater access and equity to potential ticket recipients across the City. It further provides clarity and guidance for effective compliance and participation.

### **ACTION REQUESTED OF THE CITY COUNCIL**

The Public Ethics Commission recommends City Council adopt the attached proposed ordinance codifying the Ticket Distribution Policy Ordinance, to become effective upon adoption.

For questions regarding this report, please contact Whitney Barazoto, Executive Director of the PEC, at (510) 238-6620.

Respectfully submitted,



---

WHITNEY BARAZOTO

Executive Director, Public Ethics Commission

Attachment:

- A. Draft Proposed City of Oakland Ticket Distribution Policy Ordinance
- B. FPPC Regulation 18944.1, as adopted in 2019.

Item: \_\_\_\_\_  
City Council Rules Committee  
March 3, 2022