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May 28, 2026

The Honorable City Council
City Hall
1 Frank Ogawa Plaza
Oakland, CA 94612

RE: Proposed Amendments by Mayor Lee to City Charter Sections 202, 218, 300, and 603

Dear Council President Jenkins and Members of the City Council,

Under City Charter Section 603(h), the Public Ethics Commission (Commission or PEC) must review and have the opportunity to comment on any amendments to laws that the Commission has the power to enforce before these amendments can become law. Pursuant to this duty, the Commission met on May 20, 2026, to review and provide comment on amendments proposed by Mayor Lee to City Charter Sections 202, 218, 300, and 603.

These sections of the proposed legislation would: (1) transfer the duty of setting the Mayor’s salary from the City Council to the PEC; (2) replace the method for setting the salaries for the office of the Mayor and City Council to align with the salary adjustments for City Attorney and City Auditor; and (3) replace Section 218 Non-Interference in Administrative Affairs with a section titled “Right of Inquiry and Access for Constituent Services” intended to protect Councilmembers’ ability to serve as accessible points of contact for residents, while preserving the prohibition on Councilmembers directing, ordering, or coercing City staff.

The Commission voted unanimously (7-0) to take the following positions:

1. ***Elected Officials’ Salaries. Support the proposed Charter amendments to Sections 202, 300, and 603(c) with the following amendments:***
 - a. **Align salary setting for all elected officials to occur in the same year**, so that the PEC duty of setting the Mayor’s salary and the revised method for setting the salary of City Councilmember would take effect in 2028, the same year as salary setting for the City Attorney and City Auditor; and

- b. **Revise the new language in Section 603(c) to clarify that the PEC has the option to seek the assistance of the City Administrator and/or outside consultants at its discretion**, but it is not obligated to do so.

The Commission also suggests that the authors and City Council consider amendments to conduct salary setting for all elected officials **every four years** rather than biennially to further depoliticize the salary setting process and to conserve PEC staff resources.

2. ***Non-Interference In Administrative Affairs. Support the proposed Charter amendments to Sections 218 and 603(b) with the following amendments: Revise the amendments to 603(b) to limit the PEC’s duty of enforcement to the new Section 218(d)***, which maintains the prohibition on Councilmember interference in administrative affairs, and exclude the new Sections 218(a), (b), and (c) from the laws the PEC has a duty to enforce enumerated in Section 603(b).

The proposed amendments to this section significantly change the focus of Section 218 from prohibitions on Councilmembers’ actions, which generally align with requirements under the Government Ethics Act, to an affirmation of Councilmembers’ right to make inquiries and receive timely responses from the City Administration. The additions change the framing of this section as instructive rather than punitive. As proposed the entirety (both the instructive language and the prohibitions) remain under the enforcement jurisdiction of the PEC. In addition to Section 218, the PEC enforces the Government Ethics Act, with prohibitions on interference in administrative affairs and the misuse of position and resources, among other ethics rules. The new instructive provisions related to interactions between Councilmembers and administrative staff and the carrying out of City administrative matters expand the enforcement jurisdiction of the PEC. The PEC considers these new provisions to be outside its role and expertise as an ethics enforcement body. Thus, the Commission opposes expanding its jurisdiction in this way and specifically requests limiting PEC enforcement jurisdiction to Section 218(d) and exclusion of the new 218 sections (a), (b) and (c) from the list of laws and policies that the PEC enforces as provided in Section 603(b).

Suggested revisions consistent with the PEC’s recommendations are attached. The Commission has directed PEC staff to work with the author and Council on technical and clarifying amendments as needed and to bring any significant changes back to the Commission for review prior to final adoption by City Council.

The video for the May 20, 2026, meeting where the PEC adopted this recommendation may be accessed from the PEC’s website at <https://www.oaklandca.gov/boards-commissions/publicethics-commission/meetings>.

Thank you for the opportunity to provide the Commission's perspective on this proposal.

Sincerely,

Francis Upton

Francis Upton IV

Chair

On behalf of the Public Ethics Commission based on discussion and action at its public meeting on May 20, 2026.

Attachment: PEC-recommended amendments