

Attachment 1

Ordinance No. 171230 & Ordinance No. 173365



ORDINANCE NO. 171230

An ordinance adding Article 9.5 to Chapter 7 of Division 4 to the Los Angeles Administrative Code to provide for the creation of a Special Committee on Investigative Oversight and a procedure for the investigation of complaints of discrimination and sexual harassment against elected officials, chief administrative officers and members of City Boards and Commissions.

THE PEOPLE OF THE CITY OF LOS ANGELES

DO ORDAIN AS FOLLOWS:

Section 1. Article 9.5 is hereby added to Chapter 7 of Division 4 of the Los Angeles Administrative Code to read as follows:

Article 9.5

**Investigation of Complaints of Discrimination
and Sexual Harassment Against City Officials**

Sec. 4.405. Findings and Statement of Policy.

Currently, procedures are in place throughout City government for the investigation of complaints of discrimination and sexual harassment brought against City employees. These procedures include, among other things, both informal and formal investigative procedures, depending on the circumstances. With respect to the City's elected officials, members of the City's Boards and Commissions and City, and its chief administrative officers, however, a process is in place, but it goes no further than the informal stage. Thus, no procedure now exists within City government for the formal investigation of such complaints against the City's top officials.

The public properly should expect that the City will thoroughly and fairly investigate all complaints of discrimination and harassment against the City's officials and employees, irrespective of the station of the person against whom the complaint is directed. The procedure established by this Ordinance will redress the current imbalance and afford the citizens of the City the assurance that like the employees they direct, if circumstances warrant, the City's top officials will be subjected to a full investigation of the discrimination and harassment complaints against them.

The procedure herein created also will serve the City well in dealing with potential or actual litigation arising out of the complaints in question. It is hoped that the very existence of this process will assist in resolving complaints without the necessity of litigation. This is one of the rationales for the long-standing investigative procedure applicable to City employees that is administered by the Civil Service Commission. If litigation should result nonetheless, in having the results of an investigation, the City will be

better equipped to assess the merits of the case and otherwise to deal with the demands put upon City government thereby, such as, deciding whether the official in question is entitled to a defense at City expense. Beyond this, the information learned from an investigation may make it possible to rectify problems where they do exist and prevent the injury of others.

The procedure bifurcates responsibility between a Special Committee on Investigative Oversight and the City Council. The Committee will perform the important function of gatekeeper at the point where the launching of a formal investigation by an independent investigator is a possibility. While the Committee will not perform the investigation, the decision to begin one is itself significant. Once such a decision is made, the Committee will be charged thereafter with ensuring that the investigation is thorough and complete, but will go no further. All else will be the province of the City Council. Findings, conclusions, and remedial actions, if any, all will emanate from the Council and the Council alone. This allocation of responsibility in the procedure draws upon the structure of Los Angeles City government as set forth in the City Charter. The final authority in these matters will be the Council, which the Charter expressly recognizes as the City's "governing body." Being composed of members elected by district, the Council as a body rightly can speak for the City in these important matters.

Sec. 4.406. Special Committee on Investigative Oversight.

(a) There is hereby created a Special Committee on Investigative Oversight. It shall consist of two former judges, one male and one female, two law school professors, one male and one female, each with expertise in the area of employment law, and one member of the American Arbitration Association.

(b) The members of the Special Committee shall be chosen from a list of appropriately qualified individuals which shall be developed, maintained and periodically updated by the Personnel Department, the Chief Legislative Analyst and the City Attorneys Office. The list and all updates shall be adopted by the full Council.

(c) Members of the Special Committee shall be paid a stipend for their service on the Committee from an account established and maintained in the office of the City Administrative Officer.

(d) The concurring vote of at least three members is required for the Special Committee to take action.

(e) The Special Committee shall be convened by the President of the City Council or the Mayor when notified by the Personnel Department that a discrimination or sexual harassment complaint against an elected official, member of a City Board or Commission or a chief administrative officer has been received. The members of the Special Committee shall be chosen by the Personnel Department by lot from those individuals who were on the list prior to a complaint being received and who are currently available to serve.

(f) The Special Committee shall have the following powers and duties:

1. to refer the complaint to the Personnel Department for informal resolution efforts, if appropriate;
2. to determine if there is sufficient cause for an investigation;
3. to authorize an investigation by an independent investigator into the complaint of discrimination or sexual harassment;
4. to review the results of the investigation to determine if further investigation is warranted; to refer the matter back to the investigator if further investigation is warranted; and/or to forward the completed investigation to the full Council for appropriate action;
5. to make rules as necessary to carry out the powers and duties of the Committee.

Sec. 4.407. The Independent Investigator.

(a) When the Special Committee authorizes an investigation into a complaint of discrimination or sexual harassment against an elected official, a member of a City Board or Commission or a chief administrative officer, an independent investigator will be selected from a list of prominent and respected citizens who are not employed by the City. The individuals on the list should have expertise in the fields of employment law, law enforcement, government or other, related, fields. The list shall be developed, maintained and periodically updated by the Personnel Department, the Chief Legislative Analyst and the City Attorneys Office. The list and all updates shall be adopted by the full Council.

(b) When a matter is referred to an independent investigator, the Personnel Department shall select an investigator by lot from those who were on the list prior to the complaint being received and who are currently available to accept the assignment. The independent investigator will then select his or her own staff to assist with the investigation.

(c) The independent investigator will be responsible for conducting the investigation. He or she shall have access to any City employee who may provide relevant information, including the complainant and the accused and any witnesses provided by them. The investigator shall also have access to City resources and documents as required to conduct the investigation. Should necessary access be denied, the investigator shall report back to the Special Committee for further instructions.

(d) The independent investigator shall have the power to subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and order by subpoena the production of documents, records or other materials relevant to the investigation.

(e) At the completion of the investigation, the independent investigator shall submit to the Special Committee a comprehensive report containing an investigative summary of the evidence received, an analysis of the evidence, factual findings, a conclusion and recommendations regarding resolution of the complaint.

(f) Each fiscal year, there shall be included in the Contract Services Account of the budget of the Personnel Department funds to support any independent investigator authorized by this Section.

Sec. 4.408. Role of the City Council.

The City Council shall have the following powers and duties with respect to its role in handling complaints of discrimination or sexual harassment against elected officials, members of City Boards or Commissions or chief administrative officers:

(a) to review and adopt the list of individuals for appointment to the Special Committee on Investigative Oversight as provided in Sec. 4.406 above;

(b) to review and adopt the list of independent investigators as provided in Sec. 4.407 above;

(c) to review the report of the independent investigator upon its being forwarded by the Special Committee to the Council for action;

(d) to hear presentations from the individuals involved, if appropriate, and to make findings on the claims of discrimination or sexual harassment;

(e) to make referrals of issues arising out of the investigation to appropriate Council Committees for their consideration;

(f) to report to the appropriate local, state or federal authorities any substantial evidence of a violation of law regarding the performance of duties by a public officer or employee.

Sec. 4.409. Role of the Personnel Department.

The General Manager of the Personnel Department shall have the following duties with respect to the Department's role in handling complaints of discrimination or sexual harassment against elected officials, members of City Boards or Commissions or chief administrative officers:

(a) to maintain and periodically update, in conjunction with the Chief Legislative Analyst and the City Attorney, a list of individuals, as described in Sec. 4.406 above, who may be chosen to act as members of the Special Committee on Investigative Oversight, and submit this list to Council for adoption;

(b) to choose, by lot, the members of the Special Committee when such Committee is to be convened, as provided in Sec. 4.406 above.

(c) to maintain and periodically update, in conjunction with the Chief Legislative Analyst and the City Attorney, a list of impartial individuals, as described in Sec. 4.407 above, who may be chosen to act as independent investigators, and submit this list to Council for adoption;

(d) to choose, by lot, the person to serve as an independent investigator, as provided in Sec. 4.407 above.

(e) to administer any contracts necessary to implement an independent investigation authorized by the Special Committee;

(f) to provide staff to serve as liaison to the independent investigator, if requested;

(g) to provide necessary on-site assistance and coordination between the staff of the independent investigator and the City.

Sec. 4.410. Role of the City Attorney.

The City Attorney shall have the following duties with respect to his or her role in handling complaints of discrimination or sexual harassment against elected officials, members of a City Board or Commission or chief administrative officers:

(a) to maintain and periodically update, in conjunction with the Personnel Department and the Chief Legislative Analyst, a list of individuals, as described in Sec. 4.406 above, who may be chosen to act as members of the Special Committee on Investigative Oversight.

(b) to maintain and periodically update, in conjunction with the Personnel Department and the Chief Legislative Analyst, a list of impartial individuals, as described in Sec. 4.407 above, who may be chosen to act as independent investigators.

(c) to provide legal services to the Special Committee;

(d) to provide legal services to the City Council with respect to any matter brought before it under this Ordinance.

Sec. 4.411. Confidentiality.

(a) All investigations conducted under this Ordinance shall be conducted with highest degree of confidentiality legally permissible.

(b) Records of the investigation shall be maintained as personnel records.

(c) Meetings of the Special Committee or the full Council to consider allegations of discrimination or sexual harassment against an elected official, a member of a City Board or Commission or chief administrative officer or investigations thereof may be held in closed session, as otherwise provided by law.

(d) It is the intent of this Ordinance that Special Committee members, the independent investigator, staff and all involved parties, including the accused elected official, a member of a City Board or Commission or a chief administrative officer and his or her representatives and the complainant and his or her representatives, shall not disclose to any person whatever any information regarding the fact or nature of the complaint(s), the investigation or any related information unless such disclosure is authorized by the Special Committee.

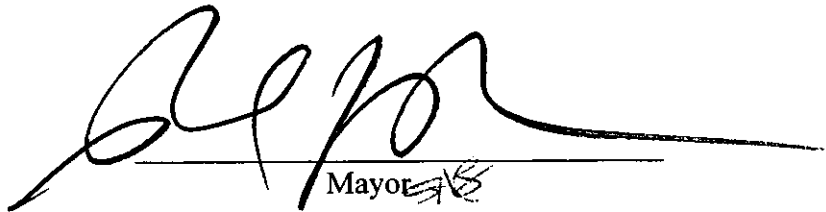
Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of JUL 31 1996.

ELIAS MARTINEZ, City Clerk

By 
Deputy


Approved AUG 07 1996


Mayor

Approved as to Form and Legality

July 5, 1996

JAMES K. HAHN, City Attorney

By 
DIANE N. WENTWORTH
Assistant City Attorney

File Nos.93-1481 & 95-0450-S1

**Ordinance
No. 173365**

ORDINANCE NO. 173365

A Charter implementation ordinance amending Sections 4.405, 4.406, 4.407, 4.408, 4.409, 4.410, 4.411, and 4.810 of the Los Angeles Administrative Code concerning the Employee Relations Board and Investigation of Complaints against City Officials, to make the provisions consistent with the Charter adopted by the voters at the general municipal election held June 8, 1999.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Section 4.405 of the Administrative Code is amended to read in its entirety:

Sec. 4.405. Findings and Statement of Policy.

Currently, procedures are in place throughout City government for the investigation of complaints of discrimination and sexual harassment brought against City employees. These procedures include, among other things, both informal and formal investigative procedures, depending on the circumstances. With respect to the City's elected officials, however, a process is in place, but it goes no further than the informal stage. Thus, no procedure now exists within City government for the formal investigation of such complaints against the City's top elected officials.

The public properly should expect that the City will thoroughly and fairly investigate all complaints of discrimination and harassment against the City's officials, irrespective of the station of the person against whom the complaint is directed. The procedure established by this Ordinance will redress the current imbalance and afford the citizens of the City the assurance that like the employees they direct, if circumstances warrant, the City's top elected officials will be subjected to a full investigation of the discrimination and harassment complaints against them.

The procedure herein created also will serve the City well in dealing with potential or actual litigation arising out of the complaints in question. It is hoped that the very existence of this process will assist in resolving complaints without the necessity of litigation. This is one of the rationales for the long-standing investigative procedure applicable to City employees that is administered by the Civil Service Commission. If litigation should result nonetheless, in having the results of an investigation, the City will be better equipped to assess the merits of the case and otherwise to deal with the demands put upon City government thereby, such as, deciding whether the official in question is entitled to a defense at City expense.

Beyond this, the information learned from an investigation may make it possible to rectify problems where they do exist and prevent the injury of others.

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Sec. 2. Subsection (e) of Section 4.406 of the Los Angeles Administrative Code is amended by deleting the phrase "member of a City Board or Commission or a chief administrative officer."

Sec. 3. Subsection (a) of Section 4.407 of the Los Angeles Administrative Code is amended by deleting the phrase "a member of a City Board or Commission or a chief administrative officer".

Sec. 4. The first unnumbered paragraphs of Section 4.408, Section 4.409, and Section 4.410 of the Los Angeles Administrative Code are amended by deleting the phrase "members of City Boards or Commissions or chief administrative officers" each place it appears.

Sec. 5. Subsection (c) of Section 4.411 of the Los Angeles Administrative Code is amended by deleting the phrase "a member of a City Board or Commission or chief administrative officer".

Sec. 6. Subsection (d) of Section 4.411 of the Los Angeles Administrative Code is amended by deleting the phrase "a member of a City Board or Commission or a chief administrative officer".

Sec. 7. Subsection (c) of Section 4.810 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

(c) Appointment and Removal of Board Members.

Board members shall be appointed and may be removed in accordance with the provisions of Charter Section 502.

Sec. 8. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of JUN 16 2000.

J. MICHAEL CAREY, City Clerk

By *Leonard Carter*
Deputy

Approved JUN 26 2000

[Signature]
Mayor *28*

Approved as to Form and Legality

June 13, 2000
JAMES K. HAHN, City Attorney

By *Mary H Strobel*
MARY H. STROBEL
Deputy City Attorney

File No. 99-1800-592

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