

County of Los Angeles

October 24, 2024

Dawyn R. Harrison
County Counsel

Board of Supervisors

Hilda L. Solis
Supervisor, First District

Holly J. Mitchell
Supervisor, Second District

Lindsey P. Horvath
Supervisor, Third District

Janice Hahn
Supervisor, Fourth District

Kathryn Barger
Supervisor, Fifth District

TO: SUPERVISOR LINDSEY P. HORVATH, Chair
SUPERVISOR HILDA L. SOLIS
SUPERVISOR HOLLY J. MITCHELL
SUPERVISOR JANICE HAHN
SUPERVISOR KATHRYN BARGER

FROM: DAWYN R. HARRISON 
County Counsel

RE: **Moving Forward on Ethics Reform in Los Angeles County
(09/24/24 Board Agenda; Item No. 28)**

Purpose of Memorandum

On September 24, 2024, your Board approved a [motion](#) directing our office, in collaboration with the Chief Executive Office ("CEO"), to prepare a public report on a comprehensive analysis of proposed implementation timelines for the Ethics Commission ("Commission") and Office of Ethics Compliance ("Ethics Compliance Office"), cost scenarios for the structure options presented in the initial report, recommendations for structure with appropriate separation of duties and ethical walls, and options for soliciting public input should Measure G not pass.

Background

At the State level, the Fair Political Practices Commission ("FPPC") advises and educates on, and investigates and enforces against violations of, ethics laws within its jurisdiction, and conducts audits of mandatory ethics and campaign-related filings.¹ Local governments may also enact and enforce their own ethics laws. Some jurisdictions have done so by establishing an ethics commission.

¹ Government Code section 83111.

Many jurisdictions with ethics commissions in California are structured similarly to the FPPC. The City of Oakland, the City of Los Angeles, and the City and County of San Francisco are examples of jurisdictions using this model. In this model, the ethics commission is staffed with an executive director and units to handle audit, enforcement, and administrative functions. In these jurisdictions, members of the ethics commission are appointed by elected officials within their jurisdiction. These ethics commissions oversee compliance and enforcement of local ethics laws.

This report addresses: (1) options for ensuring the Commission's independence; (2) options for structuring the Commission and Ethics Compliance Office; (3) ethical walls to ensure fairness and impartiality; (4) cost scenarios; (5) implementation timelines; and (6) options for receiving public input.

I. OPTIONS FOR ENSURING INDEPENDENCE

The following options may help ensure that the Commission remains independent from the influence of County officials and employees:

- Require a supermajority three-fourths vote of the Board to remove a commissioner;
- Ban *ex parte* communications between prospective commissioners and elected officials, and between sitting commissioners and elected officials or individuals that are subjects of complaints or investigations;
- Place restrictions on qualification and membership for commissioners, such as prohibiting prospective and current commissioners from employing or being employed by a lobbyist, bidder, contractor, or developer;
- Make Commission decisions final within the County and only challengeable in Superior Court; and
- Provide the Commission with subpoena power.

II. STRUCTURING THE COMMISSION AND ETHICS COMPLIANCE OFFICE

There are several options for the structure of the Commission and the Ethics Compliance Office, and the role each plays in ensuring compliance with County ethics laws. Regardless of the structure and duties of the Commission and Ethics

Compliance Office, fairness and impartiality in the application and enforcement of ethics laws requires some functions of the Commission and the Ethics Compliance Office to be separate. Under the FPPC model, that separation is enforced with ethical walls, as discussed in the next section.

There are four options for structuring the Commission and Ethics Compliance Office:

- **OPTION 1:** Commission as a department with a separate division for the Ethics Compliance Office;
- **OPTION 2:** Commission and Ethics Compliance Office as separate departments;
- **OPTION 3:** Ethics Compliance Office as a department with separate divisions for the Commission, enforcement division, and other staff; or
- **OPTION 4:** Commission housed within a department with existing ethics functions.

Should your Board wish to structure the Commission similarly to the FPPC, it is recommended there be at least five divisions: legal division, enforcement division, compliance division, audit division, and the administration division. A general description of possible duties of each division are included in Attachment A. As a cost saving measure, some positions could be consolidated, depending on the duties and functions the Board would like the positions to serve. For example, in option 2 (the Commission and Ethics Compliance Office as 2 separate departments), it may be possible for the departments to share an administrative division. In option 3, the Ethics Compliance Officer may be able to serve as the Commission's Executive Director. In option 4, existing positions may be able to serve the Commission and Ethics Compliance Officer.

Visual charts depicting the organizational structure of the four options are included as Attachment B. The visual charts state if the option allows for a deviation from the described duties contained in Attachment B.

III. ETHICAL WALLS TO ENSURE FAIRNESS AND IMPARTIALITY

Ethical walls are designed to prevent the inappropriate sharing of information between persons in an organization. These walls may be physical, technological, or operational. Below are options for ethical walls to ensure the work of the Commission is administered fairly and impartially.

Physical Walls	Separate office space for each division to prevent documents, discussions, and other information from being accessed by staff from outside the division.
Technological Walls	Maintenance of separate records via separate databases and case management systems inaccessible by other divisions.
Operational Walls	<ul style="list-style-type: none"> • Prohibit communication about enforcement actions between the enforcement division, the Commissioners, and the Executive Director; • Designate the chiefs of each division as the final decision makers on matters within their division's purview, subject to action or direction by the Commission or Executive Director where appropriate; • Prohibit sharing of information about investigations and cases except where authorized by ordinance or departmental procedures; and • Establish screening procedures to ensure attorneys working on matters do not have conflicts of interest.

IV. COST SCENARIOS

The CEO reviewed the staffing models developed by County Counsel for each of the four options, based on the current FPPC structure, and identified the analogous County classifications for costing purposes.

Based on the reviewed staffing models, a comparison chart of the various preliminary cost estimates for each option is provided, below.

	Option #1	Option #2	Option #3	Option #4
Salaries & Employee Benefits	\$ 17,821,000	\$ 19,451,000	\$ 17,821,000	\$ 14,889,000
Services and Supplies*	\$ 2,242,000	\$ 2,447,000	\$ 2,242,000	\$ 1,873,000
Net County Cost	\$ 20,063,000	\$ 21,898,000	\$ 20,063,000	\$ 16,762,000
FTE	86.0	93.0	86.0	73.0
<u>Assumptions</u>				
*Based on approved Auditor-Controller S&S Overhead rate for County Counsel FY24-25.				

Once a model is finalized and the assigned duties are more developed, additional analysis can be done to solidify the organizational structure and position allocations. Moreover, optimization and refinement of classifications and their respective levels may allow for cost savings as the Commission and Ethics Compliance Office progresses.

There are additional factors that may mitigate staffing costs including the utilization of shared services for some administrative functions and a phased-in approach to adding positions while the workload is being assessed. For example, there may also be opportunities for cost savings because some typical functions of the Commission may currently be handled by other County departments, such as County Counsel, Auditor-Controller, Registrar-Recorder/County Clerk, and the Executive Office of the Board, should employees from these departments be transferred to the Commission or Ethics Compliance Office. The CEO indicates that the cost estimates in this report are preliminary given the initial staffing plan provided for the 30-day report back. The CEO can continue to work with the County Counsel to further refine these estimates, as necessary.

V. IMPLEMENTATION TIMELINE

As a next step, if Measure G passes with the upcoming November 2024 General Election, the amended County Charter would require a Commission and Ethics Compliance Office be established by 2026 and the Commission be provided reasonable funding and staffing.² This requirement would not preclude the Board from establishing and funding a Commission and Ethics Compliance Office prior to 2026; however, by 2026, both would have to be in compliance with the amended County Charter. According to the CEO, if Measure G does not pass, and should your Board wish to move forward via a Board motion to implement one of the options previously mentioned, implementation will be subject to the Fiscal Resilience Protocol established by the CEO to prioritize Board motions and to ensure that funding is available before Board motions are implemented. Both scenarios will require further analysis and refinement of the staffing plan and would be subject to countywide funding availability and the annual budget process.

² On July 30, 2024, your Board adopted an [ordinance](#) calling and giving notice of a special election to amend the County Charter, which if passed, would establish a Commission and Ethics Compliance Office by 2026, among other things. This ballot initiative is titled Measure G.

VI. OPTIONS FOR PUBLIC INPUT

If Measure G passes, as directed by the motion, this report will be provided to the Governance Reform Taskforce for their consideration. If Measure G does not pass, your Board has several options for soliciting and receiving public input regarding the creation of the Commission and Ethics Compliance Office: (1) creating a Brown Act body; (2) retaining an ethics expert or other consultant; (3) direct a County department to solicit feedback; or (4) receiving public comment at a meeting of your Board as a discussion item on the agenda.

Conclusion

There are several options available for placement of the Commission and Ethics Compliance Office. To ensure impartial application of ethics laws, we recommend physical, technological, and operational ethical walls be established between the different divisions of the Commission or the Ethics Compliance Office. Cost scenarios and implementation timelines will vary depending on factors such as the Commission's structure and the outcome of Measure G with a general cost range between \$16,762,000 to \$21,898,000. Your Board also has several options for soliciting public input on the creation of the Commission and Ethics Compliance Office.

Attachments

c. Fesia A. Davenport
Chief Executive Officer

Edward Yen
Executive Officer
Board of Supervisors

ATTACHMENT A

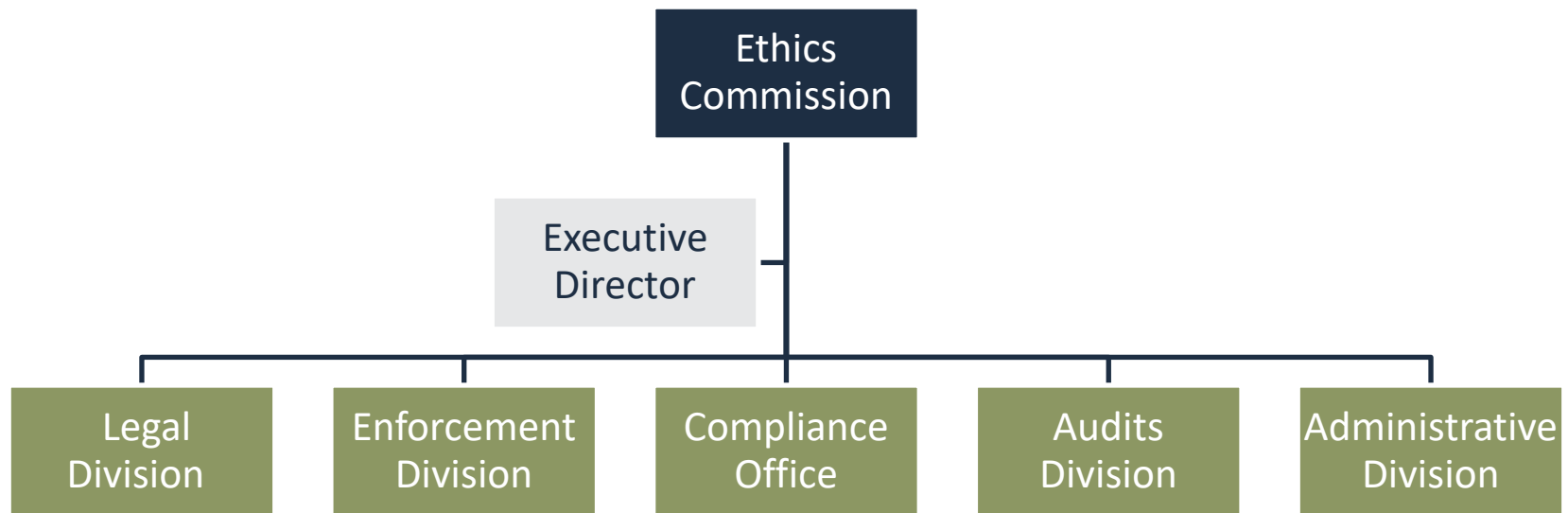
DIVISION/ STAFF	POTENTIAL DUTIES	DEPARTMENTS WITH EXISTING FUNCTIONS
Executive Director	Responsible for day-to-day management and operations of the Commission, such as hiring, firing and discipline, approval of contracts, public affairs and media, and budget proposals. May have limited involvement in enforcement actions, such as approving subpoenas or conducting probable cause hearings.	
General Counsel	Head of Legal Division. Final decision maker regarding legal issues, subject to direction by the Ethics Commission or Executive Director when appropriate.	
Enforcement Division Chief	Head of Enforcement Division. Final decision maker regarding enforcement actions, subject to probable cause determinations made by the Executive Director or other appropriate staff, and subject to review, modification, or approval by the Ethics Commission.	
Ethics Compliance Officer	Head of Compliance Division/Office. Final decision maker for compliance activities, subject to direction by the Ethics Commission when appropriate.	
Audits Division Chief	Head of Audits Division. Final decision maker for audit-related activities, subject to direction by the Ethics Commission.	
Administration Division Chief	Head of Administration Division. Subject to direction of the Executive Director and Ethics Commission as appropriate.	
Administration	Assists with day-to-day management, such as for personnel, human resources, budgeting, accounting, contract monitoring and administration, procurement, and information technology needs, including maintenance of public data portals.	Executive Office of the Board; Internal Services Department; Registrar-Recorder/County Clerk

DIVISION/ STAFF	POTENTIAL DUTIES	DEPARTMENTS WITH EXISTING FUNCTIONS
Legal Division	Provides legal support and representation regarding contracts, labor and employment issues, public records requests, open meeting laws, and other general legal issues. May serve as probable cause hearing officers.	County Counsel
Enforcement Division	Investigates and administratively prosecutes alleged violations of County ethics laws. Makes referrals to other investigatory/prosecution agencies as appropriate.	Executive Office of the Board; Auditor-Controller; Registrar-Recorder/County Clerk
Compliance Division/Office	Provides ethics-related advice, education, trainings, guidance and information to County departments, employees, and officials.	County Counsel; Executive Office of the Board
Audits Division	Audits compliance with County ethics laws.	Registrar-Recorder/County Clerk

ATTACHMENT B

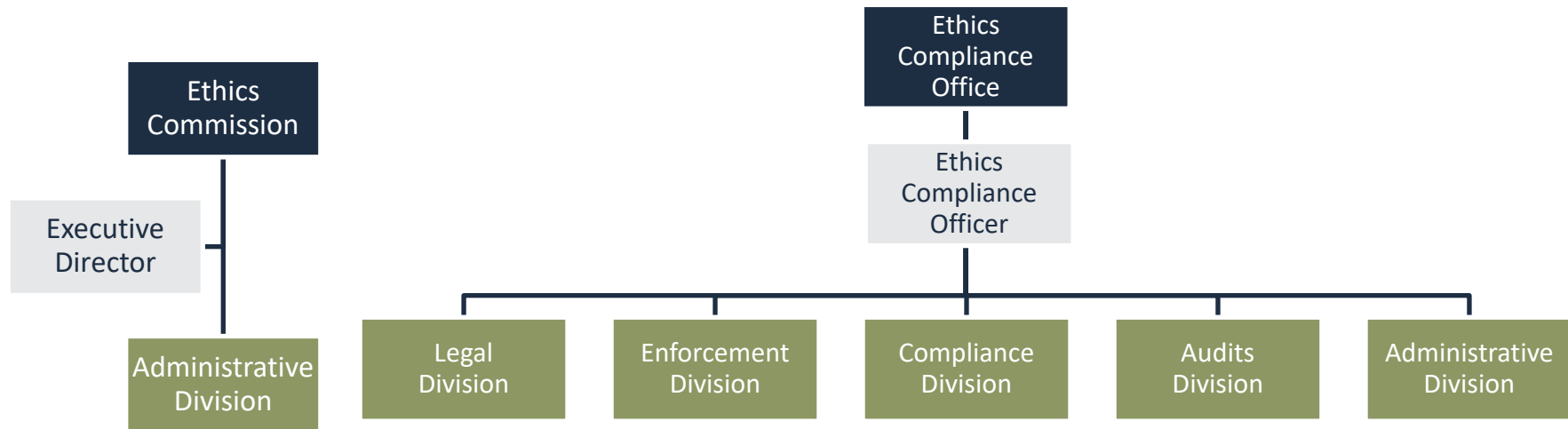
**OPTION 1: ETHICS COMMISSION AS A DEPARTMENT WITH A SEPARATE DIVISION
FOR THE ETHICS COMPLIANCE OFFICE**

Modeled after the Fair Political Practices Commission, this model houses the Ethics Compliance Office as a division within the Ethics Commission.



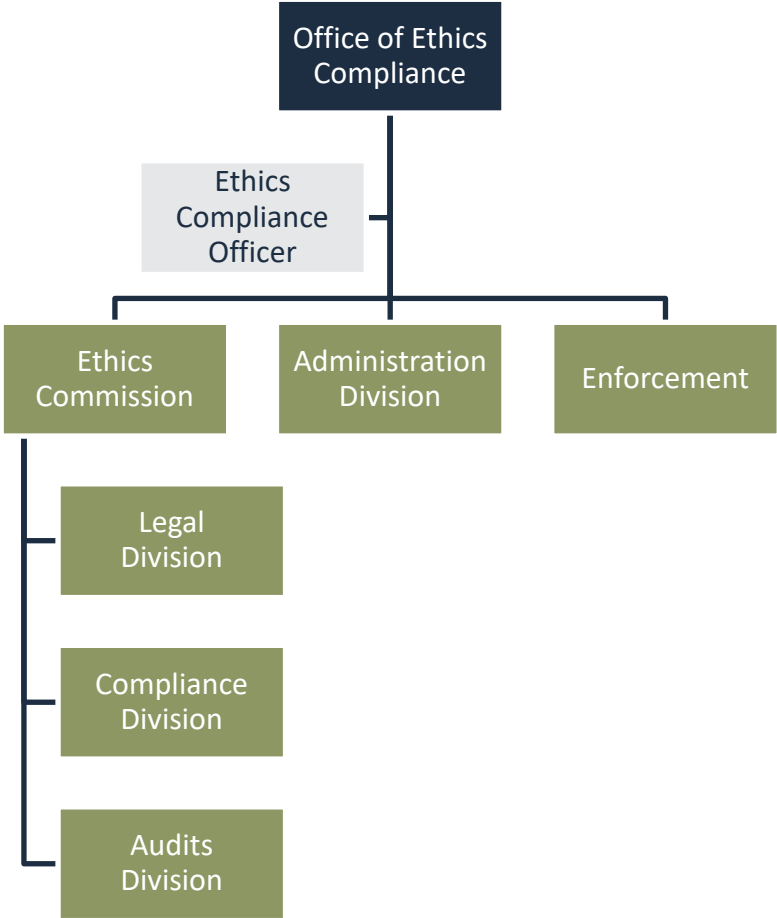
OPTION 2: COMMISSION AND COMPLIANCE OFFICE AS SEPARATE DEPARTMENTS

In this model, the Ethics Compliance Officer serves as the head of the department overseeing the day-to-day operations and management of the Compliance Office, such as employment, budgetary, and procurement concerns. As an option for potential cost savings, the County may explore whether the Ethics Commission and Ethics Compliance Office can use a shared Administrative Division.



OPTION 3: OFFICE OF ETHICS COMPLIANCE AS A DEPARTMENT WITH ETHICS COMMISSION AND ENFORCEMENT AS TWO SEPARATE DIVISIONS

In this model, the Ethics Compliance Officer serves as the head of the department overseeing the day-to-day operations and management of the Compliance Office, such as employment, budgetary, and procurement concerns. As a cost saving measure, the County can explore the Ethics Compliance Officer also serving as the Executive Director of the Commission.



OPTION 4: ETHICS COMMISSION HOUSED IN AN EXISTING DEPARTMENT

In this model, costs could be saved by using some existing department staff, such as administrative staff, to perform functions for the Commission and Compliance Office.

