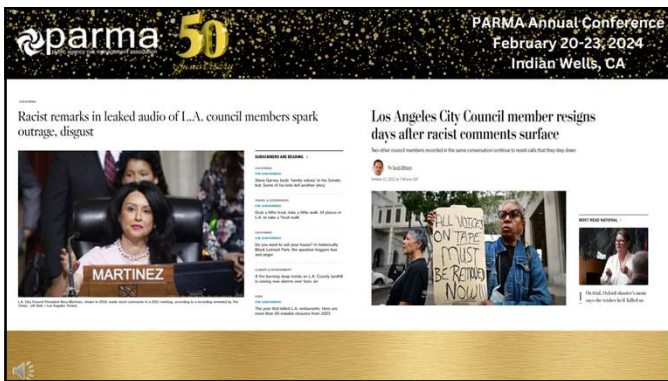


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NEWS RELEASE
Former Los Angeles City Politician José Huizar Pleads Guilty to Racketeering Conspiracy and Tax Evasion Charges



KCAL NEWS
SUN NEWS LOS ANGELES
HEIGHTENED SECURITY WILL CONTINUE AT ESTABLISHED SECURITY LEVELS FOR SUPER BOWL LIX

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Suit claims Ojai Council member violated Brown Act

ERIK NASARENKO
VENTURA COUNTY DISTRICT ATTORNEY
NEWS RELEASE

Contact: Anthony Wood
Title: Senior Deputy District Attorney
Phone: (805) 662-1725
Email: Tony.Wood@ventura.ca.gov

Approved: SW
Date: May 15, 2023
Release No.: 23-060

District Attorney's Office Demands Ojai City Council Cease and Desist Brown Act Violations

VENTURA, Calif. — District Attorney Erik Nasarenko announced today that the Ventura County District Attorney's Office (DCAO) has issued a cease-and-desist demand to the Ojai City Council. The cease-and-desist demand alleges the Ojai City Council violated the Brown Act.

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NEWS RELEASE
Mark Ridley-Thomas Sentenced to 3½ Years in Prison for Corruptly Securing Benefits for Son from School via Bribery and Fraud Scheme




Los Angeles 8AM 41° Miami 59° 11:59A

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AMERICA
Beset San Diego Mayor Says He Didn't Get Harassment Training


APRIL 11, 2019 - 10:48 AM PT



San Diego Mayor Kevin Faulconer says he didn't get harassment training from the city's Human Resources Department.

AMERICA
Former San Diego Mayor Pleads Guilty To Criminal Charges

OCTOBER 16, 2019 - 10:48 AM PT



Kevin Faulconer, former San Diego Mayor, pleaded guilty to criminal charges.

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Overview – Elected Officials (EOs)

- Are not employees, but are still "agents" of a public entity
- Are within California's Fair Employment & Housing Act (FEHA)
 - FEHA defines an "employer" to include a "person acting as an agent of an employer" -- Govt Code §12926
- Are "supervisors" under FEHA
 - FEHA defines "supervisor" to include anyone with authority "to hire, transfer, suspend, layoff, recall, promote, discharge reward or discipline..."
- EOs can create direct, strict liability for a public agency
- No written contracts or agreements
- Have only limited responsibility to other elected officials
- May be governed by City charter or agency's own governance documents
- Must adhere to ethics laws
- Must not violate criminal or civil laws

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Effective Education

- How to try to prevent Elected Officials (EO's) bad behavior:
 - Educate EOs about boundaries with staff, chain of command
 - Educate EOs about their legal obligations * required/available training:
 - League of California Cities orientation
 - Ethics training (within six months and then every two years)
 - » Cities, counties and special districts must provide ethics training (AB 1234);
 - Brown Act training:
 - » Serial meetings through email, texting or social media
 - » Disclosure of closed session
 - Harassment/discrimination/retaliation training
 - » Cities, counties and special districts must provide anti-harassment/discrimination training (AB 1825)
 - Election campaign and financial filings
 - » Form 700 Filings (Statement of Economic Interest)
 - » Form 803 Filings (Behind-the-Payments)
 - Educate EOs about potential criminal or civil exposure

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Discovery of the Problematic Conduct

- Identifying the problematic conduct that is not open and obvious:
 - Public reports (e.g. Citizen reports to agency personnel or hotlines)
 - Employee reports
 - Reports by other EOs
 - Media inquiries

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Who Is the Best Messenger?

- Each situation is different.
- Each public entity is different.
 - Other EOs
 - City Manager/CEO
 - City Attorney/Legal counsel
 - Risk Manager
 - Community influencers
 - ???

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Consequences

- Calibrate the response to the seriousness of the problem.
 - Soft
 - Discuss the perceptions of others toward the EO
 - Discuss the legal risks posed if EO's conduct is misinterpreted
 - Discuss the political risks (i.e., impact on future re-election)
 - Hard
 - Censure (Expression of severe disapproval)
 - Loss of rank or privilege (Removal from leadership positions or committee assignments)
 - Restrictions on access to agency's resources or premises
 - Suspension/Expulsion (e.g. Calif. Constitution, Art. IV, Section 5)
 - Recall election (e.g. Calif. Constitution, Art II)

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What are the Costs to the Agency?

- Internal conflict and risk of dysfunctionality
- Legal expense
 - Investigations
 - Defense of civil lawsuits
 - Public Records Act requests
- Media focus and reputational harm

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CASE STUDY #1A

-Supervisor Harry Jones ("Dirty Harry") had been Chairman of the County Board of Supervisors for three years. He was previously a city councilmember. Through his tenure as an elected official there were "rumors" of his inappropriate treatment of female staff members. The County's risk manager heard these rumors. They included asking females personal questions, and hugging women in a way that made them uncomfortable. No female has complained. There is no report of any employee of what they heard or observed.

-What, if anything, should the County's risk manager do?

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CASE STUDY #1B

- There is a new, fresh incident. Jones is accused of dancing with a female employee, whispering sexual comments, "roughhousing" with her and grabbing her buttocks. This occurs away from County premises, at a restaurant, and not at a County-hosted event.
- What if the female employee doesn't make a complaint but a citizen reports the conduct to the risk manager?
- What should be the next steps?
- What should be the communications to Jones and by whom?
- What should be the media strategy, if any?

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CASE STUDY #1C

– Six weeks pass. The female employee files a sexual harassment complaint and resigns. Jones is informed a sexual harassment complaint was made against him. He is told the County will be hiring an outside investigator. Jones becomes impatient and feels “the best defense is a good offense.” Before Jones knows the specifics of the complaint, and before being interviewed by the investigator, Jones decides to “defend himself” by:

- Denying her allegations publicly. Jones claims the female employee was teasing him and baited him;
- Blaming the agency for not providing him sexual harassment training;
- Demanding the County protect him from any legal claims.

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CASE STUDY #2A

- A long-tenured Council member, Butch Cassidy, has started regularly elevating his voice at times during Council meetings, yelling and using “soft” profanity. He usually directs this toward City staff when they report at open sessions and he disagrees with their recommendations. The City Manager has received complaints from staff that Butch is bullying them, and publicly humiliating them.
- What should be done, if anything, to confront Butch about these complaints?

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CASE STUDY #2B

– The City Manager discusses with Butch the complaints from staff. Butch then replies, “Listen, I was elected to speak passionately on behalf of those who elected me. This is called freedom of speech. Don’t try to stop me.”

- How should the City Manager respond?
- Should the City Manager involve the City Attorney?

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CASE STUDY #2C

– At the next City Council meeting, Butch doubles down by yelling at a speaker during public comment who criticizes him for his “uncivilized and unprofessional” conduct at past meetings. Butch then tells the speaker that she is a “scourge on democracy” and to “sit down and watch real democracy in action.” The media is present and reports on Butch’s tirade.

- Does the City have any way to prevent Butch’s future tirades?
- What are the City’s remedies, if any?
- How should the City respond to the media?

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CASE STUDY #3A

- City Council member Lorena Laughoutloud did not get along with fellow members of the city council. She hired a private investigator to follow one council person to determine if he actually lived in the geographic district he was elected to represent. She used her own social media account to criticize him, calling him a “coward” who “pandered to the woke and twisted values of liberalism.”
- What are the City’s options for addressing her private investigation, if any?
- What are the City’s options for addressing her social media posting?

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CASE STUDY #3B

- Lorena Laughoutloud frequently locked horns with another council member (Luis) of Hispanic ancestry, representing a predominantly Latino/a district in the city. During contentious City council meetings, Lorena sometimes mocked Luis’ accent, drawing a mixture of audible gasps and stifled laughs from the audience.
- Should the City address Lorena’s mocking or is this protected speech under the First Amendment?
- How can the City most effectively address this issue?
- Does Luis have any legal rights against Lorena for this mocking?

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CASE STUDY #3C

- Lorena Laughoutloud has sued the City council twice when they approved developments she opposed (and voted against). The council held a closed session to discuss her most recent lawsuit and excluded her from attending. That generated another lawsuit in which Lorena contended that excluding her prevented her from doing her job.
- Was the City correct to exclude her from the closed session?
- What else should the City do to protect the confidentiality of the closed sessions?

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CASE STUDY #3D

- Lorena files yet another lawsuit against the City claiming the council violated her First Amendment rights of freedom of speech and freedom of association with her colleagues in closed session.
- What happens with that lawsuit?
 - Freedom of speech
 - Freedom of association

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CASE STUDY #4A

- Mayor Dick Delusional was in his third term as the mayor of City of Chaos. He frequently gave assignments to City staff, bypassing the City Manager. He threatened to fire a staff members who did not provide him information. The City Manager and City Attorney met with Delusional and advised him he was violating the City Charter provision that prohibited councilmember interference. They told him he could not threaten to fire city staff who failed to carry out his assignments.
- How should the City Manager/City Attorney respond?
- What other advice and guidance?

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CASE STUDY #4B

- Mayor Delusional was interested in buying some industrial property adjacent to land he already owned. Delusional was concerned that the City's Director of Planning was going to approve development permit before he could arrange financing to purchase the land. So Delusional instructed the Director of Planning to deny the permit.
- What should the City Manager/City Attorney's response be to Delusional's action?
- How can that best be accomplished?

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CASE STUDY #4C

- The City Manager and City Attorney told Mayor Delusional that his dealings with City staff and his conflict of interest regarding the parcel of property meant he could not come to City Hall except for scheduled meetings. They also directed him to put all requests for information in writing and route them through the City Manager.
- If Delusional violates the "stay away" consequence, what options exist?
- If Delusional violates the "written requests for information" consequence, what options exist?

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CASE STUDY #5A

- Board member Thuy Nguyen (Asian-American) was elected to the school board of a public school district. The board members as a group were interviewing candidates for a new superintendent. Two persons from another district participated. The risk manager was present. One candidate was an African-American principal of one of the elementary schools in the district. Nguyen asked questions about how he viewed people of other races and ethnicities.
- Other board members expressed concern that about whether Nguyen's questions were appropriate. Nguyen pushed back stating that as an Asian-American she did not typically trust African-Americans, and would prefer not to have one as a superintendent.
- How should the district's risk manager address this situation in the moment?
- How should the district address the situation after the interview concludes?

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CASE STUDY #5B

- Word of Nguyen’s statement quickly becomes public. Other board members are contacted by the media and asked for their comment. They all condemn her statements publicly. Nguyen then files a defamation lawsuit against her fellow board members, alleging they have falsely portrayed her as a racist, when she was just doing her job in asking the questions, based on her core beliefs.
- Must the district defend the individual board members?
- Can/How should the district assist the board members in their defense?
- Can the district recover its legal expenses (for the defense of the four councilmembers sued for defamation by Nguyen?)

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