

City of Oakland



*For Official Use Only*

**City of Oakland**

**Public Ethics Commission**

*Stamp Date/Time Received:*

**COMPLAINT FORM**

*Complaint Number:* 04-09

Please Type or Print in Ink and Complete this Form.

This complaint concerns a possible violation of: (please check all that apply)

The Oakland Sunshine Ordinance, California Public Records Act or Brown Act. (Access to public meetings or documents.)

Oakland Campaign Reform Act

Oakland City Council's Rules of Procedure/Code of Ethics

Oakland Limited Public Financing Act

Oakland Conflict of Interest regulations

2004 DEC 29 AM 10:09  
City of Oakland  
Public Ethics Commission

Item E-2  
Date 3-7-05  
Page 8 of 22

**ATTACHMENT** 1

Oakland Lobbyist Registration Act

Oakland False Endorsement In Campaign Literature Act

I am/We are not sure which specific law, ordinance or regulations apply. However, I am/We are requesting that the Ethics Commission determine if my/our complaint is within its jurisdiction.

The alleged violation occurred on or about the following date(s)

*12/20/04*

The alleged violation occurred at the following place:

*Administration building Oakland Public Schools.*

Please provide specific facts describing your complaint(Or attach additional pages as necessary.)

*see attached pages*

The persons you allege to be responsible for the violation(s) are:

*Randolph Ward, State Superintendent of Schools appointee to the Oakland Public Schools as State Administrator  
School Board Secretary Edgar Lakeshrow.*

Any witnesses who were involved and/or who can provide additional information: (Please indicate names and phone numbers, if available.)

*None.*

ATTACHMENT   1  

PLEASE NOTE:

Item E-2  
Date 3-7-05  
Page 9 of 22

*There may be other laws that apply to the violations you are alleging. The time limit to commence a legal proceeding to enforce those laws may not be extended by filling this complaint. You should contact an attorney immediately to protect any rights available to you under the law.*

*By filling this complaint with Public Ethics Commission it, and all other materials submitted with it, becomes a public record available for inspection and copying by the public*

NAME: James F Merdeca PHONE NO.(Day): (510) 486-0160

ADDRESS: 2812 Garber St. PHONE NO.(Eve.): ( )

CITY: Berkeley STATE: CA ZIP: 94705

FAX NO.: ( ) \_\_\_\_\_

E-MAIL jim2812@hotmail.com

**PLEASE RETURN THIS FORM TO:**

**Public Ethics Commission**  
One Frank Ogawa Plaza, 4<sup>th</sup> floor  
Oakland, CA 94612

Phone: (510) 238-3593  
FAX: (510) 238-3315

ATTACHMENT 1

Item E-2  
Date 3-7-05  
Page 10 of 22

# Oakland Unified School District

Board of Education  
Paul Robeson Building  
1025 2nd Avenue, Suite 320  
Oakland, CA 94606-2212  
(510) 879-8199 Voice  
(510) 879-8000 Fax  
(510) 879-8739 TTY/TDD  
boe@secmail.ousd.k12.ca.us



## AMERICANS WITH DISABILITIES ACT COMPLIANCE

Individuals requiring a reasonable accommodation to participate in meetings other than handicapped access, should notify the Office of the Board of Education seventy-two (72) hours prior to the meeting at either (510) 879-8678 (VM); or boe@secmail.ousd.k12.ca.us (E-Mail); or (510) 879-8739 (TTY/TDD); or (510) 879-8000 (Fax).

## Agenda (Long)

Monday, January 03, 2005

11:00 AM

### Annual Organizational Meeting

City Council Chambers - 1 Frank Ogawa Plaza  
Oakland, CA 94612

### State Administrator and/or Board of Education

Randolph E. Ward, Ed.D.  
State Administrator  
and/or

President: Noel Gallo and Vice President Gary Yee

Directors: Kerry Hamill, David Kakishiba, Gregory Hodge, Dan Siegel, Alice Spearman

Student Directors: Anne Chiang and Brytteni Floyd-Mayo

Staff: Edgar Rakestraw, Jr., Secretary, Board of Education

- A. **Call To Order**
  
- B. **Roll Call**
  
- C. **Nomination(s) for President of the Board of Education - 2005 Term**
  
- D. **Election of President of the Board of Education - 2005 Term**
  
- E. **Nomination(s) for Vice President of the Board of Education - 2005 Term**
  
- F. **Election of the Vice President of the Board of Education -2005 Term**
  
- G. **President's Address (5 minutes)**
  
- H. **Adjournment**

ATTACHMENT 1

On December 20, 2004, Secretary of the Oakland School Board, Edgar Rakestraw, sent me an email in response to an email I sent on the same day asserting that by not including public comment as part of the agenda for the School Board's annual organizational meeting, a violation of the Brown Act, Open Meeting law is being committed.

Mr. Rakestraw stated in his email response: "Remember my disagreement with your preceding statements is not about whether you, or any other citizen has a right to participate in the business of the Board, but whether you are correct in your allegation that the agenda for the annual organizational meeting, as posted, violates the Brown Act. You have asserted so. I believe otherwise."

In other words, Mr. Rakestraw, representative of the School Board, and since the State takeover, representing the State Administrator, refuses to allow public comment to be part of the School Board's annual organizational meeting, scheduled for January 3, 2005, in the Chambers of the City Council.

Mr. Ward's representative, Mr. Rakestraw contends since the meeting has not yet occurred and I have not yet been denied the right to public comment that no violation of the Brown Act has taken place. My reading of the Brown Act is that the public comment is to be encouraged and following the Brown Act in publishing an agenda without public comment as part of that agenda is discouraging and not encouraging public comment. Why should the State Administrator be able to pick and choose which part of the Brown Act his administration will follow?

Finally, Mr. Rakestraw contends that the organizational meeting of the Board is exempt from the Brown Act because it is a meeting required by the Ed Code. However, the Ed Code Section 35143 defines annual organizational meetings of school boards as a regular meeting and even allows for business to be conducted at such a meeting. As a regular meeting the organizational meeting is required to follow all sections of the Brown Act.

Jim Mordecai  
Statement 12/28/04

ATTACHMENT   1  

Item E-2  
Date 3-7-05  
Page 13 of 22

For Official Use Only

Stamp Date/Time Received:

COMMUNICATIONS SECTION  
JAN 23 2005

2005 JAN 23 P 2:58

Complaint Number: 05-01

# COMPLAINT FORM

Please Type or Print in Ink and Complete Both Sides of this Form.

This complaint concerns a possible violation of: (please check all that apply)

- The Oakland Sunshine Ordinance, California Public Records Act or Brown Act (Access to public meetings or documents.)
- Oakland Campaign Reform Act
- Oakland City Council's Rules of Procedure/Code of Ethics
- Oakland Limited Public Financing Act
- Oakland Conflict of Interest regulations
- Oakland Lobbyist Registration Act
- Oakland False Endorsement In Campaign Literature Act
- I am/We are not sure which specific law, ordinance or regulations apply. However I am/We are requesting that the Ethics Commission determine if my/our complaint is within its jurisdiction.

The alleged violation occurred on or about the following date(s): Jan 23, 05

The alleged violation occurred at the following place: Oakland City Hall City Council Chambers

Please provide specific facts describing your complaint. (Or attach additional pages as necessary.)  
City Council President de la Fuente violated gov. code 549543.1 by holding public comment after the vote on election of president and vice mayor. He also violated the law by not listing public comment as part of the meeting agenda.

Please provide specific facts describing your complaint. (If additional space is needed.)

Brown Act wasn't followed in posting Jan 03 meeting agenda with public comment as part of the agenda.

Secondly, Presiding officer de la Fuente held an election prior to public comment when law requires public comment prior to or during discussion of agenda items.

The persons you allege to be responsible for the violation(s) are:

City Council President de la Fuente.

Any witnesses who were involved and/or who can provide additional information are: (Please indicate names and phone numbers, if available.)

minutes of the city council meeting will verify the facts.

**PLEASE NOTE:**

There may be other laws that apply to the violation(s) you are alleging. The time limit to commence a legal proceeding to enforce those laws may not be extended by filing this complaint. You should contact an attorney immediately to protect any rights available to you under the law.

By filing this complaint with the Public Ethics Commission it, and all other materials submitted with it, becomes a public record available for inspection and copying by the public.

NAME: Jim Mordecai PHONE NO. (Day) (510) 456-2160  
 ADDRESS: 2812 Garber St. PHONE NO. (Eve) ( ) \_\_\_\_\_  
 CITY: Berkeley STATE: CA ZIP: 94705 FAX NO. ( ) \_\_\_\_\_  
 E-MAIL \_\_\_\_\_

**PLEASE RETURN THIS FORM TO:**

**Public Ethics Commission**  
One Frank Ogawa Plaza, 4th Floor  
Oakland, CA 946121

Phone: (510) 238-3593  
FAX: (510) 238-3315

ATTACHMENT 2

Item E-2  
Date 3-7-05  
Page 15 of 22



**City of Oakland  
Meeting Agenda**

Office of the City Clerk  
Oakland City Hall  
1 Frank H. Ogawa Plaza  
Oakland, California 94612  
Ceda Floyd, City Clerk

**Special Concurrent Meeting of the  
Oakland Redevelopment Agency/  
City Council - 2005 Inauguration  
Ceremony**

**Oakland City Hall, 1 Frank H. Ogawa Plaza, Oakland, California, 94612**

**City of Oakland Website: <http://www.oaklandnet.com>**

**Monday, January 03, 2005**

**11:00 AM**

**City Council Chambers - 3rd Floor**

**Roll Call / ORA & Council**

**COUNCIL MEMBERS; Jane Brunner, Dist. 1; Danny Wan, Dist. 2; Vice Mayor Nancy Nadel, Dist. 3; Jean Quan, Dist. 4; Desley Brooks, Dist. 6; Larry Reid, Dist. 7; Henry Chang, At-Large, and President Ignacio De La Fuente, Dist. 5**

**SPECIAL ORDERS OF THE DAY**

- 1 Administration of the Oath of Office by the City Clerk to Re-Elected City Attorney, and Newly Elected and Re-elected Councilmembers to the Oakland Redevelopment Agency/ City Council and School Board Directors

(04-1012)

Council Rpt Item 1 01-03-05.pdf

- 2 Election of President of the Council of the City of Oakland

(04-1009)

Council Rpt Item 2 01-03-05.pdf

Subject: Election of Council President

From: Office of the City Clerk

Recommendation: Adopt a Resolution Electing Councilmember \_\_\_\_\_ as President of the City Council of the City of Oakland for the term beginning January 3, 2005 and ending January 8, 2007 Pursuant to Resolution 78307 C.M.S.

(04-1009-1)

Council Rpt Item 2 01-03-05.pdf

Item E-2  
Date 3-7-05  
Page 16 of 22

3 Election of Vice Mayor of the Council of City of Oakland  
(04-1010)

Council Rpt Item 3 01-03-05.pdf

Subject: Election of Vice Mayor  
From: Office of the City Clerk  
Recommendation: Adopt a Resolution Electing Councilmember \_\_\_\_\_ as Vice Mayor of the City Council of the City of Oakland for the term beginning January 3, 2005 and ending January 3, 2006 Pursuant to City Charter Section 208

(04-1010-1)

Council Rpt Item 3 01-03-05.pdf

4 A request from the President of the Council for adoption of a Resolution designating a Councilmember for the appointment of Council President Pro Tempore  
(04-1011)

Council Rpt Item 4 01-03-05.pdf

Subject: Appointment of President Pro Tempore  
From: Council President De La Fuente  
Recommendation: Adopt a Resolution Appointing Councilmember \_\_\_\_\_ as President Pro Tempore of the City Council of the City of Oakland for the term beginning January 3, 2005 Pursuant to Resolution 78307 C.M.S.

(04-1011-1)

Council Rpt Item 4 01-03-05.pdf

5 A request from the President of the Council for Action to confirm Chairperson and member Committee appointments  
(04-1016)

Council Rpt Item 5 01-03-05.pdf

Subject: Appointments to City Council Committees  
From: Office of the City Council  
Recommendation: Action pursuant to the Council's Rules of Procedure to confirm the City Council President's appointments of the members and chairpersons of the following committees: Public Works, Finance and Management, Community and Economic Development, Life Enrichment, Public Safety, and Rules and Legislation

(04-1016-1)

Council Rpt Item 5 01-03-05.pdf

NOTE: Americans With Disabilities Act  
If you need special assistance to participate in Oakland City Council and Committee meetings please contact the Office of the City Clerk. When possible, please notify the City Clerk 48 hours prior to the meeting so we can make reasonable arrangements to ensure accessibility. Also, in compliance with Oakland's policy for people with environmental illness or multiple chemical sensitivities, please refrain from wearing strongly scented products to meetings.

Office of the City Clerk

ATTACHMENT 3

Item E-2  
Date 3-7-05  
Page 17 of 22

Phone: (510) 238-7370  
Fax: (510) 238-6699  
Recorded Agenda: (510) 238-2386  
Telecommunications Display Device: (510) 839-6451

Telecommunications Display Device: (510) 839-6451  
(TDD)

THE HANGING OF BANNERS, POSTERS, SIGNS, OR ANY MATERIAL ON OR  
OVER THE GALLERY BANNISTERS IS STRICTLY PROHIBITED IN ORDER TO  
ENSURE THE SAFETY OF THOSE ATTENDING MEETINGS.

(...)

**CEDA FLOYD**  
**Agency Secretary/City Clerk and**  
**Clerk of the Council**

*\*In the event a quorum of the City Council participates on this Committee, the meeting is noticed as a Special Meeting of the City Council; however, no final City Council action can be taken.*

ORA - Oakland Redevelopment Agency  
S - Supplemental Item

ATTACHMENT 3

Item E-2  
Date 3-7-05  
Page 18 of 22

# Oakland Unified School District

Board of Education  
Paul Robeson Building  
1025 2nd Avenue, Suite 320  
Oakland, CA 94606-2212  
(510) 879-8199 Voice  
(510) 879-8000 Fax  
(510) 879-8739 TTY/TDD  
boe@secmail.ousd.k12.ca.us



## AMERICANS WITH DISABILITIES ACT COMPLIANCE

Individuals requiring a reasonable accommodation to participate in meetings other than handicapped access, should notify the Office of the Board of Education seventy-two (72) hours prior to the meeting at either (510) 879-8678 (VM); or boe@secmail.ousd.k12.ca.us (E-Mail); or (510) 879-8739 (TTY/TDD); or (510) 879-8000 (Fax).

## Agenda (Long)

**Monday, January 03, 2005**

**11:00 AM**

**Annual Organizational Meeting**  
**City Council Chambers - 1 Frank Ogawa Plaza**  
**Oakland, CA 94612**  
**State Administrator and/or Board of Education**

*Randolph E. Ward, Ed.D.*  
*State Administrator*  
*and/or*

*President: Noel Gallo and Vice President Gary Yee*  
*Directors: Kerry Hamill, David Kakishiba, Gregory Hodge, Dan Siegel, Alice Spearman*  
*Student Directors: Anne Chiang and Brytteni Floyd-Mayo*  
*Staff: Edgar Rakestraw, Jr., Secretary, Board of Education*

- A. **Call To Order**
  
- B. **Roll Call**
  
- C. **Nomination(s) for President of the Board of Education - 2005 Term**
  
- D. **Election of President of the Board of Education - 2005 Term**
  
- E. **Nomination(s) for Vice President of the Board of Education - 2005 Term**
  
- F. **Election of the Vice President of the Board of Education -2005 Term**
  
- G. **President's Address (5 minutes)**
  
- H. **Adjournment**

ATTACHMENT 5

Item E-1  
Date 3-3-05  
Page 21 of 22

**MAYOR**

HONORABLE JERRY BROWN

**CITY COUNCIL**

JANE BRUNNER, *District One*

DANNY WEI WAN, *District Two*

NANCY NADEL, *District Three*

JEAN QUAN, *District Four*

IGNACIO DE LA FUENTE, *District Five*

DESLEY A. BROOKS, *District Six*

LARRY REID, *District Seven*

HENRY CHANG, JR., *At-Large*

JOHN RUSSO, *City Attorney*

ROLAND E. SMITH, *City Auditor*

DEBORAH EDGERLY, *City Administrator*

CEDA FLOYD, *City Clerk & Clerk of the Council*

**OAKLAND BOARD OF EDUCATION**

KERRY HAMILL, *District One*

DAVID KAKISHIBA, *District Two*

GREGORY HODGE, *District Three*

GARY YEE, *District Four*

NOEL GALLO, *District Five*

DANIEL SIEGEL, *District Six*

ALICE SPEARMAN, *District Seven*

RANDOLPH E. WARD, Ed.D., *State Administrator*

EDGAR RAKESTRAW, *Deputy Secretary/Executive Assistant to the Board*

**EVENT COORDINATORS**

CEDA FLOYD, MARJO KELLER - *Chairperson*, LUPE VALDEZ,

JINI MACIVARNE, JAN FLEMONS, MICHAEL MUNSON, MICHELLE ABNEY, EDGAR RAKESTRAW

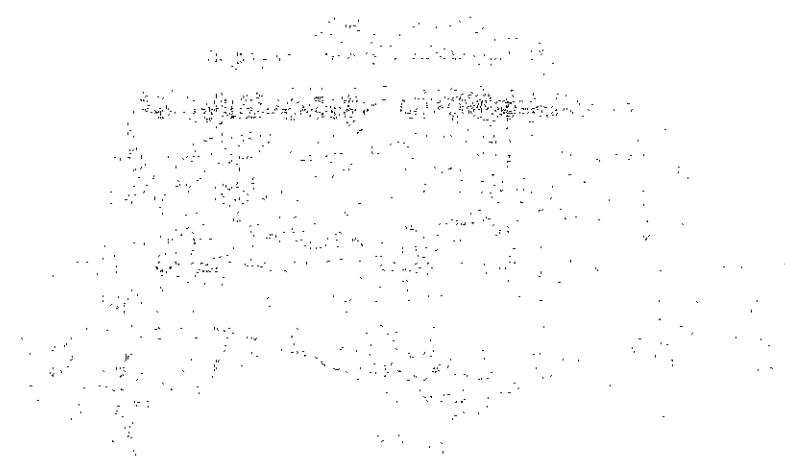
**ACKNOWLEDGEMENTS**

EMERALD CATERING • KTOP • LYDIA'S FLOWERS • SWANSON SOUND

USHERS COURTESY OF OFFICE OF THE CITY CLERK

*Design: Marcia J. Nowak, City of Oakland*

*Printing: Golden Gate Litho • Printed on Recycled Paper • Please Recycle*



# OAKLAND MOVING FORWARD

**2005**

## **INAUGURATION CEREMONY**

**MONDAY, JANUARY 3, 2005**

**11AM**

**OAKLAND CITY HALL ~ COUNCIL CHAMBERS**

**ONE FRANK OGAWA PLAZA**

**OAKLAND, CALIFORNIA**

# 2005 INSTALLATION

# 2005 INAUGURATION CEREMONY

ATTACHMENT

5

## OFFICE OF THE CITY ATTORNEY

JOHN RUSSO

## OFFICE OF THE CITY COUNCIL

JANE BRUNNER, *District One*

NANCY NADEL, *District Three*

IGNACIO DE LA FUENTE, *District Five*

LARRY REID, *District Seven*

HENRY CHANG, JR., *At-Large*

## OAKLAND BOARD OF EDUCATION

KERRY HAMILL, *District One*

GREGORY HODGE, *District Three*

NOEL GALLO, *District Five*

ALICE SPEARMAN, *District Seven*

## Outgoing Board of Education Member:

JASON HODGE, *District Seven*



Item E-2  
Date 3-9-05  
Page 22 of 22

## MUSICAL PRELUDE

Cesar Fortuno, *Keyboard*

## PRESENTATION OF COLORS

Oakland Military Institute

## THE NATIONAL ANTHEM AND OTHER SELECTION

Members of the Pacific Boychoir Academy

## OPENING REMARKS

Belva Davis, *KQED-TV, Host of Ceremonies*

## ADMINISTRATION OF OATHS OF OFFICE

Ceda Floyd, *City Clerk*

CITY ATTORNEY

CITY COUNCIL

BOARD OF EDUCATION

## SPECIAL MEETING OF THE OAKLAND CITY COUNCIL

*Presiding Officer*

CALL TO ORDER & ROLL CALL

ELECTION OF PRESIDENT & VICE MAYOR

PRESIDENT'S ADDRESS

ADJOURN CITY COUNCIL MEETING

## OAKLAND UNIFIED SCHOOL DISTRICT ~ BOARD OF EDUCATION

### ANNUAL ORGANIZATIONAL MEETING

*Presiding Officer*

CALL TO ORDER & ROLL CALL

ELECTION OF PRESIDENT & VICE PRESIDENT

PRESIDENT'S ADDRESS

ADJOURN BOARD OF EDUCATION MEETING

## CLOSING REMARKS

Belva Davis

There will be a reception immediately following outside the Council Chambers.  
Everyone is welcome.