

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4668

ORDINANCE ADOPTING THE CODE OF CONDUCT FOR
COMMISSIONERS AS CHAPTER 2.02 OF THE PORT OF OAKLAND
ADMINISTRATIVE CODE (POAC) BY AMENDING AND
RESTATING PORT ORDINANCE NO. 4557.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.2, dated October 13, 2022, ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, Section 706 of the City of Oakland ("City") Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to exercise various powers and duties relating to the Port's jurisdiction, including, but not limited to, the power and duty to "adopt and enforce such ordinances, orders, regulations and practices as are necessary for the proper administration and discharge of its duties and powers, or for the management and government of the port, and its facilities" (City Charter, Sec. 706(27)); and

WHEREAS, in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. The proposed action is not subject to the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed action will not have a significant effect on the environment and therefore is not a "project" under CEQA.

Section 2. The Board hereby:

A. Adopts the Code of Conduct for Members of the Board of Port Commissioners ("Code of Conduct") as Chapter 2.02 of the Port of Oakland Administrative Code ("POAC") by amending and restating Port Ordinance No. 4557, as set forth in the attachment to this Ordinance.

B. Authorizes the Executive Director or his designee to take all actions necessary to implement this adoption into the POAC, provided that such actions do not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to legality by the Port Attorney.

Section 3. This Ordinance is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this Ordinance, is signed as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

Section 4. This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

The Board of Port Commissioners, Oakland, California, October 13, 2022. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Lee, Martinez, Story, and President Leslie - 7.

Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held October 27, 2022
by the following vote:

Ayes: Commissioners Butner, Colbruno, Lee, Martinez, Story, and
President Leslie - 6
Noes: 0
Excused: Commissioners Cluver - 1



President.
Attest: 

Secretary.

Approved as to form and legality:



Port Attorney

Chapter 2.02 Code of Conduct for Commissioners

Commissioners shall conduct themselves professionally, responsibly, ethically, and lawfully to enhance the honor and reputation of the Port. Commissioners shall be committed to the proper use of their authority and to decorum consistent with maintaining the integrity and discipline of Board leadership.

Section 2.02.010 Conflict of Interest

Commissioners shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment on Port matters.

Section 2.02.020 Loyalty

Commissioners shall assist one another in every practicable way, and conduct themselves loyally and respectfully towards the Port and fellow Commissioners.

Section 2.02.030 Independence

No Commissioner shall derive any financial gain from confidential information acquired in the course of his or her Board appointment.

Section 2.02.040 Diligence

Commissioners shall maintain the highest standards of integrity and objectivity in exercising their authority to approve contracts, select consultants, and determine other expenditures of Port resources.

Section 2.02.050 Confidentiality

Commissioners shall protect confidential information that comes to them in the course of their Board activities, and shall not communicate such information to a third party without the prior approval of the Board.

Section 2.02.060 Fiscal Prudence

Commissioners shall be fiscally prudent in practice and in appearance with respect to their use of public (Port) funds for travel and other business expenses.

Section 2.02.070 Respect for Role of Management

No Commissioner shall seek to exercise individual authority over the organization except as explicitly authorized in this Code. Commissioners shall not serve on staff committees; shall not intervene in internal staff issues, disputes, or negotiations; and shall not seek to unduly influence staff hiring or termination decisions that are the responsibility of the Executive Director. Although Commissioners may express differences of opinion on Port issues at the Board level, no individual Commissioner shall direct his or her differences of opinion to staff in

a manner that could create dissension or polarization in the organization or undermine a decision of the Board.

Section 2.02.080 Board Authority is Corporate

Commissioners, in their interactions with the public, press, and other entities, shall recognize that as individuals they have authority to speak for the Board or the Port only as specifically authorized by the Board. The President of the Board may remove any item from the agenda, but may do so only at the meeting at which the item is scheduled to be considered. Any Commissioner may seek by motion to override such removal, which will restore the item to the agenda upon a majority vote to do so.

Section 2.02.090 Personal Conduct

No Commissioner shall cause or allow any practice, activity, or decision that is imprudent or is in violation of commonly accepted business or professional ethics. Commissioners shall not permit the use of their names or Port affiliation to be associated with any Person or firm, who is suspected of or known to be engaged in fraudulent or dishonest activity.

Section 2.02.100 Protocol

Commissioners shall be sensitive to cultural, ethnic, and other social, economic, and political issues and protocols in their activities, both domestically and abroad.

Section 2.02.110 Conduct During Board Meetings

During a public meeting, Commissioners shall refrain from separate communications with any other Person regarding the substance of any public meeting item, including, without limitation, electronic communications or private interpersonal communications with another Commissioner or staff. During any quasi-judicial hearing, such as when hearing a formal appeal to the Board, Commissioners shall not communicate on any topic with any other Person in any medium and instead devote their full attention to the hearing.

Section 2.02.120 Social Media Policy

A. Commissioners may properly use their personal social media, which is any digital platform that allows a Commissioner to create and share information with other users or audiences.

B. Commissioners shall acknowledge that their personal social media may be considered a public record subject to public disclosure under applicable Law when it concerns Port matters.

C. Commissioners shall value each other's First Amendment rights to use their personal social media and understand such use may include communicating on matters relating to the Port. This Chapter is intended to balance those First Amendment rights with the need to comply with other Laws and ensure the effective performance of Commissioners' duties.

D. Commissioners understand their communications among Commissioners through social media may be subject to open meeting laws, and therefore Commissioners shall refrain from responding to each other's social media.

E. Commissioners shall refrain from communicating on personal social media regarding any quasi-judicial matters before the Board if doing so could reasonably be construed as evidence of bias, prejudgment, or personal interest.

F. If Commissioners use their personal social media to communicate on any matter under consideration by the Board or reasonably anticipated to come before the Board, and/or establish an account identifying themselves as a "Commissioner", they shall notify in writing on such social media that their use expresses their personal opinions and not those of the Port, and shall direct users to the Port's publicly available information, including the Port's website, for further details.

G. Commissioners shall understand and use privacy settings to manage their personal social media accounts.

H. If Commissioners use publicly accessible personal social media to communicate regarding Port business, they may be creating a limited public forum subject to First Amendment speech protections. Therefore, Commissioners shall not deny access to their personal social media to any individual based in whole or in part on that individual's content or viewpoint, including disagreement with the Commissioners' viewpoints. Commissioners may remove content from their personal social media only to the extent such content is profane, harassing, abusive, or discriminatory; constitute solicitations or advertisements for non-Port commercial activity; advocates illegal activity or violates intellectual property rights; discloses confidential information protected by Law; promote or oppose any current political campaign, candidate, or ballot measure; or is clearly off-topic.

I. Commissioners shall refrain from using any Port-owned or issued devices to use or maintain their private social media accounts.