



FPPC Enforcement Retrospective & Prospective

Policy Meeting
November 22, 2019

Program



2019 Enforcement Trends



Resource Allocation 2019/2020



Penalties 2019/2020



Streamline/WL Discussion



Roadblocks to Enforcement



Legislative Proposals



Regulatory Proposals



The year to come...

Program



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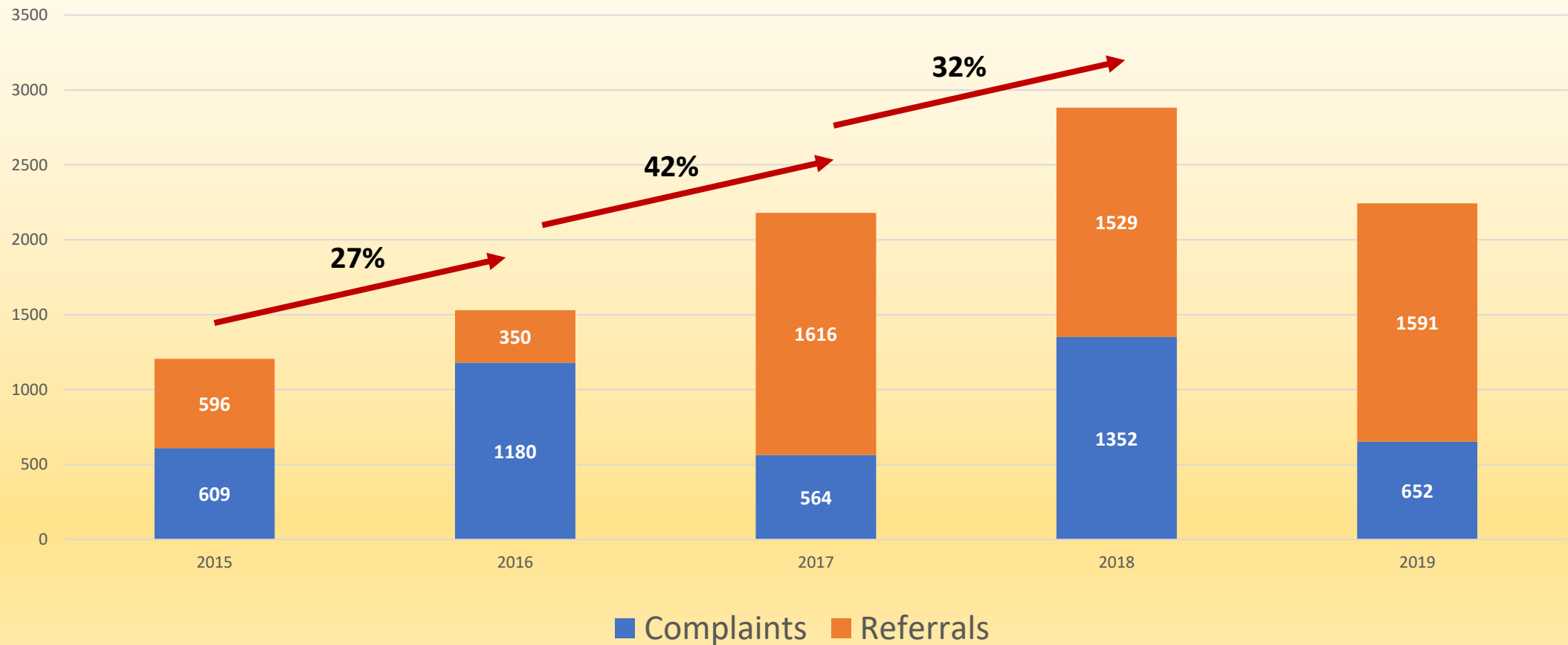
The year to come...

2019 Enforcement Trends

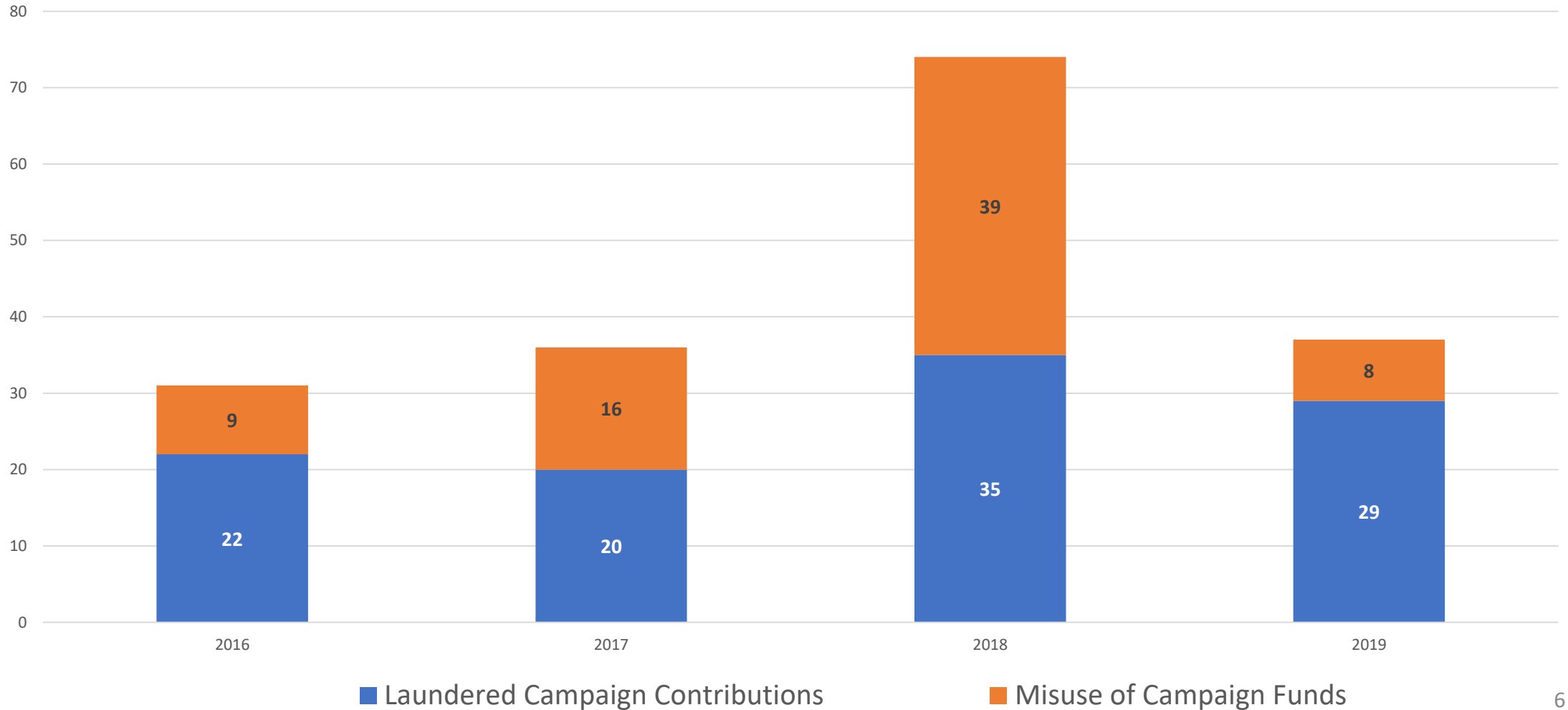
- Referrals Not Slowing Down
- Laundered Campaign Contributions
- Personal Use of Campaign Funds
- Advertisements/Mass mailers
- Campaign Related Communications at Public Expense



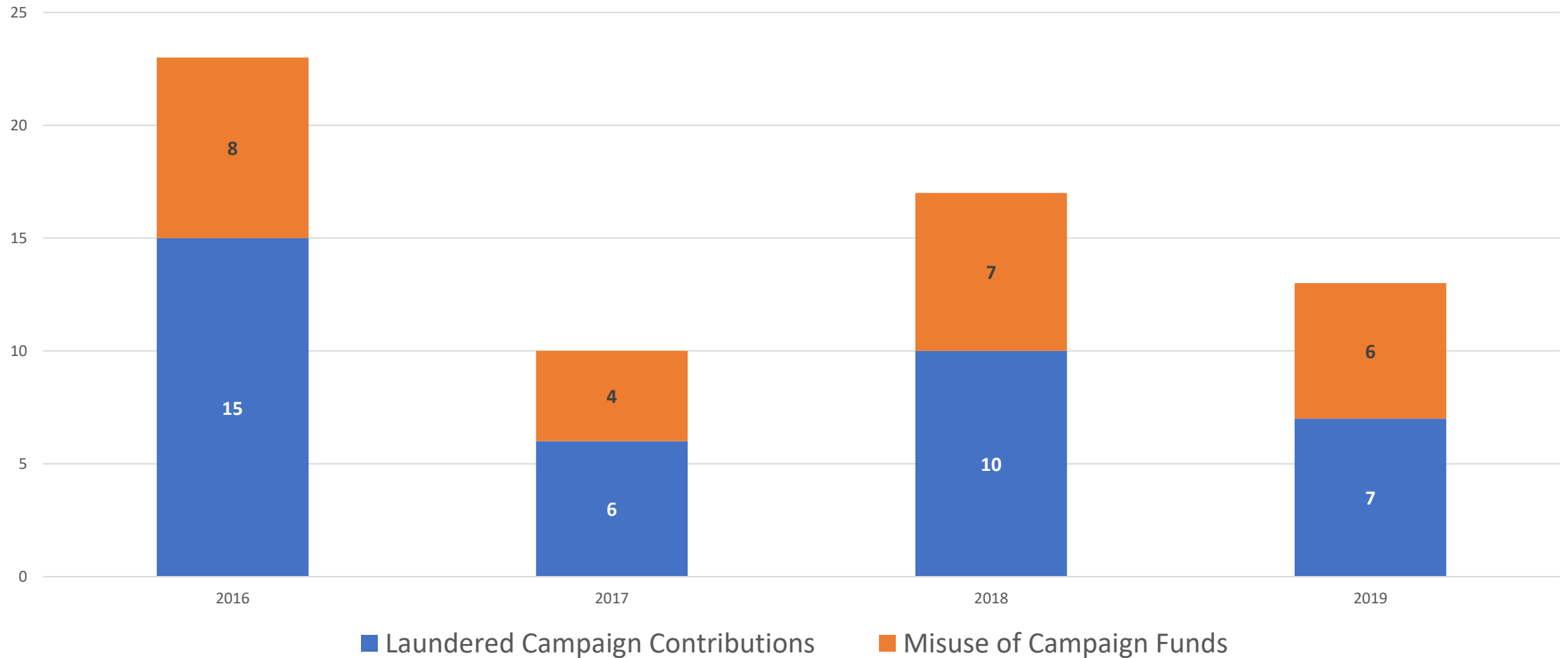
Complaints and Referrals Received (As of 11/1/19)



Laundered Campaign Contributions & Personal Use of Campaign Funds (Complaints Received)

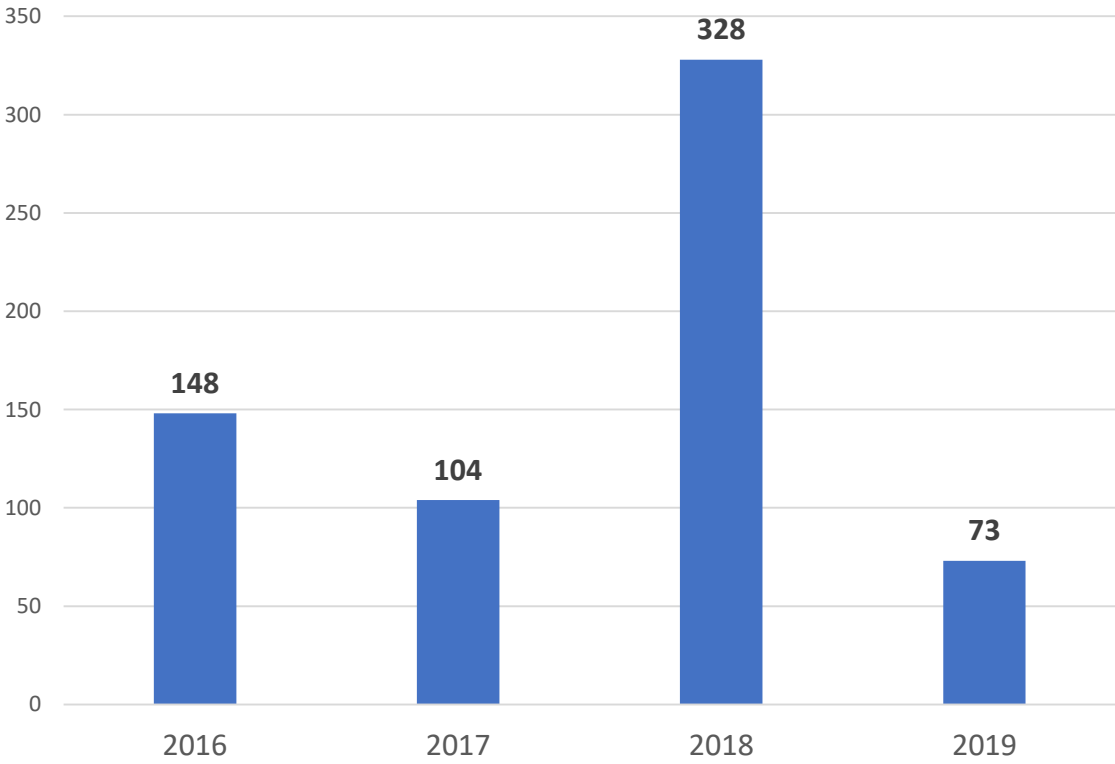


Laundered Campaign Contributions & Personal Use of Campaign Funds (Cases Opened)

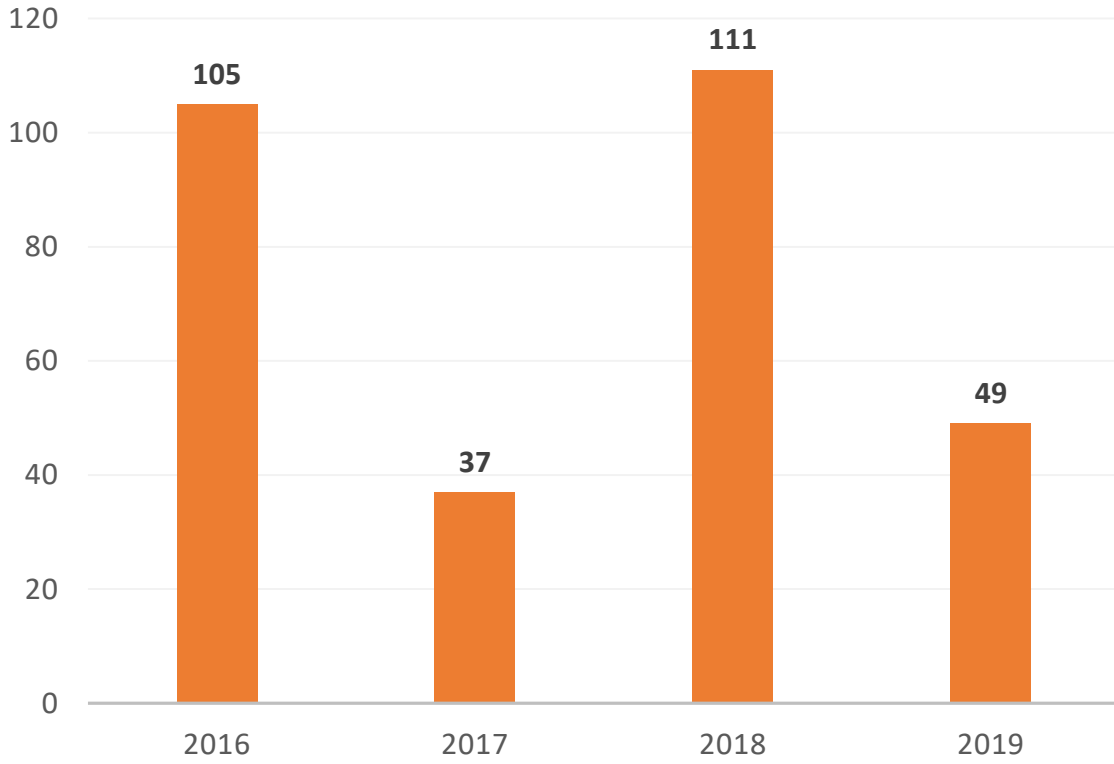


Advertisements & Mass Mailings 2016 - 2019

Complaints

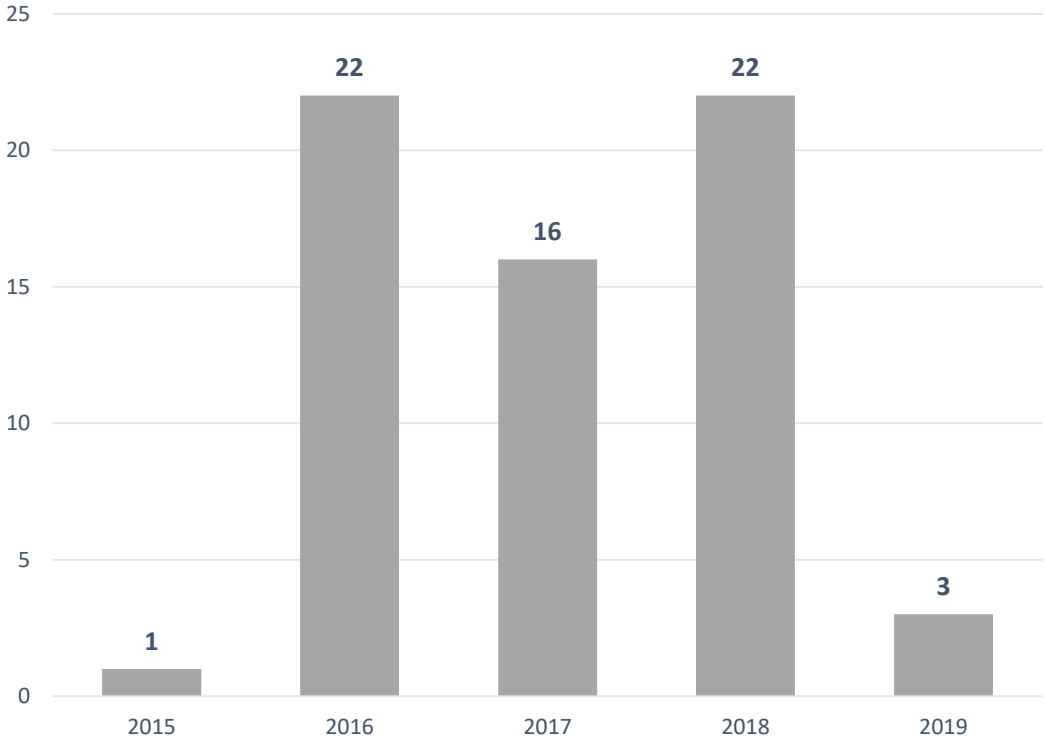


Cases Opened

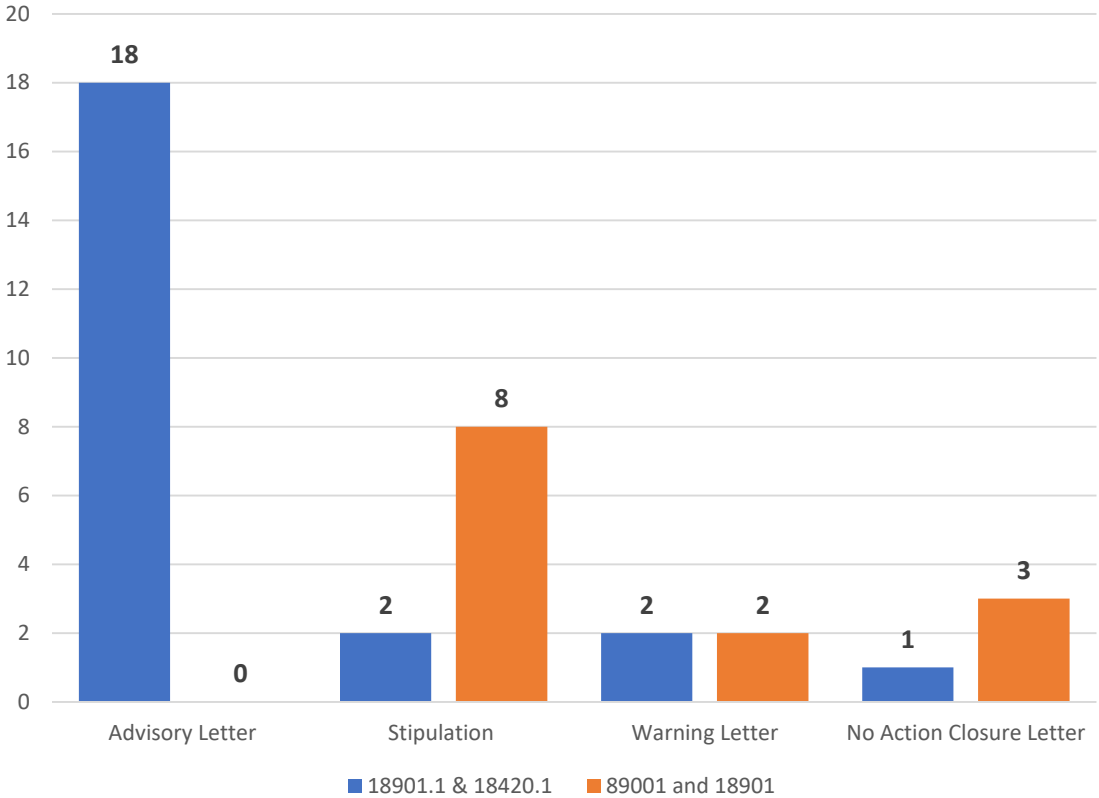


Mass Mailings/Ads Sent at Public Expense

Number of Cases Opened



Case Resolutions



Program



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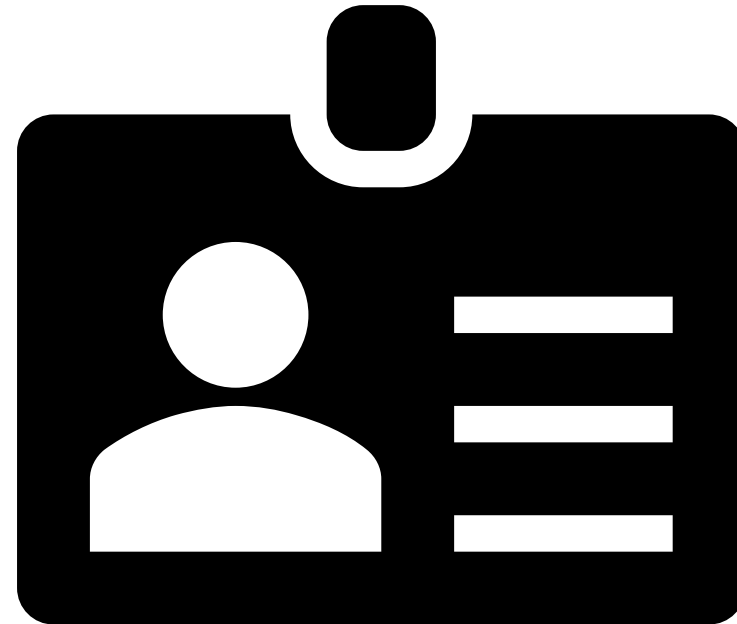
Regulatory Proposals



The year to come...

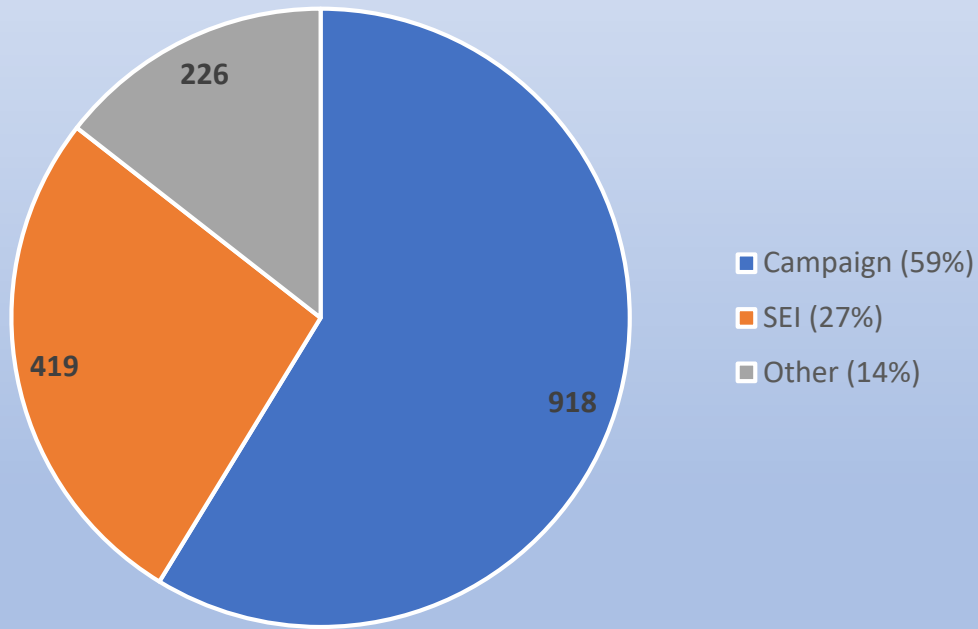
Resource Allocation 2019/2020 (Priorities)

- What was prioritized for 2019?
- What should be prioritized for 2020?

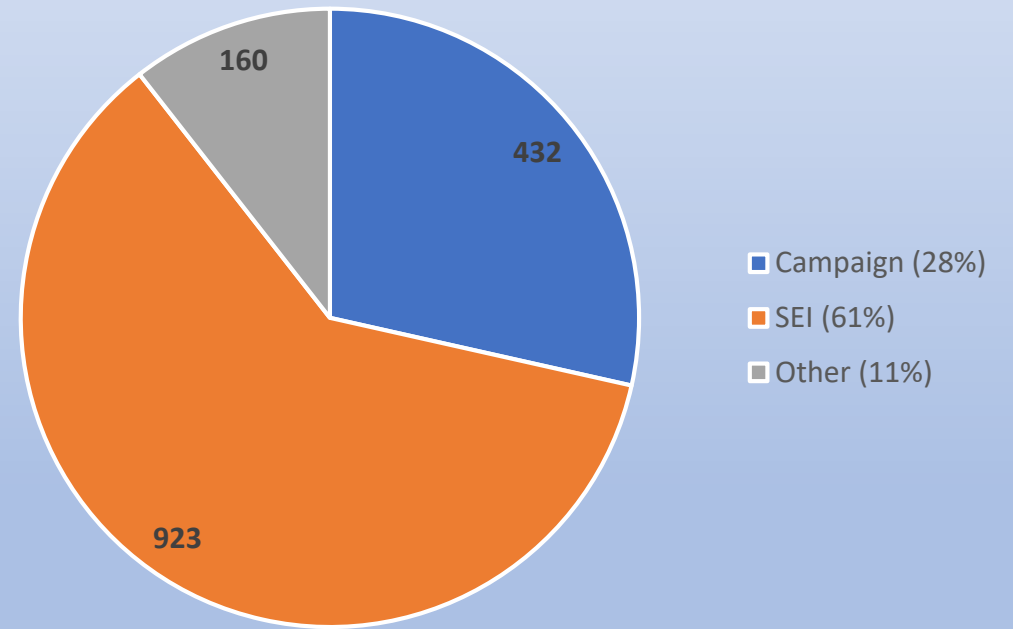


Types of Cases Opened 2018 v. 2019

2018 – Election Year

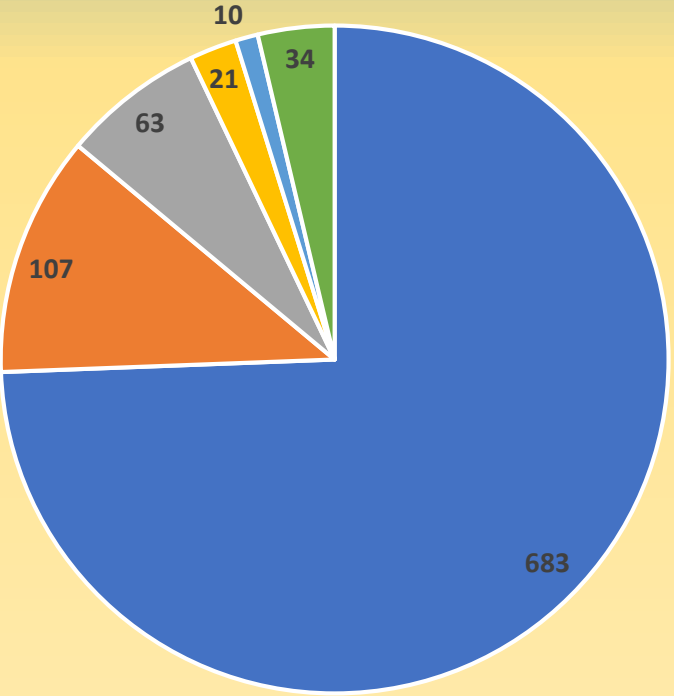


2019 – Non-Election Year

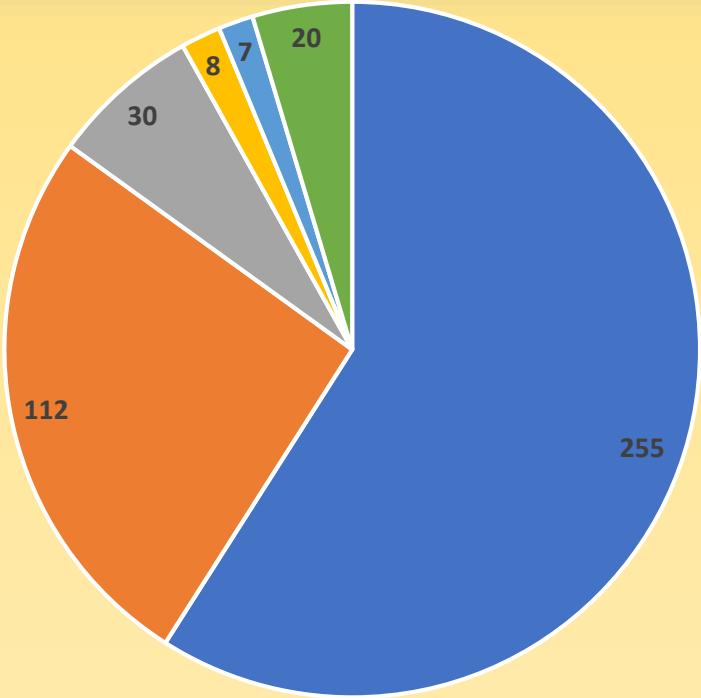


Drill Down – Campaign Cases Opened

2018



2019



- Campaign Non-Filer
- Annual Fees
- Campaign Non-Reporter
- Campaign Contribution Limits
- Laundered Campaign Contributions
- Other Campaign

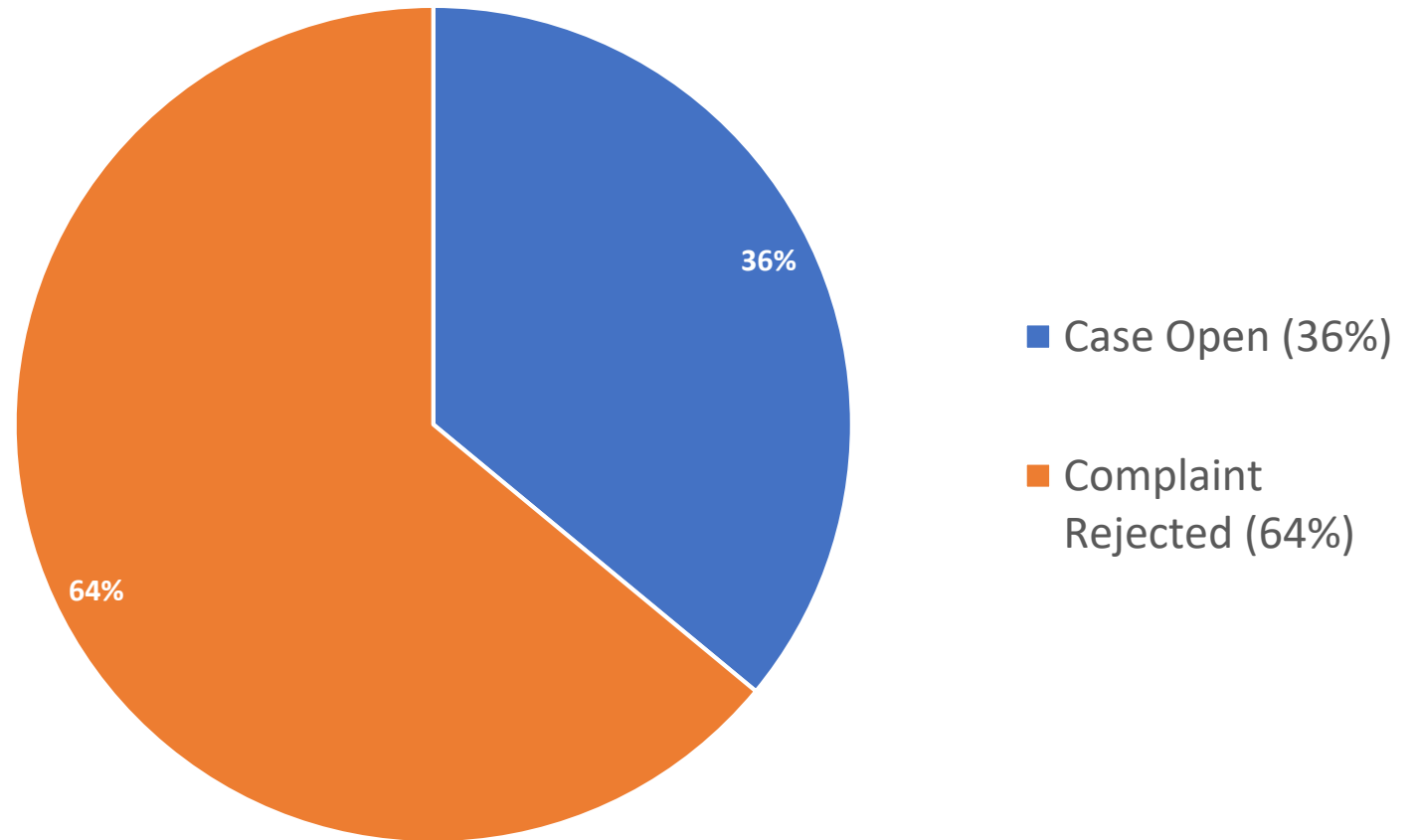
Prioritizing Complaint Processing

Complaints
Received 2018

Days Opened
(Median)

10

Complaints Received in 2018

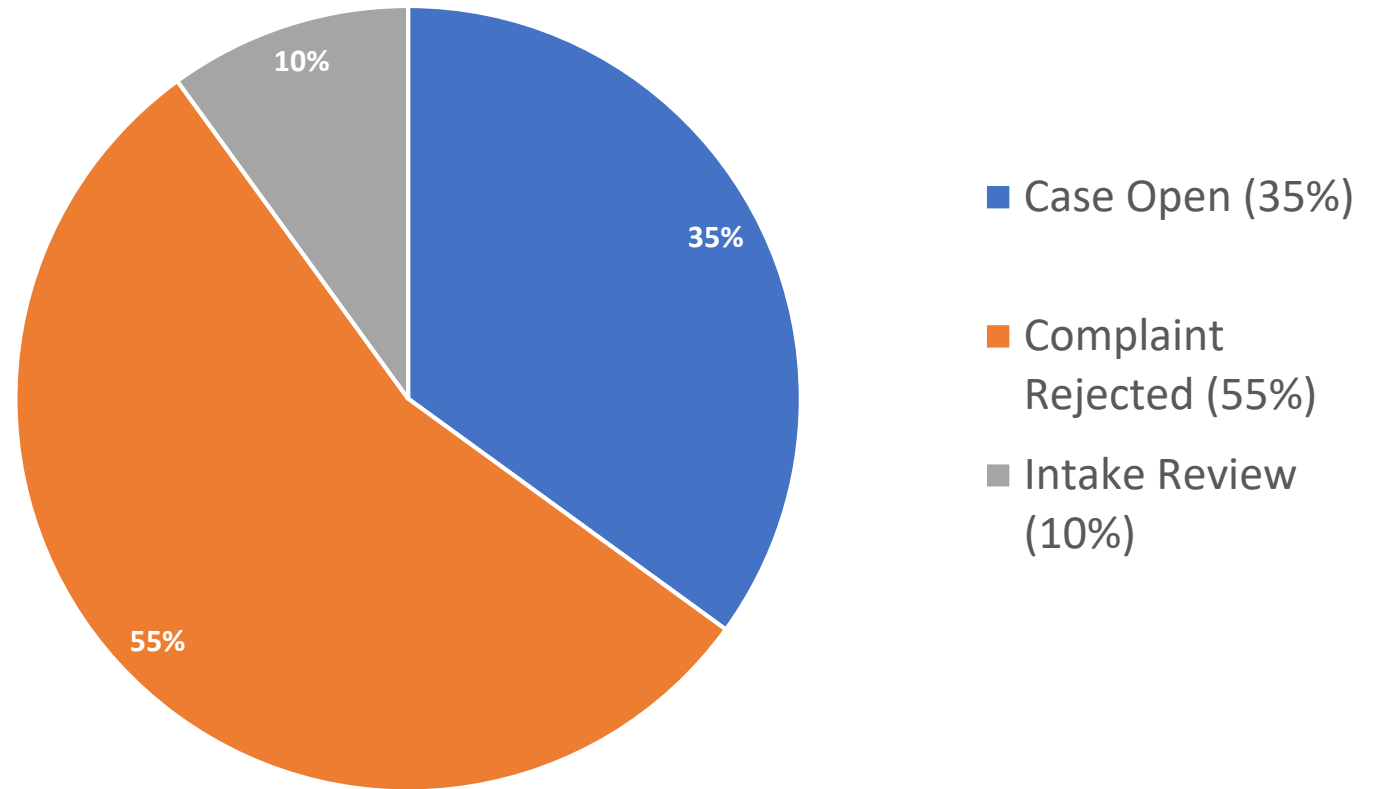


Complaints Received 2019

Days Opened
(Median)

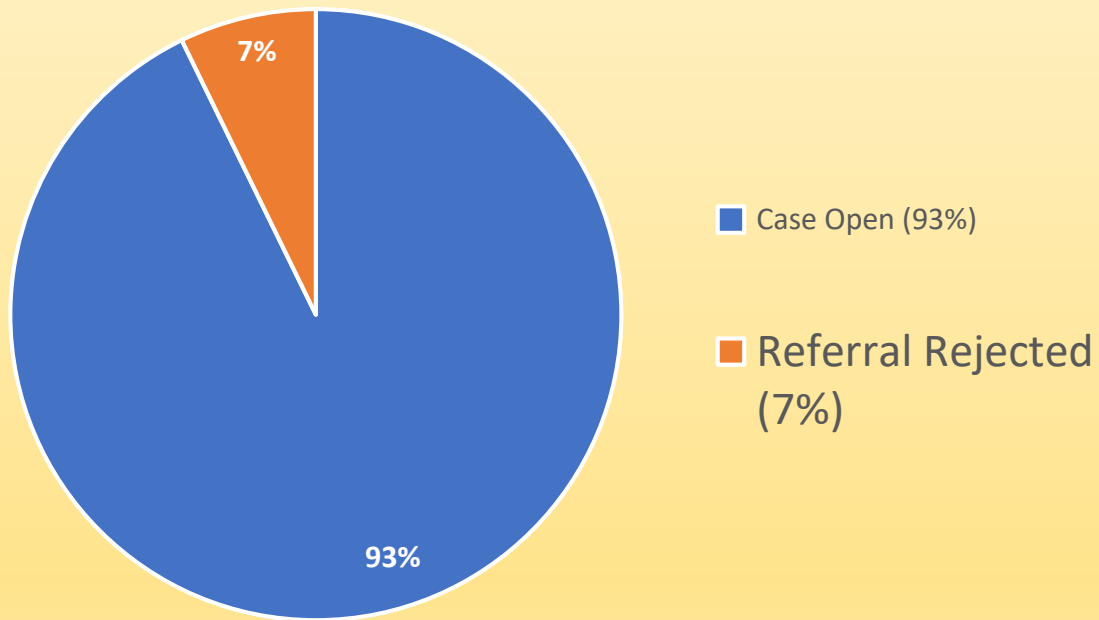
6

Complaints Received in 2019

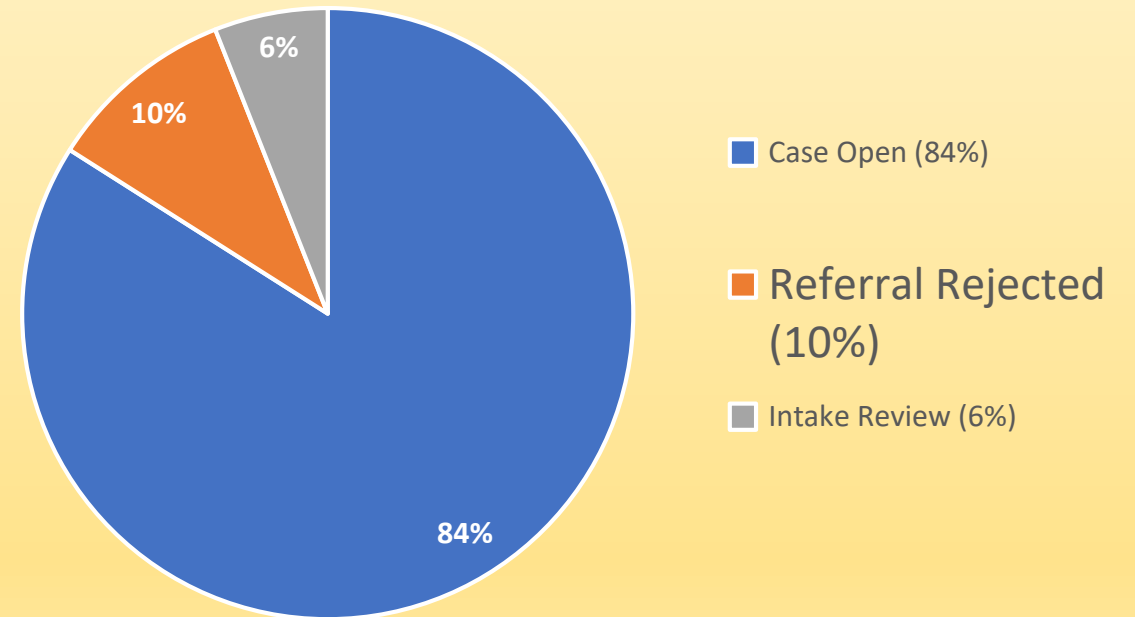


Referrals Received – 2018 v. 2019

2018



2019





**Campaign Related
Communications at
Public Expense**



**Personal Use of
Campaign Funds**



Conflicts of Interest



**Advertisements and
Mass Mailings (Disclose
Act)**



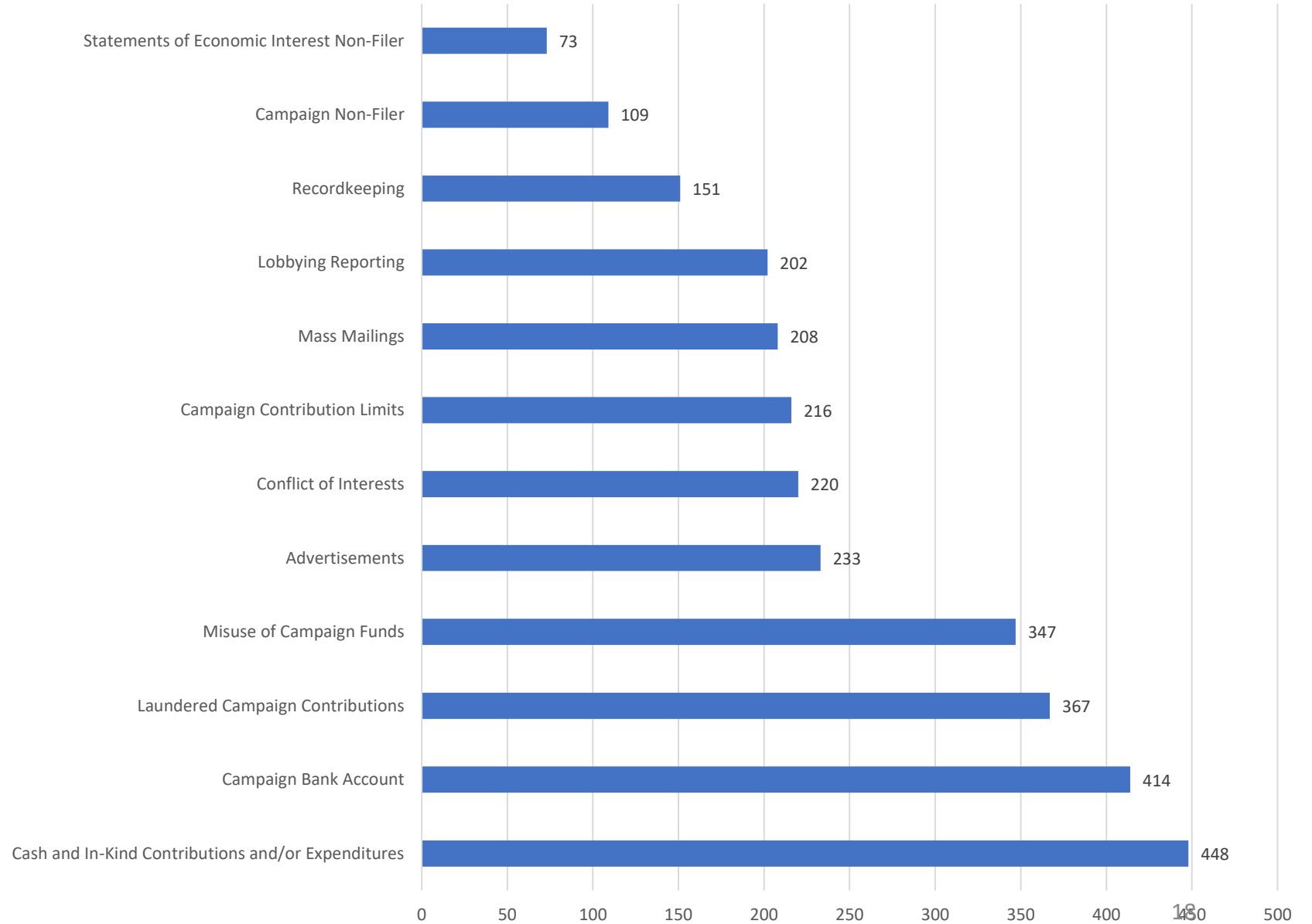
Other areas

Pursuing Nonfilers
Behested Payments
Contract Work
Pursuing defaults and
nonpayment

Days Opened
(Median)

105

Median Case Pendency (2016-2019 Cases)



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The year to come...

A large, dark blue watercolor splash shape is centered on a white background. The splash has irregular, feathered edges and contains several smaller, lighter blue droplets and splatters around it.

Penalties 2019/2020

Setting guidelines

Penalties 2019/2020

- General Criteria Applied
- By Category:
 - Conflicts of Interest
 - Personal Use
 - Use of Cash
 - Campaign Late Filing
 - Unreported Lobbying Activity

General Criteria

Regulation 18361.5, subd. (d).

Consider all the surrounding circumstances including but not limited to:

The seriousness of the violation;

The presence or absence of any intention to conceal, deceive or mislead;

Deliberate, negligent or inadvertent;

Demonstrated good faith by consulting the Commission staff or any other government agency;

Isolated or part of a pattern;

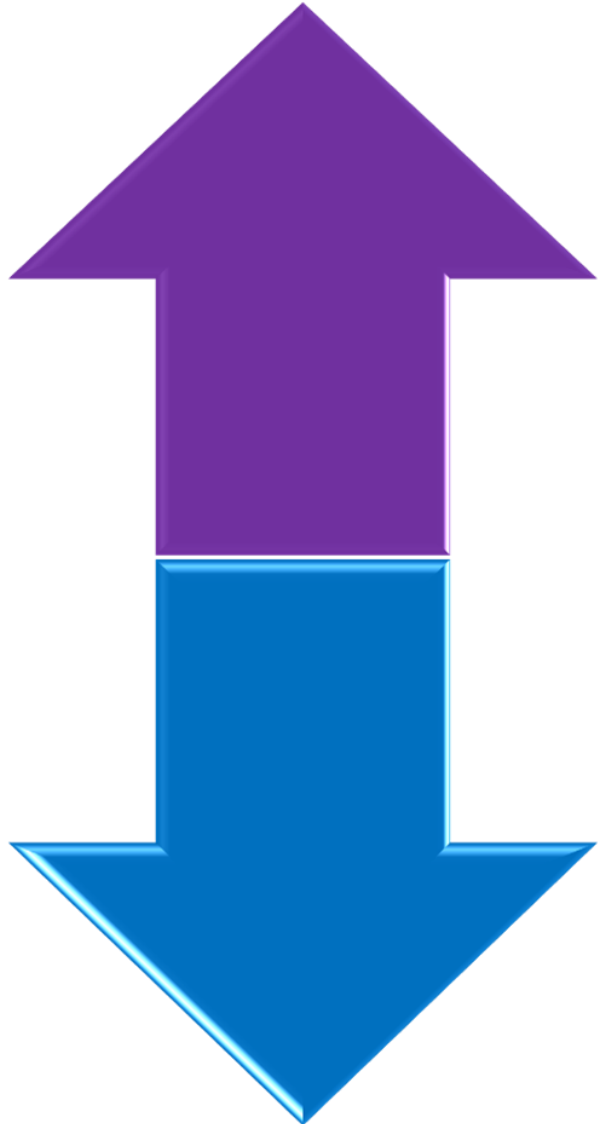
Prior record of violations of the Act or similar laws; and

Voluntarily filed amendments to provide full disclosure.

Comparable cases.

Sophistication of the parties.

Factors that Influence Penalties for Conflict of Interests Violations (Range \$3,000 - \$5,000)



Aggravating Factors = Higher Penalty

- Interest Not Disclosed in SEIs/Interest Concealed
- Large Personal Benefit Received
- Official Worked Directly on the Project that was the Subject of the Governmental Decision
- Large Benefit to Official's Economic Interest
- Pattern of Violations

Mitigating Factors = Lesser Penalty

- No Prior History of Conflict of Interest Violations
- Cooperation with Enforcement
- Interest Disclosed in SEIs
- No Longer in Office
- Requested Advice from Agency Attorney Before Governmental Decision
- Corrective Action Taken Before Complaint Filed
- Official Did Not Work Directly on Project that was the Subject of the Governmental Decision



Personal Use of Campaign Funds – (\$5,000 w. some exceptions)

- Considerations:
 - Sophistication
 - Amount
 - Reimbursement
 - Frequency
 - Own Money

\$ Receipt of Cash/Making Cash Expenditures (\$1,000 - \$2,500) \$

- Considerations:
 - Amount
 - Percentage
 - Recordkeeping
 - Personal Use
 - Level of Sophistication

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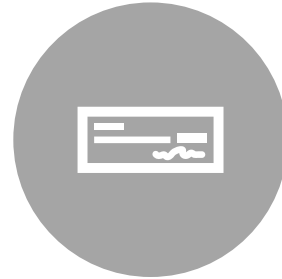


The year to come...

Streamline & Warning Letter Discussion



Major Donor
Committees



Behested Payment



What's working?



What needs some
review?

Streamline/WL Program

- What's working?
 - Extended categories – committee naming, cash, ads, recordkeeping, gift limit violations
 - No surprises
- What needs reviewed?
 - Level of detail – exclusions re: 24 hr reports
 - Some of the percentages
 - Lobbying limit
 - Population exclusion bottom level
 - Add Major Donors and Behested Payments

Major Donors

Under \$30k;

No notice;

Never filed before;

Filed after contact;

Business is terminated.

Behested Payments

- Filed before Enforcement contact;
- Within 100 days of due date;
- Filed with estimated amount;
- # of payments or solicitations;
- Prior history of filing (knowledge of requirements);
- Requested info from charity;
- Amount of donation.

Exclusions –

1. Business before his/her agency;
2. Perceived or real personal benefit.

Program



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The year to come...

Roadblocks to Enforcement

Subpoenas out of state

LLCs

Sworn officer access

Advertisement rules

Program



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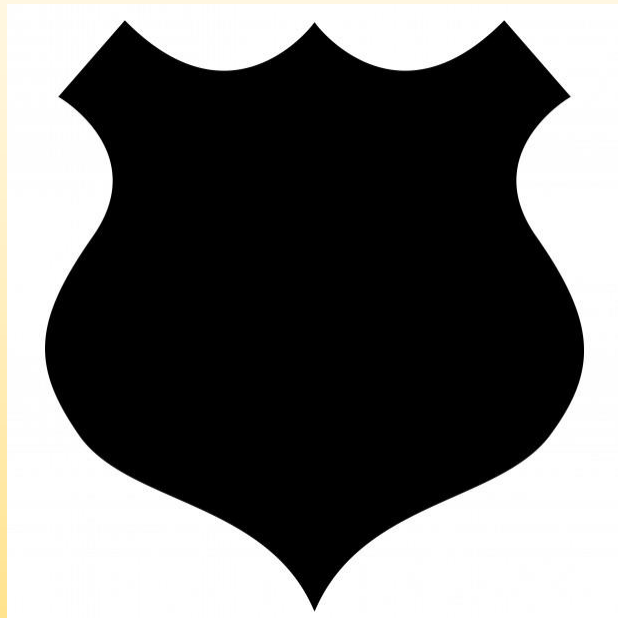


Regulatory Proposals



The year to come...

Legislative Proposals



LLC Presumption

FPPC Sworn Officer

Out of State Subpoenas

Public Agency Campaign Ads Bright Line Rule

Advertisement Rules

Lobbying Audits

Program



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The year to come...

Regulatory Proposals



LLC recordkeeping



Enforcement procedures
regulations overhaul



Cash + Recordkeeping =
Presumption of Personal Use or
Laundering

Program



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Regulatory Proposals



The year to come...

The year to
come...



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A large, dark, textured shape, possibly a splash of ink or a shadow, occupies the left side of the page. It has irregular, organic edges and a mottled appearance. The rest of the page is a plain, light color.

Questions?