

February 25, 2020

The Honorable City Council
c/o Holly Wolcott, City Clerk
200 North Spring Street
City Hall—3rd Floor
Los Angeles, CA 90012

Re: Charter § 803(c) Adjustments to LAUSD Contribution Limits

ACTION REQUIRED BY APRIL 25, 2020

Dear Councilmembers:

Every four years, the Ethics Commission is required to review whether contribution limits in Los Angeles Unified School District Board of Education (LAUSD) elections should be adjusted to reflect changes in the Consumer Price Index (CPI). Los Angeles City Charter (Charter) § 803(c). A review is required this year, and the Ethics Commission voted unanimously on February 18, 2020, to recommend that the contributions limits be adjusted.

The recommended adjustments require your approval to become effective, and your action is required by April 25, 2020. Charter § 803(c). The Ethics Commission urges you to approve the recommended limits identified below in Section C.

A. Background

Charter § 803(b) limits the amount of money that a single person may contribute to a single LAUSD candidate in a single election. Additional limits apply to per-person loans, per-person cash contributions, and aggregate anonymous contributions. Charter §§ 803(b)(3), (b)(6), and (d).

Every four years, the Ethics Commission is required to review whether these limits should be “adjusted to reflect changes in the consumer price index.” Charter § 803(c). The first required review was completed in 2012, and a second review was completed in 2016. *See* Council File No. 12-0302. The third four-year review took place on February 18, 2020.

The Ethics Commission must transmit its recommendations to the City Council by March 1 following each review. Within 60 days after the Ethics Commission transmits its recommendations, the City Council is required to hold a public hearing and act to either approve or disapprove the recommendations. *Id.* If the City Council does not disapprove the recommendations within 60 days, they must be presented to the Mayor, who then has 10 days to approve or veto. *Id.*; Charter § 250(b). If the City Council disapproves or the Mayor vetoes and is not overridden, the current limits will remain in effect until the next review.

The recommendations have the force of law if the Mayor approves them, if the Mayor fails to act, or if the City Council overrides a veto. *Id.* Resulting changes to the contribution limits take effect with the next election for which the fundraising window has not yet opened. *Id.*

B. Rationale

Regular adjustment to contribution limits based on CPI is important to ensure that the limits keep pace with economic growth. Increasing the limits based on CPI does not increase the value of maximum contributions—it merely ensures that the limits will maintain the value they had when they were adopted.

Adjustments based on changes to CPI will also help ensure that contribution limits in LAUSD elections do not become unconstitutionally low over time. The United States Supreme Court has held that limits on contributions to candidate-controlled committees do not violate the First Amendment rights of the contributors, but the limits cannot be so low as to significantly affect a candidate's ability to raise enough money for effective advocacy. *Randall v. Sorrell*, 548 U.S. 230, 248 (2006). The Court stated that “contribution limits that are too low can ... harm the electoral process by preventing challengers from mounting effective campaigns against incumbent officeholders, thereby reducing democratic accountability.” *Id.* at 248-249. The Court identified several factors to consider when evaluating whether contribution limits are too low, including the size and type of the district, the amount of the limit, its duration, and whether there is a provision for the limit to be adjusted for inflation. *Id.* at 249-252.

Conforming contribution limits to CPI also helps candidates compete in today's elections. Independent spending in LAUSD elections has increased significantly since the contribution limits were enacted. The United States Supreme Court has held that contributions to independent committees cannot be limited, and neither can the amounts spent independently. *See, e.g., Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010). Therefore, contribution limits that do not keep pace with the economy can hurt candidates in their ability to compete with unlimited independent expenditures.

Finally, the Charter authorizes a review of the LAUSD contribution limits only every four years. Therefore, if contribution limits are not adjusted at this time, no change will be considered until 2024. Any changes approved at that time would not become effective until the 2026 elections.

C. Recommendation

When the LAUSD limits were originally adopted in 2007, the per-person limit on contributions and loans was \$1,000 per election, the per-person limit on cash contributions was \$25 per election, and the cumulative limit on anonymous contributions was \$200 per election. In both of the last two reviews, the per-person limits on contributions and loans were increased by \$100. And in the last review, the per-person limit on cash contributions was increased by \$5.

An adjustment to the cumulative limit on anonymous contributions was not required in either review.

The most recent data from the United States Bureau of Labor Statistics (BLS) shows that the CPI has increased by approximately 12.3 percent since the last review. See United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, Los Angeles-Riverside-Orange County, CA (bls.gov/data#regions). To reflect the CPI changes, the Ethics Commission recommends that the per-person limits on contributions and loans be adjusted again and that the anonymous contribution limit be adjusted for the first time.

Because Charter § 803 is silent regarding rounding methods, the Ethics Commission's practice has been to apply the methods provided by the City's Campaign Finance Ordinance (CFO) for CPI adjustments to contribution limits in City elections. The CFO requires that CPI-adjusted limits on per-person contributions and loans be rounded to the nearest \$100, while limits on cash contributions be rounded to the nearest \$10. Los Angeles Municipal Code §§ 49.7.3(B)(3)(a)-(b).

Applying the rounding methods in the CFO to the CPI changes since the last adjustments, the Ethics Commission recommends that the limit on cash contributions remain the same, that the per-person limits on contributions and loans be increased to \$1,300, and that the cumulative limit on anonymous contributions be increased to \$300. The following table provides the limits in LAUSD elections following each review since their adoption and includes the Ethics Commission's current recommendations:

	Original Limit (2007)	First Adjustment (2012)	Second Adjustment (2016)	Recommended Adjustment (2020)
Contributions (per person, per election)	\$1,000	\$1,100	\$1,200	\$1,300
Loans (per person, per election)	\$1,000	\$1,100	\$1,200	\$1,300
Cash Contributions (per person, per election)	\$25	\$25	\$30	\$30
Anonymous Contributions (in total, per election)	\$200	\$200	\$200	\$300

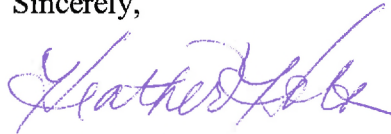
D. Conclusion

In accordance with Charter § 803(c), the Ethics Commission recommends that the per-person contribution limit, the per-person loan limit, and the cumulative limit on anonymous contributions in LAUSD elections each be increased by \$100, to reflect CPI changes since the last adjustment four years ago. Action to approve or disapprove the recommendation is required by April 25, 2020. If the recommendation is not disapproved, the adjusted limits will first apply

when the fundraising window opens for the regular 2022 LAUSD elections (or for an earlier special election if one is called after the adjusted limits are approved).

We would be happy to discuss any of the recommendations. If you have questions, please do not hesitate to contact me or Policy Director Tyler Joseph.

Sincerely,



Heather Holt
Executive Director