



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. **R 2 4 - 0 3 2 0**
JUN 2 0 2024

REPORT RE:

**DRAFT CHARTER AMENDMENT GRANTING THE CHIEF OF POLICE THE
AUTHORITY TO TERMINATE A POLICE OFFICER FOR CAUSE, REQUIRING THE
BOARD OF RIGHTS TO BE COMPOSED OF ONE SWORN OFFICER WITH THE
RANK OF CAPTAIN OR ABOVE AND TWO CIVILIANS, AND ESTABLISHING
BINDING ARBITRATION AS THE APPEAL PROCESS FOR TERMINATIONS
DIRECTED BY THE CHIEF; DRAFT BALLOT RESOLUTIONS AND ELECTION
ORDINANCE PLACING THE CHARTER AMENDMENT ON THE
NOVEMBER 5, 2024 BALLOT**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

On June 4, 2024, the City Council requested this Office to prepare the documents necessary for a Charter amendment changing the Board of Rights composition, authorizing the Chief of Police to terminate police officers for cause, and to establish binding arbitration as the appeal process following terminations that are directed by the Chief of Police. This Office hereby transmits the draft Charter amendment and the ballot resolutions and election ordinance necessary to place the Charter amendment on the ballot at the City's General Municipal Election to be held on November 5, 2024. We have approved the Charter amendment, draft ordinance, and resolutions as to form and legality.

Background

Section 1070 of the Los Angeles City Charter sets forth the disciplinary process for officers within the Los Angeles Police Department (“LAPD” or “Department”) and prescribes that all disciplinary actions taken against members of the LAPD may be appealed to, or reviewed by, a Board of Rights (“BOR”). A Board of Rights is a three-member panel that serves as a quasi-judicial body, hearing evidence related to charges of misconduct, determining guilt, and deciding penalty.

There are two types of BOR hearings under existing law. The first is a “Directed Board,” where the Chief of Police has concluded that an officer has committed serious misconduct and should be terminated from employment. Pursuant to Charter Section 1070, the Chief must “direct” the officer to a BOR hearing, with a recommendation that the officer be terminated from employment. The accused officer remains an employee of the Department until the hearing is concluded. If the BOR finds that an accused officer is guilty of misconduct, it then recommends an appropriate penalty, up to termination. The Chief may terminate an officer from employment *only if* the BOR has found the officer guilty and recommends termination from employment.

The second type of BOR hearing is an “Opted Board.” Charter Section 1070 allows for the Chief of Police to demote an individual or impose a suspension of up to 22 days. In this situation, the officer may request a hearing before a BOR to challenge the findings and discipline. Opted Board hearings are conducted in the same manner as Directed Board hearings, with the BOR panel having the authority to determine guilt and recommend appropriate discipline.

In either a Directed Board or an Opted Board, the Chief may impose a lesser penalty than the BOR recommends, but cannot increase any penalty recommendation.

Before 2017, the Charter required that the composition of a BOR panel be one civilian and two officers of the rank of Captain or above. In May of 2017, voters approved Charter Amendment C, which authorized City Council to adopt an ordinance allowing officers facing disciplinary action to request an all-civilian BOR panel. In 2019, City Council adopted such an ordinance (Ordinance No. 186100). One of the primary goals of Charter Amendment C was to increase police accountability. However, after analyzing almost four years of BOR hearings and determinations, the data shows the opposite to be true, with all-civilian boards removing fewer officers found to have committed serious misconduct. All-civilian boards also have been more lenient by reducing penalties.

As a result, on June 4, 2024, the City Council adopted the recommendations of the Public Safety Committee and requested this Office to prepare the documents necessary to amend Charter Section 1070 to change the Board of Rights composition; to authorize the Chief of Police to terminate police officers for cause; and to establish

binding arbitration as the appeal process following terminations that are directed by the Chief of Police.

Summary of the Proposed Charter Amendment

The proposed Charter amendment would amend Section 1070 involving “Disciplinary Procedures for the Police Department.” The language of the draft Charter amendment is based on the directions adopted by the City Council. Technical and language changes were made for clarity and to accomplish the City Council’s instructions.

We have summarized the primary provisions of the Charter amendment provisions below.

1. Requiring New BOR Composition as One Sworn and Two Civilians

The Charter presently provides for the BOR to be composed of two sworn officers of the rank of captain or above and an individual who is not a member the Department (the civilian member). As noted above, in 2019, pursuant to Charter Amendment C, the City Council adopted an ordinance allowing officers facing disciplinary action to request a three-member all-civilian BOR panel (Ordinance No. 186100).

The proposed Charter Amendment would require the BOR to be composed of one sworn officer with the rank of Captain or above, and two civilian hearing officers, as well as delete the second paragraph of Charter Section 1070(h), effectively repealing Ordinance No. 186100 that allowed for an all-civilian Board option.

2. Authority of Chief of Police to Terminate for Cause

As noted above, presently, Charter Section 1070 does not permit the Chief to terminate an officer for misconduct prior to a BOR hearing. The proposed Charter amendment would authorize the Chief to terminate a member for cause, subject to a post-termination appeal to binding arbitration in lieu of a BOR.

3. Binding Arbitration as the Appeal Process for Termination

In recognizing that terminated officers must still be afforded an appeal process after termination, the City Council has directed that the Charter be amended to establish binding arbitration as the post-termination appeal process for terminations directed by the Chief. In binding arbitration, an arbitrator would apply the law to the facts of the case and make determinations on the sufficiency of the evidence to support findings of misconduct and would determine whether the termination should be upheld. The draft amendment to the Charter includes procedural and technical language changes to

maintain consistency with the City's existing binding arbitration process as set forth in the Los Angeles Administrative Code. More specifically, the draft language of the Charter amendment establishes that the post-termination appeal shall be held before an arbitrator selected from the list of neutral professional arbitrators maintained by the City of Los Angeles Employee Relations Board (ERB) and that the selection process would be governed by the pertinent provisions of the Los Angeles Administrative Code. The parties would be bound by the arbitrator's decision as final except in rare circumstances, which are specified in state law.

Voter Approval and Election Requirements

The Charter amendment requires approval by a majority of the voters of the City of Los Angeles to be adopted.

City Election Code Section 601 requires that final resolutions to place a measure on the ballot must be adopted no less than 110 days before the election. For the November 5, 2024 election, in light of the City Council's recess schedule, the deadline for the City Council to adopt the resolutions containing the final language of the Charter amendment at a regular meeting is July 3, 2024.

Council Rule 38 Referral

A copy of the draft Charter amendment was sent, pursuant to Council Rule 38, to the Department and the Department's comments have been incorporated or will be presented to the City Council when it considers this matter.

If you have any questions regarding this matter, please contact Assistant City Attorney Wayne Song at (213) 978-8380. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

HYDEE FELDSTEIN SOTO, City Attorney

By



MICHAEL J. DUNDAS
Senior Assistant City Attorney

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Transmittals