

December 16, 2020

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

**Re: Technical Updates to the Campaign Finance Ordinance**  
***FOR COUNCIL CONSIDERATION***

Dear Councilmembers:

On December 8, 2020, the Ethics Commission voted unanimously to recommend various updates to the Campaign Finance Ordinance (CFO) that have become necessary in light of the City's new election schedule. The updates involve disclosure deadlines, post-election fundraising, and officeholder committees. The Ethics Commission urges you to adopt the recommendations identified below in Section B.

**A. Procedural Background**

Historically, regular City and Los Angeles Unified School District Board of Education (LAUSD) elections have occurred in March and May of odd-numbered years. This was different from California's statewide elections, which have historically been held in June and November of even-numbered years.

In 2015, in an effort to increase voter turnout by syncing local elections with state elections, the City Council placed before the voters Charter Amendments 1 and 2. The amendments were overwhelmingly approved, and they moved regular City and LAUSD elections to June and November of even-numbered years, beginning in 2020. As part of the changed election schedule, the Los Angeles County Registrar-Recorder/Clerk (County Clerk) became the body responsible for certifying City and LAUSD election results, something the City Clerk's office had previously done.

Following the adoption of Charter Amendments 1 and 2, California's primary election date changed. During the 2017-2018 legislative session, state lawmakers moved the state's primary elections from June to March, in order to increase California's influence in a presidential election. The change became effective January 1, 2019. *See* Senate Bill 568 (Lara).

To ensure that local elections would continue to occur in sync with state elections, voters were asked in 2018 to approve Charter Amendments E and EE. Those amendments were also approved, and they moved regular City and LAUSD primary elections to March of even-numbered years, beginning in 2020.

In September of 2020, the state further modified its primary elections schedule. In presidential election years, the primary election will continue to be held in March. However, in non-presidential election years, the primary election will be moved back to June. *See* SB 970 (Umberg); Cal. Elections Code §§ 316, 340. To ensure that local elections will continue to be held in sync with state elections, the City is likely to adopt the same change.

## **B. Recommended Updates**

The changes to the election schedule have created the need for updates to the CFO, in order to preserve the processes associated with campaign finance regulation. The Ethics Commission's recommended updates are explained below and would apply to City elections only; updates to the LAUSD campaign laws require a voter-approved change to Los Angeles City Charter § 803. The Ethics Commission recommends that the updates take effect with the 2022 election cycle.

### *1. Disclosure Deadlines*

Under state and local law, City and LAUSD candidates and committees are required to file disclosure statements with the Ethics Commission, to inform the public about their campaign activity, including contributions and expenditures. Filing deadlines for those statements are identified in the CFO, which currently makes specific reference to primary elections that occur in March.

In addition to the likelihood of regular City primary elections now alternating between March and June of even-numbered years, special elections may be called and held at any time. Because the CFO does not currently address filing schedules for special elections, the Ethics Commission has been required in the past to impose different filing deadlines based on the deadlines for regular elections.

To ensure that the filing deadlines remain current and flexible, the Ethics Commission recommends amending LAMC § 49.7.14 as follows, to reflect both types of regular election cycles that may be held in the future, as well as the possibility of special election cycles. Because of filing deadlines that exist in state law, the recommended language is different for each type of election cycle.

#### **LAMC § 49.7.14. CAMPAIGN STATEMENT FILING DEADLINES.**

Every candidate for elected City office, every candidate's City controlled committee, and every City recall committee, City ballot measure committee, City general purpose committee, committee primarily formed to support or oppose City candidates or City ballot measures, and every person who makes independent expenditure communications in City elections and qualifies as a committee under the Political Reform Act shall file the campaign statements

required by the Political Reform Act and shall also file campaign statements by the following dates prior to an election in which the candidate or measure appears on the ballot:

A. For an election cycle in an even-numbered year with a primary election held in March:

1. The Friday before an election, covering activity from the close of the reporting period for the previous campaign statement through the Wednesday before the election.
- ~~B2.~~ October 10, covering activity from July 1 through September 30 in the year prior to ~~a City the~~ primary election ~~that is held in March.~~
- ~~C3.~~ January 10, covering activity from October 1 through December 31 in the year prior to ~~a City the~~ primary election ~~that is held in March.~~

B. For an election cycle in an even-numbered year with a primary election held in June:

1. The Friday before an election, covering activity from the close of the reporting period for the previous campaign statement through the Wednesday before the election.
2. January 31, covering activity from July 1 through December 31 in the year prior to the primary election.

C. For an election cycle held at any other time:

1. The Friday before an election, covering activity from the close of the reporting period for the previous campaign statement through the Wednesday before the election.
2. Dates necessary to ensure disclosure similar to the disclosure provided under Subsections A and B.

## 2. Post-Election Fundraising

There are specific periods of time before and after an election during which City candidates and their campaign committees are permitted to engage in fundraising. Fundraising may begin 24 months before a primary election for Citywide candidates and 18 months before a primary election for City Council candidates. LAMC § 49.7.10(A). No City candidate may solicit or receive a contribution from another person, or cause a contribution from another person to be solicited or received, more than 12 months after the date of the general election. LAMC § 49.7.10(C).

Under the historic schedule of March primaries and May generals, the post-election fundraising window for primary election committees was no more than 14 months. However, in an election schedule with March primaries and November generals, the post-election fundraising window for primary election committees becomes nearly two years, extending 20 months from March until November of the following year. At the same time, the post-election fundraising window for general election committees is a fixed 12 months.

One of the key purposes of fundraising windows is to avoid scenarios in which elected officials are perpetually engaged in fundraising. In order to safeguard that goal and to apply a uniform standard to both primary and general election campaign committees, the Ethics Commission recommends limiting post-election fundraising to 12 months following the date of the election for which the campaign committee was formed. The post-election fundraising window for LAUSD elections is structured the same way, in that it runs from the specific election and extends for the same length of time for both primary election committees and general election committees. For this update, the Ethics Commission recommends the following change to LAMC § 49.7.10(C):

**LAMC § 49.7.10. FUNDRAISING WINDOWS.**

- C. A candidate for elected City office and the candidate's controlled committee for election to City office may not solicit or receive a contribution from another person or cause a contribution from another person to be solicited or received more than 12 months after the date ~~that of the general election at which the candidate seeks City office either occurs or is scheduled to occur for which the committee was formed.~~ Contributions solicited or received or caused to be solicited or received following an election shall be used only to retire the candidate's or committee's campaign debt for that election, except to the extent prohibited by Section 49.7.9, or to pay the candidate's or committee's compliance, fundraising, or inauguration expenses for that election.

3. Officeholder Committees

City law permits individuals who are elected to City office to establish one officeholder committee, through which they may raise funds and pay for specific expenses related to holding office and serving their constituents. LAMC § 49.7.19. Currently, an individual may establish an officeholder committee once the City Clerk certifies the results of the election and those results indicate that the individual has been elected. LAMC § 49.7.19(B). Under the City's previous election schedule, newly elected individuals were typically able to establish officeholder committees about two months before they were actually sworn in. This enabled them to do things such as set up field offices and pay for inauguration events.

The Ethics Commission recommends three updates to this provision of the CFO. First, it recommends codifying the historic approach of permitting officeholder committees to be



established two months before an individual takes office. Without that update, the new election schedule creates a prolonged window during which a newly elected individual may establish an officeholder committee.

For example, a candidate who wins an election during a March primary might be able to establish an officeholder committee nine months before taking office in January. However, the purpose of an officeholder committee is to serve constituents and fulfill responsibilities associated with holding elected office. An elected-but-not-seated individual does not have constituents or the duties of an elected office. Permitting such an individual to operate an officeholder committee while another individual actually holds the office is both unnecessary and potentially confusing to the public.

Second, the Ethics Commission recommends updating the CFO to reflect the new process for certifying election results. Under the new election schedule, election results are now certified by the County Clerk, rather than the City Clerk. Cal. Elections Code § 15372(a). The county forwards the certified results to the City Clerk, who then transmits them to the City Council to be officially declared. City Election Code § 1241.

Finally, the Ethics Commission recommends adding language to create flexibility for unique situations. With changes in election schedules and more frequent turnover resulting from term limits, staff encounters circumstances that could not have been foreseen. To address those scenarios, the Ethics Commission recommends allowing an individual to seek authorization to establish an officeholder committee on a timeline that is not specified in the CFO when the circumstances surrounding the individual's election or appointment to office are out of the ordinary. Similar language currently exists in another provision of the CFO, under which officeholder committees may request authority from the Ethics Commission to make expenditures that are not specifically delineated in the law but are in keeping with the purpose of an officeholder committee. *See* LAMC § 49.7.19(D)(17).

The Ethics Commission recommends making the following changes to LAMC § 49.7.19(B) to reflect the new election process, preserve the intent of the statute under the new election schedule, create flexibility, and prevent confusion.

**LAMC § 49.7.19. OFFICEHOLDER COMMITTEES.**

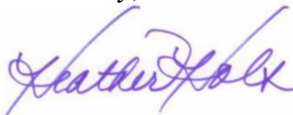
- B. An individual may establish an officeholder committee ~~once~~after the City Clerk ~~has certified~~transmits certified election results to the City Council indicating that the individual has been elected to City office, but not more than two months prior to the date the individual will take office. An individual may establish an officeholder committee at any other time after receiving advice in writing from the Ethics Commission that doing so is permissible.

## **C. Conclusion**

To accommodate changes in the City's election schedules, the Ethics Commission recommends updating the CFO as specified in Section B and making those updates effective for the regular 2022 general City elections.

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

Sincerely,



Heather Holt  
Executive Director

