

Communication from Public

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To: LA City Council Governance Reform Committee
From: Unrig LA
Date: April 18th, 2024
Re: Gov Reform Agenda Items #2 & 4

Recs. for LAUSD IRC, Ethics Charter Reform, & Periodic Charter Review

Amendments to Item #2:

LAUSD IRC: *The proposal's screening process, line drawing criteria, and composition all need to be amended to tailor the IRC to LAUSD's unique needs and dynamics. The rate at which communities attend and rely upon LAUSD public schools can vary heavily across the jurisdiction, and the proposal should reflect those realities. Additionally, we need to ensure areas outside the City of LA are assured representation.*

1. Prioritize applicants with close connectivity to LAUSD public schools: Applications should include questions to assess connections to LAUSD schools. This would include, but not be limited to, previous work at LAUSD schools, attendance at LAUSD schools, or having children who attend or attended LAUSD schools. Section E.5.b.ii should also be amended to clearly indicate these factors should be considered in the diversity balancing that occurs in the latter half of the two step selection process.
2. Consider local reliance on LAUSD schools: While some of our communities rely heavily on LAUSD schools, wealthier communities (which also typically vote at a significantly higher rate) tend to rely more on private schools and/or public schools outside of their local neighborhood. Additional redistricting criteria should be added to Section F to reflect this reality.
3. Guaranteed representation of youth who attended LAUSD schools: The IRC must include assurances that younger angeleños who have attended LAUSD schools are represented on the commission. We support opening the commission to those as young as 16 years old, however we believe there are practical challenges given the 10 year term involved and the increased likelihood that someone in this age range might be relocating within a couple years. Section E.5.b.ii should be amended to specify that at least 4 out of the 7 diversity selections must be individuals who, at the time of the submission of their application, graduated from an LAUSD highschool within the previous 12 years.
4. LAUSD communities outside the City of LA: The CLA's Report acknowledges the need to ensure representation of the significant portions of LAUSD which exist outside of City of LA boundaries, but does not provide a solution. It's not clear what the best route is here, but a solution should be found before advancing the item to the full council.

Amendments to Item #4

ETHICS CHARTER REFORMS: *The committee will, for the first time, be discussing comprehensive ethics charter reforms. While there is limited time, we cannot afford to rush*

this out of committee. The item should be held in committee for at least one additional meeting to ensure all major outstanding issues are resolved.

We appreciate the Council President's proposed recommendations. While they might pare back some of the Ethics Commission's original recommendations, those changes are reasonable. In some very notable ways the Council President's recommendations go *further* by heeding longstanding calls to strengthen the independence of the commission's composition.

This is shaping up to, hopefully, be a *very* strong proposal but the committee must take additional time to think through these issues. There are a number of recommendations that lack sufficient clarity. There are others (the protected budget & power to place measures on the ballot) that are inadequate and preserve the status quo. Rushing through this process will unnecessarily provide potential opponents of the measure with talking points to attack it at the ballot.

Protected Budget: Strongly support amending 1.a to establish a minimum annual budget of *\$7.6-8.2 million* that is adjusted annually to *reflect inflation*.

The proposed \$6.5 million budget is inadequate, and represents little more than a preservation of current staffing levels.¹ Even if we assume the Mayor proposes maintaining current staffing levels in the upcoming year, the added cost of living increases and recently passed labor agreements will bring their budget to well over \$6 million. Along with 1.i's recommendation to increase the appropriation for a special prosecutor, their budget will rise to just under \$6.5 million.

The commission is *currently* underfunded. If we are to make significant progress on the audit backlog, and allow the commission to truly fulfill its mandate, we must make a serious investment in the commission. An adequate budget would require at least \$7.6 million. That budget would allow the commission to hire 6 new auditors. This would be a game changer in allowing the Ethics Commission to audit elections w/in 1.5 years, and bolster staff that serve as an essential part of the team that handles matching funds claims. The commission could also hire two new staff members, including a program manager, devoted to administering the matching funds program. It would also allow the commission to hire a senior ethics officer for enforcement matters, an education position, and a project assistant to handle public records requests and to assist with the processing of documents for other programs.

The current proposal suggests, but does not provide details for, adjusting this budget in accordance with revenues. Revenues have little to do with the largely salary based costs of the Ethics Commission, and tying this figure to inflation would be preferable as that has a stronger relationship to the cost of living increases and labor agreement changes that come over time.

¹ It's worth noting that in 2022 the commission requested a \$6.72 million budget, which would rise even higher above that \$6.5 million figure if accounting for cost of living adjustments and new labor agreements.

120 Day Window for Policy Recs: Clarify, and amend 1.b if necessary, that failure to act on policy recommendations *will result* in their passage into law.

This section is unclear. The Ethics Commission's original proposal called for recommendations to become law if council took no action within the required window. Without this provision, the time limit offers little value.

Power to Place Recs on Ballot: Strongly support amending 1.c to give the Ethics Commission *clear power* to submit policy recommendations directly to voters with a 4/5ths vote.

This section only offers the commission power to place a measure on the ballot if council has disapproved the policy recommendation. It makes no mention as to what happens if council fails to act, or chooses to amend the policy submitted to them. We would prefer a clear stand alone power to place measures on the ballot like the City of San Francisco offers its Ethics Commission. The current proposal will prove very challenging to interpret, as the council might disapprove part of an ethics commission proposal, while still approving other components of their proposals. This would encourage a piecemeal approach to reform as opposed to the kind of comprehensive thinking required with governance reform.

Probable Cause Hearings: Amend 1.d to eliminate probable cause hearings.

The Council President's recommendation helps reduce some red tape, but still leaves us with an unnecessary and cumbersome step that elongates the process of bringing an enforcement action. We would prefer to see it eliminated as the Ethics Commission originally requested.

Monetary Penalties: Strongly support amending 1.e to increase monetary penalty to \$20k per violation.

The \$10k penalty is inadequate. We support a \$20k monetary penalty as used in the City of Chicago. At a minimum, there is no reason we should tie contribution limits to inflation, but refrain from tying this \$10k penalty to inflation. We also believe a heightened penalty is warranted for any one who served as a senior city official (all form 700 filers) in the 10 years prior to the violation.

Cost of Enforcement Action: Amend 1.f to require respondent to pay reasonable costs of enforcement actions in cases involving significant expenses of resources of the Ethics Commission and/or City Attorney's office, and not merely "egregious cases."

We do not think these added costs should be limited to "egregious cases." There might be conduct which fails to meet that standard, but due to the conduct of the respondent the city has incurred *significant* investigative and legal costs that greatly outweigh the penalty issued. The section should be amended accordingly.

Outside Counsel: Clarify, and amend 1.g if necessary, to provide the Ethics Commission with authority to retain outside counsel for investigations, enforcement matters, and legal research.

This section indicates the commission could retain outside counsel for “limited circumstances” but offers no clarity on what those are. We would prefer to see a completely independent outside counsel like the City of San Diego, but believe outside counsel for investigations, enforcement matters, and legal research would be an acceptable way of adding independence while preserving portions of the City Attorney’s role with the commission.

Special Prosecutor Appropriation: Clarify, and amend 1.i if necessary, to make clear the Ethics Commission may utilize this fund to pay for outside counsel.

For the sake of budget clarity, this section should likely be amended to make clear whether or not the fund can be drawn from to pay for outside counsel.

Eligibility to Serve on Commission: Strongly support amending 1.k to prohibit recent candidates and/or elected officials from serving on the Ethics Commission.

We appreciate the Council President strengthening the criteria for service on the commission. There are currently provisions limiting recent commissioners from seeking local city office, but there are no corresponding limitations prohibiting recent city candidates or former city elected officials from serving on the commission. We strongly believe in adding these protections.

Removal Powers: Strongly oppose 1.l, which makes it significantly easier to potentially remove a commissioner.

The current removal process is applied equally, regardless of who appointed the commissioner. We have long opposed this recommendation from the Ethics Commission as it makes it easier to remove a commissioner and leaves commissioners vulnerable to increased pressure from their *individual* appointing authority. The current process does allow the mayor elevated power to initiate removal, but that is not related to their individual appointee, and is driven from the Mayor’s unique position as *the only* elected official chosen citywide and someone responsible for the administration of departments.

Vacancies: Strongly oppose 1.m, which significantly expands the time available to fill a vacancy. Support 90 day window on the condition that 1.m is amended to clarify that *failure to make an appointment in that window will result in forfeiture of the appointment*, and allow the ethics commission to fill the vacancy via open application within 40 days.

It is admittedly challenging to find qualified individuals willing to accept the limitations on political activity that come with the ethics commission. We hope that with increased independence and power, it will be easier to attract qualified commissioners. Nevertheless, additional time to make an appointment is warranted, but 120 days is a bit too long. No matter what timeframe is agreed upon, *there must be some sort of assurance that vacancies will be filled*. Just as we provide for standard commission appointments, failure to appoint in a timely manner should result in forfeiture of the appointment. If the appointing authority fails to make a choice within the required window, that appointment should turn to the Ethics Commission to fill via open application within 40 days.

Commission Size: Support amending 1.p to increase the number of commissioners chosen via open application from two to four. Amend 1.p to clarify that selection of open applicants is to involve all of the commissioners, not merely those directly appointed by elected officials. Amend 1.p to prohibit ex parte communications on the selection of these commissioners. Request the Ethics Commission create a database of individuals interested in serving on the Ethics Commission that appointing authorities can elect to draw from.

We need to minimize the influence of elected officials on the Ethics Commission. Four out of seven of the Oakland City Ethics Commissioners are chosen through open application by the commission, and we should follow that model.² The current proposal suggests that only those commissioners directly appointed by elected officials should vote on selecting from the open applicants, and we believe this is a flawed approach that reinforces the power of elected officials. Furthermore, we support instituting a limited ex parte communications ban regarding the commissioners' decision on choosing from the pool of applicants.

Lastly, the Ethics Commission should be tasked with creating a database and email list of individuals interested in serving on the commission. This would provide the dual purpose of being ready to handle unanticipated vacancies, and offering a helpful resource for elected officials seeking to fill their own direct appointments to the commission.

Additional recommendations: Consider revising charter sections that limit us to utilizing a public matching funds program.

Last summer this council asked for a report back on models for changing and/or expanding our methods for providing public financing of elections. Unfortunately the report is still not back, and it appears unlikely to be ready in time for any potential action. We encourage the committee to consider potentially including language that would revise relevant charter sections that limit us to only utilizing a “limited matching funds program” to language that would allow us the legal freedom to embrace a different method of public financing like democracy vouchers and/or grants after the report is back.

Recommendation for Item #4

PERIODIC CHARTER REVIEW COMMISSION: *While we strongly support the creation of a periodic charter review process, there is no need to establish that process at this time. The matter would be best resolved through the deliberative engagement of the charter review commission.*

There are three primary issues that arise with periodic charter review: 1. the ideal composition and power of the commission, 2. the frequency at which comprehensive charter review occurs, and 3. whether a permanent governance reform commission should be established. All of these factors would be best appreciated via the currently proposed charter reform commission. There is little reason to tie our hands now, and any policy would be greatly enhanced through the experience and public engagement a reform commission could offer.

² Oakland City Charter Sec 603:

https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTVIADOR

Some advocates in Portland have found their periodic review commission faces challenges in deciding what to focus on given the long list of issues that rise to the table, and as a result believe it should be convened once every 5 years instead of once every 10 years. Consideration should be given to either having a periodic charter review commission that convenes once every five years or, in the alternative, creating a standing reform commission. The city could benefit enormously from having a permanent governance reform commission that can respond to and offer advisory recommendations to the council on an ongoing basis. This could operate as a 5 member commission that is given the power, once every ten years, to place comprehensive charter reforms on the ballot. During this specific phase, the commission could be expanded to 13-15 members to ensure greater representation. The setup would allow ongoing maintenance of our city structure, and ensure more comprehensive reforms are addressed at least once a decade.