

Excess Contribution Policy

Adopted September 22, 2004

Amended March 9, 2010

Amended June 12, 2014

A. Introduction

The City Ethics Commission (Commission) continues and reaffirms its commitment to the fullest possible enforcement of the laws under its jurisdiction. The Commission has determined, however, that candidates, committees, and officeholders may refund excess contributions in certain circumstances, to comply with City law. The Commission, therefore, adopts this policy, which may be applied in those cases that meet all of the requirements noted below.

B. Definitions

1. "Applicable law" means a City law that limits or prohibits contributions to participants but does not include the limitation in Los Angeles Municipal Code § 49.7.23(C)(4).
2. "Board of Education office" means the office of a member of the Board of Education of the Los Angeles Unified School District.
3. "City office" means the office of mayor, controller, city attorney, or councilmember of the City of Los Angeles.
4. "Days" means calendar days, not business days, and includes weekends and holidays.
5. "Excess contribution" means all or part of a contribution that is received by a participant in excess of a limit or prohibition in an applicable law.
6. "Participant" means either of the following:
 - An individual who seeks, holds, or has sought or held City or Board of Education office; or
 - A committee controlled by an individual who seeks, holds, or has sought or held City or Board of Education office.
7. "Sufficient documentation" means documents that show the proper refund of an excess contribution, including but not limited to written verification that an excess contribution was made, that the excess contribution was deposited into the participant's bank account, that the excess contribution was refunded to the contributor or remitted to the City, that the excess contribution cleared the participant's bank account, and that matching funds related to the excess contribution were returned or justified with an alternate contribution.

C. Applicability

1. A participant who receives an excess contribution will not be penalized for a violation of the applicable law for that contribution if the participant cures the contribution by meeting the following requirements:

- a. The participant refunds the excess contribution to the contributor or remits the excess contribution to the City.
 - i. The excess contribution must clear the participant's checking account within 75 days after the filing deadline for the statement in which the excess contribution must be disclosed.
 - ii. If the excess contribution is cured by refund to the contributor, it must be done through a reverse charge to the contributor's credit card, a cashier's check, or a check drawn on the participant's checking account.
 - iii. If the excess contribution is cured by remittance to the City, it must be done through a cashier's check or a check drawn on the participant's checking account, either of which must be made payable to the General fund of the City of Los Angeles and sent to the Commission by certified mail.
 - b. The participant returns any public matching funds received as a result of the excess contribution to the City of Los Angeles Public Matching Funds Trust Fund or submits alternate qualified contributions to justify receipt of the public matching funds.
 - c. The participant maintains and provides to Commission staff sufficient documentation to substantiate that the necessary refund or remittance and, if applicable, return have been made.
2. If an excess contribution is properly cured, the contributor will not be penalized for a violation of the applicable law for that contribution.
 3. Excess contributions that are properly cured will be identified in the Commission's public audit reports for participants who make use of this policy.
 4. This version of the policy applies to contributions that must be disclosed in statements that are due on or after June 12, 2014.

D. Staff Discretion

The Commission staff determines whether this policy may be applied in cases in which the applicability requirements are met. This policy does not apply if, in the judgment of the Commission staff, extenuating circumstances exist. Extenuating circumstances include but are not limited to a pattern of violating laws within the Commission's jurisdiction; evidence of intentional conduct; a participant's or contributor's enforcement history; a failure to cooperate during the audit or investigation process; and the overall interests of justice.