

# Opinions and Written Advice

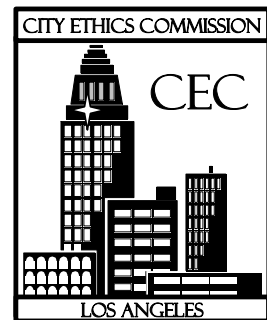
---



## ◆◆◆ Los Angeles Administrative Code Section 24.1.1

*Last Revised February 23, 2007*

Prepared by



200 North Spring Street, 24<sup>th</sup> Floor  
Los Angeles, CA 90012  
(213) 978-1960  
TTY (213) 978-2609  
<http://ethics.lacity.org>

**Los Angeles Administrative Code § 24.1.1**  
**TABLE OF CONTENTS**

(a) Requests for Opinions..... 1

(b) Review of Requests Denied by the Executive Officer. .... 2

(c) Procedures for Issuing Opinions. .... 3

(d) Opinions. .... 3

(e) Petition for Rehearing..... 4

(f) Formal Written Advice and Informal Assistance. .... 4

## **Opinions and Written Advice**

Los Angeles Administrative Code Chapter 5  
Added by Ordinance No. 1672621, effective 10/12/91.  
Amended by Ordinance No. 172930, effective 1/10/00.

### **Sec. 24.1.1 Opinions and Written Advice**

#### **(a) Requests for Opinions.**

- (1) Opinion requests may be submitted to the Commission by any person whose duties under the City Charter or any City ordinance relating to campaign finance, conflicts of interest or governmental ethics are in question or by that person's authorized representative. A City ordinance relating to governmental ethics includes, without limitation, the City of Los Angeles Governmental Ethics Ordinance (Los Angeles Municipal Code Section 49.5.1, et seq.), the regulations of the City Ethics Commission (Los Angeles Administrative Code Section 24.1., et seq. and Commission approved forms and manuals), and the City's registration of lobbyists regulations (Los Angeles Municipal Code Section 48.01, et seq.).
  - (A) The identity of the person whose duties are in question shall be provided with the opinion request. If the opinion request is submitted by the representative of several persons similarly situated, the identity of at least one such person shall be provided with the opinion request.
  - (B) The immunity provided by Charter Section 705 shall extend only to the person or persons identified in the opinion request.
- (2) Opinion requests shall present all material facts as concisely as possible and shall state the question or questions based on those facts.
- (3) The Commission staff shall maintain a master file containing all opinion requests. This file shall be open to public inspection.
- (4) The Executive Officer shall determine whether to grant or deny opinion requests.
- (5) Within 14 days after the request is submitted, the person making the opinion request shall be notified in writing of the decision of the Executive Officer. If the opinion request is denied, the notification shall state the reason for the denial and shall advise the person submitting the request of his right to appeal to the Commission pursuant to Subsection (b). Provided, however, if

an opinion is requested pursuant to Los Angeles Municipal Code Section 49.5.10B (acceptance of honoraria and outside earned income), either an opinion or written advice shall be rendered within 10 days after receipt of the request. With respect to an opinion or written advice requested pursuant to Los Angeles Municipal Code Section 49.5.10B, reliance on such an opinion or written advice, or the failure of the Commission to provide such advice within 10 days of its receipt of the request, shall be a complete defense in any enforcement proceeding initiated by the Commission and evidence of good faith conduct in any other civil or criminal proceeding if the requestor requested the advice from the Commission in good faith and disclosed truthfully the material facts and committed the acts complained of either in reliance on the advice or because of the failure of the Commission to provide the advice within 10 days of the request.

- (6) Among the criteria upon which denial of an opinion request may be based are the following:
- (A) The question raised is expressly covered by the Charter, an ordinance or Commission regulations.
  - (B) The question raises no substantial question of interpretation and, therefore, requires only a routine reply more appropriately made by staff.
  - (C) The person who made the request does not have sufficient interest (standing) in the question to justify an opinion being issued.
  - (D) The question is hypothetical. However, opinion requests may be granted if the hypothetical facts stated represent an intended course of conduct which is contingent on the Commission's opinion.
  - (E) The question is overbroad in that it asks for an interpretation of the law in general terms.
  - (F) The question does not present material facts or does not state a question based on the facts presented.
  - (G) The question is outside the scope of the Charter or of an ordinance relating to campaign finance, conflicts of interest or governmental ethics.
- (b) Review of Requests Denied by the Executive Officer.** Any member of the Commission or the requestor may request a review by the Commission of an opinion request denied by the Executive Officer. The request for review must be made within 10 working days after the denial. The Commission shall act on such

request within 30 days following issuance of the denial. If a majority of the Commission approves the granting of an opinion request, the denial shall be rescinded, the person submitting the opinion request shall be notified in writing, and the opinion shall be issued as provided in this section.

**(c) Procedures for Issuing Opinions.** When the Executive Officer acting on behalf of the Commission, or the Commission, has agreed to issue an opinion, the following procedures shall apply:

- (1) The Commission shall hold a hearing on the opinion.
- (2) The Commission staff or the City Attorney shall prepare a draft opinion which discusses the issues and includes any staff recommendations. At least two weeks prior to the hearing on the opinion, the draft opinion shall be provided to the members of the Commission, the City Attorney, the person requesting the opinion, and other interested persons who have requested copies in writing, and shall be made available to the public.
- (3) Any interested person may submit memoranda, briefs, arguments or other relevant material regarding the opinion no later than five days prior to the scheduled hearing on the opinion. An original and seven copies of briefs or arguments shall be submitted unless the person submitting the material declares he is financially unable to supply copies.
- (4) The Commission shall adopt an opinion at a public meeting.
- (5) Any interested person may present testimony or oral argument at the hearing. The time limit for such testimony, unless waived by the President, shall be five minutes for each person, totaling no more than 30 minutes in support of and 30 minutes in opposition to the draft opinion.
- (6) The time limits in this subsection may be waived or extended by the Commission.

**(d) Opinions.**

- (1) Opinions adopted by the Commission shall be effective upon adoption and shall be published along with any dissenting or concurring opinions by Commissioners submitted within 30 days after the adoption.
- (2) The time for the publication of an opinion may be shortened or extended by the President of the Commission subject to appeal by any interested person to the Commission.

**(e) Petition for Rehearing.**

- (1) Within 14 days after the adoption of a formal opinion by the Commission, the person who submitted the opinion request, a Commissioner or the Executive Officer may petition the Commission to grant a rehearing. The petition, if submitted by the person who submitted the opinion request, shall be in writing and shall set forth, with specificity, the reasons for the request.
- (2) Whenever the Commission grants a petition for rehearing, the Commission shall suspend the opinion pending the rehearing.

**(f) Formal Written Advice and Informal Assistance.**

- (1) The Commission will make every reasonable effort to provide formal written advice pursuant to Charter Section 705(b) or informal assistance without unnecessary delay and in sufficient time to facilitate compliance with the Charter or City ordinance relating to campaign finance, conflicts of interest or governmental ethics. If a request for an opinion or written advice is made pursuant to Los Angeles Municipal Code Section 49.5.10B, and an opinion is not rendered, written advice shall be rendered within 10 days after receipt of the request.
- (2) Formal Written Advice.
  - (A) Formal written advice may be requested in writing pursuant to Charter Section 705(b) by any person whose duties under the Charter or any City ordinance relating to campaign finance, conflict of interest or governmental ethics are in question or by that person's authorized representative. A City ordinance relating to governmental ethics includes, without limitation, the City of Los Angeles Governmental Ethics Ordinance (Los Angeles Municipal Code Section 49.5.1, et seq.), the regulations of the City Ethics Commission (Los Angeles Administrative Code Section 24.1., et seq. and Commission approved forms and manuals), and the City's registration of lobbyists regulations (Los Angeles Municipal Code Section 48.01, et seq.).
  - (B) Requests for formal written advice will not be acted upon unless the following requirements are met:
    - (i) The name, title or position, mailing address and telephone number, of the person whose duties are in question are provided. In addition, if the request is submitted by an

authorized representative, it shall contain a specific statement that such authorization has been made.

- (ii) All the facts material to the consideration of the question or questions presented have been provided in a clear and concise manner.
- (C) The time period specified in Charter Section 705(b) or Los Angeles Municipal Code Section 49.5.10B does not commence until the requirements of Paragraph (B) have been satisfied.
- (D) If a formal written advice request does not meet the requirements in Paragraph (B), the requestor shall promptly be notified of that fact in writing and shall be provided with a copy of this regulation.
- (E) When a request for formal written advice is received which complies with the requirements in Paragraph (B), the request shall promptly be acknowledged in writing. The acknowledgement shall provide the requestor with the date on which the period specified in Charter Section 705(b) or Los Angeles Municipal Code Section 49.5.10B expires. If the request is from an authorized representative, a copy of the foregoing acknowledgement shall also be sent to the person on whose behalf the advice is being requested. If the request is received directly from an officer or employee of a City agency, a copy of the request and the acknowledgement may also be sent to the general manager or other executive officer of the agency if the request is related to the official duties of the agency. The acknowledgement shall provide the requestor the name and office telephone number of the staff person to whom the request was assigned and the date on which the time period specified in Charter Section 705(b) or Los Angeles Municipal Code Section 49.5.10B will expire.
- (F) The Executive Officer is hereby authorized to extend the period of time for response specified in Charter Section 705(b) for good cause. Good cause for extension of the period of time for response shall exist if the number or complexity of the questions posed reasonably prevents an answer within the 21 days specified by the Charter. The Executive Officer may extend the time for whatever period he believes is reasonable. The requestor may appeal the Executive Officer's decision on extending time to the Commission, which shall decide the appeal at its next regular meeting which occurs at least three days after the receipt of the appeal. The Commission shall uphold the Executive Officer's decision, overturn the decision or extend the period for response to a different period than that extended by the Executive Officer, based on the above criteria.

- (G) Formal written advice shall be drafted by the Executive Officer of the Commission (or by Commission staff), or, at the Executive Officer's request, by the City Attorney. Such advice shall be approved by the Executive Officer prior to release.
- (H) Copies of the advice request and the formal written advice shall be public records. However, when the request relates to whether a person is required to disclose specific private economic interests, and the advice is that any such interest is not required to be disclosed, neither the request nor the advice shall be disclosed to members of the public, in order to protect the privacy interests of the person making the request. Summaries of the advice provided may be published from time to time.
- (I) The Commission may decline to provide formal written advice. If the Commission determines not to provide formal written advice for one or more of the following reasons, the requestor shall not be entitled to the immunity provided by Charter Section 705(b). The requestor shall be notified if the request for formal written advice is declined. Formal written advice may be declined in any of the following circumstances:
  - (i) The requestor is seeking advice relating to past conduct.
  - (ii) The requestor is seeking advice about another person's duties and has not been authorized to do so by that person.
  - (iii) It appears that the material facts provided in the request may be inaccurate, incomplete, or in dispute.
  - (iv) The request does not present a question under the Charter or related ordinances, or is purely hypothetical. However, requests for advice will be granted if the hypothetical facts represent an intended course of conduct contingent upon such advice.
  - (v) The request presents issues requiring a policy interpretation best made through a Commission Opinion or by adoption of a regulation pursuant to Charter Section 703.
  - (vi) A response rendering formal written advice would be inappropriate or otherwise not in the public interest.
- (J) A request for formal written advice may be treated as a request for an opinion, or as a request for informal assistance.

- (K) Formal or informal written advice does not constitute an Opinion of the Commission nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Charter Section 705(b) is limited to the requestor and to the specific facts contained in the formal written advice.
- (3) Informal Assistance.
- (A) Informal assistance may be requested by any person whose duties under the Charter or a City ordinance relating to campaign finance, conflicts of interest or governmental ethics are in question or by that person's authorized representative. A City ordinance relating to governmental ethics includes, without limitation, the City of Los Angeles Governmental Ethics Ordinance (Los Angeles Municipal Code Section 49.5.1, et seq.), the regulations of the City Ethics Commission (Los Angeles Administrative Code Section 24.1., et seq. and Commission approved forms and manuals), and the City's registration of lobbyists regulations (Los Angeles Municipal Code Section 48.01, et seq.). Informal assistance may also be requested by any City agency whose members, officers or employees are subject to the provisions of such laws.
  - (B) Informal assistance may be requested or rendered orally or in writing.
  - (C) Informal assistance rendered pursuant to this regulation does not provide the requestor with the immunity set forth in Charter Section 705.
  - (D) The Executive Officer may decline to provide informal assistance or may limit such assistance to the explanation, in general terms, of the requirements of the law in any of the following circumstances:
    - (i) Assistance or advice is being sought regarding past conduct, unless the advice or assistance sought is related to possible amendment of previous reports filed by the person requesting the advice.
    - (ii) The requestor is seeking advice anonymously.
    - (iii) Assistance or advice is being sought regarding the duties of another person and the requestor either does not appear to be authorized to make the request as the person's representative or does not provide the identity of the person on whose behalf the assistance is being sought.

- (iv) The question presented is purely hypothetical.
- (v) The question presented is too complex or is otherwise inappropriate for resolution by informal assistance and should be resolved by formal written advice or an Opinion.
- (vi) The facts presented are insufficient or too vague to render specific informal assistance or do not appear to present a question under the Charter or City ordinance relating to campaign finance, conflicts of interest or governmental ethics.
- (vii) Rendering informal assistance would be inappropriate or otherwise not in the public interest.