



Los Angeles City Ethics Commission

March 1, 2012

The Honorable City Council
c/o June Lagmay, City Clerk
200 North Spring Street
City Hall – 3rd Floor
Los Angeles CA 90012

Re: **CPI Adjustment to Contribution Limits in LAUSD Elections**
Charter § 803(c) Report of the Ethics Commission

FOR COUNCIL CONSIDERATION

Dear Honorable Council Members:

In March 2007, voters imposed campaign finance regulations on candidates for the Los Angeles Unified School District Board of Education (LAUSD), including limits on contributions to LAUSD candidates. Los Angeles City Charter (Charter) §§ 803(b), (d). Every four years, the Ethics Commission is required to review whether those contribution limits should be adjusted to reflect changes in the Consumer Price Index (CPI) and then report its findings to the City Council. Charter § 803(c).

On February 23, 2012, the Ethics Commission completed its first review and voted unanimously to recommend that the contribution limits in LAUSD elections be adjusted to reflect changes in the CPI since the limits were adopted in March 2007.

A. Background

Contributions to LAUSD candidates are currently limited to \$1,000 per person, per election. Charter § 803(b)(3). The same per-person, per-election limit of \$1,000 applies to loans to candidates. Charter § 803(b)(6). Other limits in LAUSD elections include a cap of \$25 on per-person, per-election cash contributions, an aggregate per-election limit of \$200 on anonymous contributions, and an aggregate per-election limit on the amount a person may contribute to all candidates in an election (which is based on the number of seats on the ballot). Charter §§ 803(b)(5), 803(d).

The LAUSD contribution limits may be “adjusted to reflect changes in the Consumer Price Index”. Charter § 803(c). The process for making such adjustments requires the Ethics Commission to review the limits every four years and make a recommendation to the City Council. *Id.* The first review was to begin in 2011, which it did, and the Ethics Commission is required to report to the City Council by March 1 following each review.

A very specific process then begins. Within 60 days of receiving the Ethics Commission's report, the City Council is required to "hold a public hearing concerning the matter and act to approve or disapprove the report." *Id.* If the City Council fails to disapprove the recommendations within 60 days, "the report shall be presented to the Mayor for approval or veto." *Id.* If the Mayor either approves the recommendation or fails to act, or if the City Council approves the recommendation by overriding a veto, "the amount specified in the [Ethics Commission's] report shall have the force of law as the contribution limitations applicable" to LAUSD elections. *Id.*

If neither the City Council nor the Mayor takes any action to approve or disapprove the recommendation in this transmittal, the recommendation will have the force of law 10 days after the recommendations are presented to the Mayor. Charter § 250(b). Any changes to the LAUSD contribution limits that result from this review process will be effective "for any subsequent election for which the fundraising period has not yet opened" *Id.*

B. Recommendation

The Ethics Commission recommends that contribution limits in LAUSD elections be adjusted to reflect changes in CPI for the Los Angeles-Riverside-Orange County Metropolitan Statistical Area since March 2007, when the LAUSD contribution limits were enacted by the voters. The CPI has risen by 6.959 percent since that time. United State Bureau of Labor Statistics, Consumer Price Index—Los Angeles Area, 2011.

The Ethics Commission also recommends rounding the adjusted limits to the nearest one hundred dollars. Charter § 803(c) is silent in that regard, but Charter § 702(h) requires rounding to the nearest hundred dollars when contribution limits in City elections are adjusted for CPI. Employing that rounding method, the recommended limit on contributions and loans is \$1,100 per person, per election. And the recommended limit on total contributions by a single person in a single LAUSD election is \$1,100 multiplied by the number of LAUSD offices appearing on the ballot (but not less than \$2,200). The change in CPI is not significant enough to result in a change to the limits on cash contributions and anonymous contributions at this time, so those will remain at \$25 and \$200, respectively.

Unless they are disapproved, these recommended limits will become effective in September 2013, when the fundraising window opens for the 2015 LAUSD elections.

C. Rationale

Regular adjustment to contribution limits based on CPI is important to ensure that the limits keep pace with economic growth. Increasing the limits based on CPI does not increase the value of maximum contributions—it merely ensures that the limits will maintain the value they had when they were adopted. Currently, all 46 of the states that have contribution limits use CPI

to calculate adjustments to the limits. Fourteen of these states, including California, index contribution limits to CPI, meaning that regular adjustments are mandatory. *See Contribution Limits: An Overview*, National Conference of State Legislatures (October 3, 2011), <http://www.ncsl.org/legislatures-elections/elections/campaign-contribution-limits-overview.aspx>.

Adjustments based on changes to CPI will also help ensure that contribution limits in LAUSD elections do not become unconstitutionally low over time. The United States Supreme Court has held that limits on contributions to candidate-controlled committees do not violate the First Amendment rights of the contributors, but the limits cannot be so low as to significantly affect a candidate's ability to raise enough money for effective advocacy. *Randall v. Sorrell*, 548 U.S. 230, 248 (2006). The Court stated that "contribution limits that are too low can ... harm the electoral process by preventing challengers from mounting effective campaigns against incumbent officeholders, thereby reducing democratic accountability." *Id.* at 248-249. The Court identified several factors to consider when evaluating whether contribution limits are too low, including the size and type of the district, the amount of the limit, its duration, and whether there is a provision for the limit to be adjusted for inflation. *Id.* at 249-252.

Conforming contribution limits to CPI also helps candidates compete in today's elections. Independent spending in LAUSD elections has increased significantly since the contribution limits were enacted. In 2007, before contribution limits were imposed on LAUSD elections, the candidates running in Board Districts 1, 3, 5, and 7 raised nearly \$7.2 million. Just under \$6,000 was spent independently on membership communications in 2007, and there were no independent expenditures. The next time those same seats were on the ballot was in 2011, following the adoption of the \$1,000 contribution limits. In that election, the candidates raised just \$740,000. But more than \$103,000 was spent on membership communications, and independent expenditures exceeded \$4.6 million. The United States Supreme Court has held that contributions to independent committees cannot be limited, and neither can the amounts spent independently. *See, e.g., Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010). Therefore, contribution limits that do not keep pace with the economy can hurt candidates in their ability to compete with unlimited independent expenditures.

Finally, the Charter authorizes a review of the LAUSD contribution limits only every four years. Therefore, if contribution limits are not adjusted at this time, no change will be considered until 2016. Any changes approved at that time would not become effective until the 2019 elections.

D. Conclusion

The Ethics Commission recommends that the LAUSD contribution limits be adjusted to reflect changes in the CPI. If the recommendation is not disapproved, the adjusted amounts will take effect in September 2013, when the fundraising window opens for the 2015 LAUSD elections.

The process specified in the Charter for making the recommended CPI adjustments is both new and unusual, and we would be happy to respond to any questions. Please feel free to contact me or Director of Policy Mike Altschule at (213) 978-1960 if we can provide additional information.

Sincerely,



Heather Holt
Executive Director

cc: Mayor Antonio Villaraigosa
Deputy City Attorney Renee Stadel