



Los Angeles City Ethics Commission

February 24, 2016

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

**Re: Charter § 803(c) Adjustments to LAUSD Contribution Limits**

*FOR COUNCIL CONSIDERATION*

Dear Councilmembers:

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).

On February 16, 2016, the Ethics Commission voted unanimously to recommend that the contribution limits in LAUSD elections be adjusted to reflect changes in the CPI since the last adjustment in 2012. The recommended adjustments require City Council approval to become effective, and your action is required within 60 days. Charter § 803(c). The Ethics Commission urges you to approve the recommended limits identified below in section B.

**A. Background**

Contributions and loans to LAUSD candidates are limited to a certain amount per person, per election. Charter §§ 803(b)(3), (6). There are also caps on cash contributions and anonymous contributions. Charter § 803(d). The original limits for LAUSD candidates were as follows.

	Original Limit (2007)
<b>Contributions</b>	\$1,000 per person, per election
<b>Loans</b>	\$1,000 per person, per election
<b>Cash Contributions</b>	\$25 per person, per election
<b>Anonymous Contributions</b>	\$200 in total, per election

The Charter also limits the total amount of money that a person may contribute to all candidates in an LAUSD election, but enforcement of that limit was suspended through an Ethics Commission resolution dated April 17, 2014. *See* Charter § 803(b)(5). The resolution was

adopted on the advice of the City Attorney’s office, in response to a United States Supreme Court decision holding that aggregate contribution limits are unconstitutional. *McCutcheon v. Federal Election Commission*, 572 U.S. \_\_\_\_ (2014).

The LAUSD contribution limits may be “adjusted to reflect changes in the Consumer Price Index”. Charter § 803(c). The Ethics Commission is required to review the limits every four years and make a recommendation to the City Council by March 1. *Id.*

**B. Recommendation**

This is the Ethics Commission’s second four-year review since the LAUSD contribution limits were adopted in 2007. The first review began in 2011, and adjustments to the per-person contribution and loan limits were approved in 2012. *See* Council File No. 12-0302. No changes resulted at that time for cash or anonymous contributions. The current limits are identified in the table below.

Current Limit (2012)	
<b>Contributions</b>	\$1,100 per person, per election
<b>Loans</b>	\$1,100 per person, per election
<b>Cash Contributions</b>	\$25 per person, per election
<b>Anonymous Contributions</b>	\$200 in total, per election

The most recent data from the United States Bureau of Labor Statistics shows that the CPI has increased by 5.96 percent since the last Ethics Commission review of LAUSD contribution limits. *See* United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers, Los Angeles-Riverside-Orange County, CA (bls.gov/data/#regions).

To reflect the CPI changes, we recommend that the per-person limits on contributions, loans, and cash contributions be adjusted. Charter § 803 is silent regarding rounding methods, and the City’s practice has been to follow the method provided in the Campaign Finance Ordinance (CFO) for CPI adjustments to contribution limits in City elections. Under that method, limits are rounded to the nearest \$10 for cash contributions and to the nearest \$100 for per-person contributions, per-person loans, and aggregate anonymous contributions. LAMC §§ 49.7.3(B)(3)(a)–(b).

Applying the rounding method in the CFO to the CPI changes since the last LAUSD adjustments, the Ethics Commission recommends the following limits:

Recommended Limit	
<b>Contribution</b>	\$1,200 per person, per election
<b>Loan</b>	\$1,200 per person, per election
<b>Cash Contribution</b>	\$30 per person, per election
<b>Anonymous Contributions</b>	\$200* in total, per election

\*No increase results.

These recommended adjustments would become effective with the June 2020 elections (or with an earlier special election for which the fundraising limit has not yet opened). Charter § 803(c).

### **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.

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. 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 2020. Any changes approved at that time would not become effective until the 2022 elections.

### **D. Process**

Once this transmittal is received, a specific process begins. Within 60 days, the City Council is required to “hold a public hearing concerning the matter and act to approve or disapprove the report.” Charter § 803(c). 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.*

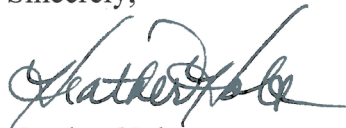
If the Mayor either approves the recommendation or fails to act, or if the City Council approves the recommendation by overriding a veto, “the amount specified in the [Ethics Commission’s] report shall have the force of law as the contribution limitations applicable” to LAUSD elections. *Id.* If neither the City Council nor the Mayor takes any action to approve or disapprove the recommended limits, the limits will have the force of law 10 days after they are presented to the Mayor. Charter §§ 250(b), 803(c). They will apply to the next LAUSD election for which the fundraising window opens after they become effective. Charter § 803(c).

**E. Conclusion**

The Ethics Commission recommends that the LAUSD contribution limits be adjusted to reflect changes in the CPI since they were last adjusted four years ago. If the recommendation is not disapproved, the adjusted amounts will take effect in December 2018, when the fundraising window opens for the 2020 LAUSD elections (or with an earlier special election if one is called after the adjusted amounts are approved).

We will be available to discuss the recommendations when they are considered, but please feel free to contact me or Campaign Program Manager Manuel Montilla at any time if you have questions.

Sincerely,



Heather Holt  
Executive Director

cc: Mayor Eric Garcetti  
Assistant City Attorney Renee Stadel