



Los Angeles City Ethics Commission

January 10, 2014

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

Re: Ethics Commission Advice and Opinion Regulations
FOR COUNCIL CONSIDERATION

Dear Councilmembers:

The Ethics Commission has unanimously approved changes to the provisions of the Los Angeles Administrative Code (LAAC) that regulate the Commission's advice and opinions. The Commission urges you to adopt the approved language provided in Attachment B to implement the amended regulations.

The Los Angeles City Charter (Charter) establishes specific procedures for regulations adopted by the Ethics Commission. The regulations are subject to City Council approval but cannot be modified. Charter §703(a). In addition, a public hearing must be held, and action to approve or disapprove must be taken within 60 days of the date the Ethics Commission approved the recommendations. Charter § 703(b). The Ethics Commission approved the recommendations on December 19, 2013, and the 60-day deadline is February 17, 2014.

BACKGROUND

The Charter requires the Ethics Commission to provide written opinions and written advice to any person who has a duty under a City law that falls within the Ethics Commission's jurisdiction. Charter § 705.

Opinions deal with general issues that apply to a class of similarly situated persons. The members of the Ethics Commission discuss and vote on opinions at public hearings. Notice and an opportunity to be heard are provided to the requesting party and the public. Advice, on the other hand, addresses specific facts that apply to the requesting party. Ethics Commission advice can be either formal or informal. Formal advice is issued and must be requested in writing. Informal advice, on the other hand, is provided in person, over the phone, or electronically.

The Charter establishes immunity for persons who receive an opinion or formal advice from the Ethics Commission. Charter § 705. However, no immunity is associated with informal advice.

PROCESS

The advice and opinion regulations were first adopted in 1991. They were amended in 2000 to update citations and were renumbered in 2012. However, this is the first time they have been substantively reviewed.

At public meetings in October and December 2013, the Ethics Commission considered staff analysis, public comment, and input from the City Attorney's office regarding the approved regulations. The approved regulations are largely the same as the existing regulations, but they do include substantive changes to improve the Commission's processes for opinions and formal advice. The approved regulations also include technical updates to clarify and streamline.

Key substantive changes are discussed below and are also summarized in the table provided in Attachment A.

OPINIONS

A. Requests for Opinions

Any person may request an Ethics Commission opinion regarding the person's own duties under the laws that fall within the Ethics Commission's jurisdiction. Charter § 705(a). The approved regulations specify that this also extends to requesting an opinion with regard to duties under adopted Commission opinions and policies. *See* approved LAAC § 24.12(a). This is an important addition, because both opinions and policies guide the actions of those who are subject to the Commission's laws.

The approved regulations also state that key Commission staff may request opinions. *Id.* Commission staff often receive requests for advice from similarly situated persons. The approved regulations clarify that the Executive Director and the Director of Enforcement may assist a class of regulated persons by seeking an opinion on their behalf.

B. Review of Denial

Currently, if a request to issue an opinion is denied by the Executive Director, the requestor may ask the members of the Commission to review the denial. The request must be made within 10 working days of the denial, and the commissioners then have 30 calendar days to decide whether to issue the opinion. LAAC § 24.12(b).

The approved regulations change these deadlines to provide more flexibility and more consistency. The requestor has 14 calendar days to seek a review, and the commissioners must

decide whether to issue the opinion at the next public meeting that occurs at least 30 calendar days after the request for review. *See* approved LAAC § 24.12(d). Changing working days to calendar days provides both clarity and internal consistency. And tying commissioner action to a scheduled public meeting creates flexibility while eliminating the need to call a special meeting.

C. Draft Opinions

Under current City law, draft Commission opinions must be provided to the requestor, the members of the Ethics Commission, the City Attorney, and any member of the public who requests a copy. LAAC § 24.12(c)(2). The draft must be provided to all parties at least two weeks before the public hearing on the opinion. *Id.*

The approved regulations modify this requirement so that the requestor receives the draft opinion at least 21 calendar days prior to the hearing. Seven days later, the members of the Ethics Commission and the City Attorney receive the draft opinion, and the draft opinion is posted online. *See* approved LAAC § 24.12(e)(2). This time line has been amended to permit the requestor to withdraw the request for an opinion, as further discussed below in Section D.

D. Withdrawing Requests for Opinions

No existing provision addresses a person's ability to withdraw a request for an Ethics Commission opinion. However, there are situations in which withdrawing a request may be appropriate. For example, a person may subsequently decide not to pursue a particular course of action, or a recent law may make the request moot.

Therefore, the approved regulations allow a person to withdraw a request for an opinion within seven days after receiving the Commission's draft opinion. *See* approved LAAC § 24.12(d)(2)(B). If a request is withdrawn, the Executive Director may continue the opinion process, as long as the original requestor is not identified. *Id.* If an opinion is issued in that case, the original requestor is not entitled to the immunity in Charter § 705(a). *See* approved LAAC § 24.12(d)(2)(B)(ii).

E. Effective Date of Opinions

According to current City law, Ethics Commission opinions are effective upon adoption but may be suspended if the Ethics Commission grants a petition for rehearing. LAAC §§ 24.12(d)–(e). The approved regulations eliminate the rehearing process and specify that Commission opinions remain effective until they are rescinded by the Commission or the relevant underlying law is changed. *See* approved LAAC §§ 24.12(e)–(f). The newly approved process for rescinding an opinion is discussed below in Section F.

F. Rescinded Opinions

The approved regulations establish a process by which Ethics Commission opinions may be rescinded. *See* approved LAAC § 24.12(h). A rescission may be made any time and must be made at a public meeting. *Id.* The reasons for rescinding an opinion include but are not limited to a change in the underlying law, previously unforeseen circumstances, or the interests of justice. *See* approved LAAC § 24.12(g)(1). If an opinion is rescinded, the Ethics Commission must notify the original requestor in writing. *See* approved LAAC § 24.12(g)(2). Any relevant immunity would apply from the time the opinion goes into effect through the time the opinion is rescinded. *See* approved LAAC § 24.12(g)(3).

Rescinding opinions will allow the Ethics Commission to give official notice when the public may no longer effectively rely on an opinion, such as when a law forming the basis for an opinion changes. This may, and in all likelihood will, occur long after the current 14-day window for rehearing has passed.

G. Good-Faith Reliance on Opinions

City law provides immunity to a person who requests an Ethics Commission opinion. Charter § 705(a); LAAC § 24.12(a)(1)(B). However, City law does not currently address other persons who act in reliance on Commission opinions. To remedy this, the approved regulations specify that, for similarly situated persons, acting in accordance with a Commission opinion is considered evidence of good faith for as long as the opinion remains effective and the underlying law remains unchanged. *See* approved LAAC § 21.12(f).

Opinions are meant to apply to a class of similarly situated persons. While it is not appropriate to provide (nor does the Charter allow) immunity for everyone who acts in accordance with a Commission opinion, it is appropriate to allow evidence of good faith. This further distinguishes Commission opinions from formal advice and provides the public with helpful and reliable input regarding how to comply with the laws that fall within the Commission's jurisdiction.

ADVICE

A. Requests for Advice

As with opinions, any person may request formal or informal advice regarding the person's own duties under the laws that fall within the Ethics Commission's jurisdiction. Charter § 705(b); LAAC §§ 24.12(f)(2)(A), 24.14(f)(3)(A). The approved regulations also allow a person to request formal or informal advice regarding duties under adopted Commission policies and opinions. *See* approved LAAC §§ 24.13(a)(1), (b). This is an important addition, because both policies and opinions guide the actions of those who are subject to the Commission's laws.

B. Public Records & Confidentiality

Currently, all requests for formal advice and all formal advice issued by the Ethics Commission are public records. LAAC § 24.12(f)(2)(H). In fact, the Commission posts formal advice on its website. However, there is a limited exception for formal advice relating to whether a private economic interest must be disclosed. If the advice is that the interest does not have to be disclosed, then both the advice and the request remain confidential. *Id.* City law is currently silent about the confidentiality of informal advice.

The approved regulations expand the exception for formal advice to include requests for advice relating to whether any private interest is required to be disclosed. *See* approved LAAC § 24.13(a)(6). The rationale for protecting the disclosure of a private financial interest applies to all private interests. If the Commission advises that a private interest does not need to be disclosed, making that advice a matter of public record would be contrary to the advice, regardless of the type of interest.

Finally, the approved regulations clarify that informal advice is confidential to the extent necessary to protect the confidentiality mandated by the Charter. *See* approved LAAC § 24.13(b)(5). Confidentiality for both complaints and advice are rooted in Charter § 706(a)(2). Unlike complaints, however, confidentiality for informal advice has not previously been included in the regulations.

CONCLUSION

The Ethics Commission urges you to adopt the approved regulation language in Attachment B, to clarify and strengthen City law and to streamline the advice and opinion processes. The regulations are subject to City Council approval but cannot be modified, and February 17 is the deadline for City Council action. Charter § 703(a).

We would be happy to discuss the approved regulations with you at any time. If you have questions, please do not hesitate to contact me or Director of Policy Mike Altschule.

Sincerely,



Heather Holt
Executive Director

Attachments:

- A *Quick Guide to Key Changes.*
- B *Approved LAAC language (clean).*
- C *Approved LAAC language (redlined).*

Los Angeles City Ethics Commission
**Quick Guide to Key Changes:
 Advice and Opinion Regulations**
 January 10, 2014

OPINIONS

Topic	Current Regulation	Current Citation	New Regulation	New Citation
Good-Faith Reliance	Relying on a Commission opinion provides the requestor with immunity. No provision addresses reliance on Commission opinions by persons other than the requestor.	Charter § 705(a), LAAC § 24.12(a)(1)(B)	Relying on a Commission opinion provides the requestor with immunity. For persons other than the requestor, acting in accordance with Commission opinions is evidence of good faith.	LAAC § 24.12(f)
Requests	Any person may request an opinion regarding the person's duties under the laws within the Commission's jurisdiction.	LAAC § 24.12(a)(1)	Any person may request an opinion regarding that person's duties under the laws within the Commission's jurisdiction, including adopted opinions or policies. The Commission's Executive Director and Director of Enforcement may also request opinions.	LAAC § 24.12(a)
Review of Requests	If a request is denied, the requestor may seek a review by the members of the Commission within 10 working days of the denial. The commissioners must decide whether to grant the opinion within 30 days of the denial.	LAAC § 24.12(b)	If a request is denied, the requestor may seek a review by the members of the Commission within 14 calendar days of the denial. The commissioners must decide whether to grant the opinion at the next public meeting occurring at least 30 calendar days after receiving the request for review.	LAAC § 24.12(c)(4)
Draft Opinion	A draft opinion must be provided to the requestor, the members of the Commission, the City Attorney, and any member of the public who requests a copy at least two weeks prior to the hearing.	LAAC § 24.12(c)(2)	A draft opinion must be provided to the requestor at least 21 calendar days prior to the hearing. It must be provided to the members of the Commission and the City Attorney and posted online at least 14 calendar days prior to the hearing.	LAAC § 24.12(d)(2)
Withdrawn Requests	No provision addresses withdrawing an opinion request	N/A	The requestor may withdraw an opinion request after receiving the draft opinion. The Commission may still issue the opinion, without immunity, as long as the original requestor is not identified.	LAAC § 24.12(d)(2)(B)

OPINIONS cont'd

Topic	Current Regulation	Current Citation	New Regulation	New Citation
Rescission	No provision addresses rescinding Commission opinions. The Commission may grant a petition for rehearing.	LAAC § 24.12(e)	Opinions may be rescinded by the Commission at a public meeting. The Commission must state the reasons for doing so and inform the requestor. No provision addresses a petition for rehearing.	LAAC § 24.12(g)

ADVICE

Topic	Current Regulation	Current Citation	New Regulation	New Citation
Public Record & Confidentiality	Formal advice and requests are public records, unless the request relates to whether a private economic interest is required to be disclosed and the advice is that disclosure is not required. No provision in the regulations addresses informal advice and requests.	LAAC § 24.12(f)(2)(H)	Formal advice and requests are public records, unless the request relates to whether a private interest is required to be disclosed and the advice is that disclosure is not required. Information that is confidential by law will be redacted before the formal advice or request is disclosed to the public. Informal advice and requests are confidential as required to preserve the confidentiality in the Charter.	LAAC §§ 24.13(a)(6), 24.13(b)(5)
Advice Requests	Any person may request formal or informal advice regarding the person's duties under the laws within the Commission's jurisdiction.	LAAC §§ 24.12(f)(2)(A) 24.14(f)(3)(A)	Any person may request formal or informal advice regarding that person's duties under the laws within the Commission's jurisdiction, including adopted policies and opinions.	LAAC §§ 24.13(a)(1). 24.13(b)(1)

ADVICE AND OPINIONS REGULATIONS

Los Angeles Administrative Code Division 24, Chapter 1

Sec. 24.12 Opinions

- (a) A person may ask the Ethics Commission to issue a written opinion with respect to that person's duties under the City Charter, a City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, or governmental ethics. The authority to request an opinion extends to that person's authorized representative. The Ethics Commission's Executive Director and Director of Enforcement may also request opinions.

- (b) A request for an opinion must be submitted in writing and must include the following:
 - (1) The name, title or position, mailing or email address, and telephone number of the person or persons by or for whom the opinion was requested. If the opinion is requested by the authorized representative of several similarly situated persons, the identifying and contact information of at least one represented person must be included.
 - (2) If the requestor is an authorized representative, a specific statement that such authorization has been made.
 - (3) All material facts, stated as clearly, concisely, and completely as possible.
 - (4) The question or questions based on the material facts.

- (c) The Executive Director determines whether to grant or deny opinion requests.
 - (1) Within 14 calendar days after a complete request is received and all information in Subsection (b) has been provided, written notice of the Executive Director's decision shall be transmitted to a requestor other than the Ethics Commission's Executive Director or Director of Enforcement. If the requestor is an authorized representative, a copy of the notice shall also be transmitted to the represented persons identified in the opinion request.
 - (2) If the request is denied, the notification shall state the reasons for the denial and shall advise the requestor of the right to appeal to the members of the Ethics Commission pursuant to paragraph (4).
 - (3) Among the reasons for which a request may be denied 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 requestor is seeking an opinion about another person's duties and has not been authorized to do so by that person.
 - (D) The person on whose behalf the opinion was requested does not have sufficient interest (standing) in the question to justify an opinion being issued.
 - (E) The question is hypothetical and does not represent an intended course of conduct.
 - (F) The question is substantially similar to a previously adopted opinion.
 - (G) The facts presented are insufficient or appear to be inaccurate or in dispute.
 - (H) The request does not state a question based on the facts presented.
 - (I) The question is outside the Ethics Commission's jurisdiction.
 - (J) The question relates to past action.
 - (K) The question is more appropriately handled through formal or informal advice, a policy, or a regulation adopted pursuant to Charter Section 703.
 - (L) Rendering an opinion would be inappropriate or otherwise not in the public interest.
- (4) The requestor may ask the members of the Ethics Commission to review an opinion request denied by the Executive Director.
- (A) The request for review must be received within 14 calendar days after notice of the denial is transmitted.
 - (B) The members of the Ethics Commission shall act on a request for review at the next public meeting that occurs at least 30 calendar days after the request for review is received.
 - (C) If the members of the Ethics Commission approve the granting of an opinion request, the denial shall be rescinded, written notice shall be transmitted to the requestor, and the opinion shall be issued. If the denial is affirmed, the members of the Ethics Commission need not state reasons for doing so.
- (d) The following procedures apply to issuing opinions:
- (1) The members of the Ethics Commission shall hold a public hearing on the opinion.
 - (2) The Ethics Commission staff or, in the Executive Director's discretion, the City Attorney shall prepare a draft opinion which discusses the issues and includes any staff recommendations.

- (A) The draft opinion shall be transmitted to the requestor at least 21 calendar days prior to the hearing.
- (B) The requestor may withdraw the request for an opinion within seven calendar days after the draft opinion is transmitted.
 - (i) The withdrawal must be submitted in writing.
 - (ii) If the request is withdrawn, the immunity in Charter Section 705(a) does not apply.
 - (iii) If the request is withdrawn, the Executive Director may continue the opinion process and the members of the Ethics Commission may adopt the opinion, as long as the requestor and the persons on whose behalf the opinion was originally requested are not identified.
- (C) If the opinion process continues, the draft opinion shall be posted on the Ethics Commission's web site at least 14 calendar days prior to the hearing. Copies of the draft opinion shall be transmitted to the members of the Ethics Commission and the City Attorney. If the requestor withdrew the original request, the draft opinion shall first be modified to remove reference to the requestor and the persons on whose behalf the opinion was originally requested.
- (3) Any person may submit memoranda, briefs, arguments, or other relevant material regarding the opinion no later than three calendar days prior to the hearing.
- (4) Ethics Commission staff and the requestor may each provide up to 20 minutes of testimony or oral argument at the hearing. Other persons may also present testimony or oral argument directly related to the opinion, subject to the Ethics Commission's standard rules for public comment at public meetings.
- (e) Opinions shall be adopted by the members of the Ethics Commission at a public meeting, are effective upon adoption, and shall be posted on the Ethics Commission's web site.
- (f) Acting in accordance with opinions adopted by the Ethics Commission is evidence of good faith for similarly situated persons, as long as the opinion remains in effect and the underlying laws remain unchanged. However, the immunity in Charter Section 705(a) extends only to the persons identified in the opinion request and on whose behalf the opinion was requested.
- (g) An opinion may be rescinded by the members of the Ethics Commission at a public meeting.
 - (1) The members of the Ethics Commission must state the reasons for rescinding the opinion, which may include but are not limited to a change in the law, previously unforeseen circumstances, and the interests of justice.

- (2) Whenever an opinion is rescinded, the Ethics Commission staff shall transmit written notice to the original requestor.
- (3) Subsection (f) applies to an opinion from the date of adoption until the date of rescission.

Sec. 24.13
Advice.

- (a) Formal Advice.
 - (1) A person may ask the Ethics Commission to issue formal advice regarding that person's duties under the Charter, a City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, or governmental ethics. The authority to request formal advice extends to that person's authorized representative.
 - (2) Requests for formal advice will not be acted upon unless all required information has been provided.
 - (A) Required information is all of the following:
 - (i) The name, title or position, mailing or email address, and telephone number of the person by or for whom the formal advice was requested.
 - (ii) If the request is submitted by an authorized representative, a specific statement that such authorization has been made.
 - (iii) All the facts material to the questions presented, stated as clearly, concisely, and completely as possible.
 - (B) The time period specified in Charter Section 705(b) does not begin to run until all required information has been received.
 - (C) If a request for formal advice does not contain all required information, the requestor shall be notified.
 - (3) When a complete request for formal advice is received, a written acknowledgement of the request shall promptly be transmitted to the requestor.
 - (A) The acknowledgement shall provide the requestor with the date on which the period specified in Charter Section 705(b) expires.
 - (B) If the requestor is an authorized representative, a copy of the acknowledgement shall also be transmitted to the person on whose behalf the advice was requested.
 - (C) If the request is received from an official or employee of a City agency, a copy of the request and the acknowledgement may also be transmitted to

the agency's general manager or chief administrative officer if the request is related to the official duties of the agency.

- (4) The Executive Director may extend the response deadline for good cause that reasonably prevents an answer within the 21 business days specified by Charter Section 705(b).
 - (A) The Executive Director may extend the deadline to any date the Executive Director believes is reasonable.
 - (B) The requestor may appeal the Executive Director's decision to extend the deadline to the members of the Commission, who shall decide the appeal at their next regular meeting which occurs at least three business days after receipt of the appeal. The members of the Commission may uphold the Executive Director's decision, overturn the decision, or extend the deadline to a different date without stating the reasons for their decision.
- (5) Formal advice shall be drafted by Ethics Commission staff or, at the Executive Director's request, by the City Attorney. Formal advice shall be approved by the Executive Director prior to release.
- (6) Copies of the advice request and the formal advice are public records, subject to the following:
 - (A) When the request relates to whether a person is required to disclose a specific private interest and the advice is that the interest need not 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 on whose behalf the advice was requested.
 - (B) Any information that is confidential by law will be redacted before the request or the advice is disclosed to members of the public.
- (7) A request for formal advice may be declined.
 - (A) A request may be declined for any of the following reasons:
 - (i) The question raised is expressly covered by the Charter, an ordinance, a Commission opinion, or Commission regulations.
 - (ii) The requestor is seeking advice regarding past conduct.
 - (iii) The requestor is seeking advice about another person's duties and has not been authorized to do so by that person.
 - (iv) The person on whose behalf the advice was requested does not have sufficient interest (standing) in the question to justify formal advice being issued.
 - (v) It appears that the material facts provided in the request may be inaccurate, incomplete, or in dispute.

- (vi) The request does not present a question within the Ethics Commission's jurisdiction.
 - (vii) The request presents a question that is purely hypothetical and does not represent an intended course of conduct.
 - (viii) The request presents issues requiring a policy interpretation best made through an opinion, a policy, informal advice, or by adoption of a regulation pursuant to Charter Section 703.
 - (ix) Rendering formal advice would be inappropriate or otherwise not in the public interest.
- (B) If a request is declined, written notice shall be transmitted to the requestor and the immunity in Charter Section 705(b) does not apply.
- (8) A request for formal advice may be treated as a request for an opinion or as a request for informal advice.
 - (9) Formal advice does not constitute an Ethics Commission opinion or a declaration of Ethics Commission policy.
 - (10) Formal advice is the application of the law to a particular set of facts provided by the requestor. Formal advice may provide guidance to others for as long as the underlying law remains unchanged. However, formal advice is not a defense for anyone other than the person on whose behalf the formal advice was requested.
 - (11) The immunity in Charter Section 705(b) is limited to the person on whose behalf the formal advice was requested, to the specific facts contained in the formal advice, and to the law in effect at the time the formal advice was issued.
- (b) Informal Advice.
- (1) A person may ask the Ethics Commission for informal advice regarding that person's duties under the City Charter, a City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, or governmental ethics. The authority to request informal advice extends to that person's authorized representative. Informal advice may also be requested by a City agency whose members, officials, or employees are subject to the provisions of such laws.
 - (2) Informal advice may be requested and rendered verbally or in writing.
 - (3) Informal advice does not provide the immunity in Charter Section 705(b).
 - (4) A request for informal advice may be declined or limited to a general explanation of the requirements of the law. A request may be declined or limited for any of the following reasons:
 - (A) The requestor is seeking advice regarding past conduct, unless the advice is related to the possible amendment of previously filed reports.

- (B) The requestor is seeking advice anonymously.
 - (C) Advice is being sought regarding the duties of another person, and the requestor either does not appear to be authorized to make the request or does not provide the identity of the person on whose behalf the request is being made.
 - (D) The question presented is purely hypothetical and does not reflect an intended course of action.
 - (E) The question presented is too complex for resolution by informal advice.
 - (F) The question presented is best addressed through formal advice, a policy, or an opinion.
 - (G) The facts presented are insufficient, incomplete, too vague to render specific informal advice, or appear to be inaccurate or in dispute.
 - (H) The facts presented do not appear to present a question within the Ethics Commission's jurisdiction.
 - (I) Rendering informal advice would be inappropriate or otherwise not in the public interest.
- (5) Requests for informal advice and any informal advice provided in response are confidential as required to preserve the confidentiality mandated by Charter Section 706.
- (6) Informal advice does not constitute an Ethics Commission opinion or a declaration of Ethics Commission policy.

ADVICE AND OPINIONS REGULATIONS

Los Angeles Administrative Code Division 24, Chapter 1

Sec. 24.12

~~Opinions and Written Advice~~

(a) ~~Requests for Opinions.~~

~~(1) Opinion requests may be submitted to the Commission by any~~A person whose may ask the Ethics Commission to issue a written opinion with respect to that person's duties under the City Charter or, any City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, 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.)The authority to request an opinion extends to that person's authorized representative. The Ethics Commission's Executive Director and Director of Enforcement may also request opinions.

~~(b) A request for an opinion must be submitted in writing and must include the following:~~

~~(A1) The identity name, title or position, mailing or email address, and telephone number of the person whose duties are in question shall be provided with the opinion requestor persons by or for whom the opinion was requested. If the opinion is requested is submitted by the authorized representative of several persons similarly situated persons, the identityfying and contact information of at least one such represented person shall must be provided with the opinion requestincluded.~~

~~(B2) The immunity provided by Charter Section 705 shall extend only to the person or persons identified in the opinion requestIf the requestor is an authorized representative, a specific statement that such authorization has been made.~~

~~(23) Opinion requests shall present aAll material facts, stated as clearly, concisely, and completely as possible.~~

~~(4) -and shall state tThe question or questions based on these material facts.~~

~~(3) The Commission staff shall maintain a master file containing all opinion requests. This file shall be open to public inspection.~~

~~(4c) The Executive Officer shall Director determines whether to grant or deny opinion requests.~~

- (51) Within 14 calendar days after the a complete request is submittedreceived and all information in Subsection (b) has been provided, the person making the opinion requestshall be notified in writing written notice of the decision of the Executive OfficerDirector's decision shall be transmitted to a requestor other than the Ethics Commission's Executive Director or Director of Enforcement. If the requestor is an authorized representative, a copy of the notice shall also be transmitted to the represented persons identified in the opinion request.
- (2) If the opinion request is denied, the notification shall state the reasons for the denial and shall advise the person submitting the requestor of his the right to appeal to the members of the Ethics Commission pursuant to Subsection paragraph (b4). 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.
- (63) Among the criteria uponreasons for which denial of an opinion a request may be based denied 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 requestor is seeking an opinion about another person's duties and has not been authorized to do so by that person.
 - (D) The person who madeon whose behalf the opinion was requested does not have sufficient interest (standing) in the question to justify an opinion being issued.
 - (DE) The question is hypothetical. However, opinion requests may be granted if the hypothetical facts stated and does not represent an intended course of conduct which is contingent on the Commission's opinion.
 - (EE) The question is overbroad in that it asks for an interpretation of the law in general termssubstantially similar to a previously adopted opinion.
 - (FG) The facts presented are insufficient or appear to be inaccurate or in dispute.

~~(H) The question does not present material facts or request 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 Ethics Commission's jurisdiction.~~

~~(J) The question relates to past action.~~

~~(K) The question is more appropriately handled through formal or informal advice, a policy, or a regulation adopted pursuant to Charter Section 703.~~

~~(L) Rendering an opinion would be inappropriate or otherwise not in the public interest.~~

~~(b4) Review of Requests Denied by the Executive Officer. Any member of the Commission or tThe requestor may request a review by ask the members of the Ethics Commission of to review an opinion request denied by the Executive OfficerDirector.~~

~~(A) The request for review must be made received within 40 working 14 calendar days after notice of the denial is transmitted.~~

~~(B) The members of the Ethics Commission shall act on such a request for review within at the next public meeting that occurs at least 30 calendar days after following issuance of the denialthe request for review is received.~~

~~(C) If a majority of the members of the Ethics Commission approves the granting of an opinion request, the denial shall be rescinded, the person submitting the opinion request shall be notified in writingwritten notice shall be transmitted to the requestor, and the opinion shall be issued as provided in this section. If the denial is affirmed, the members of the Ethics Commission need not state reasons for doing so.~~

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

~~(1) The members of the Ethics Commission shall hold a public hearing on the opinion.~~

~~(2) The Ethics Commission staff or, in the Executive Director's discretion, the City Attorney shall prepare a draft opinion which discusses the issues and includes any staff recommendations.~~

~~(A) At least two weeks prior to the hearing on the opinion, tThe draft opinion shall be provided transmitted 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 or at least 21 calendar days prior to the hearing.~~

- (B) The requestor may withdraw the request for an opinion within seven calendar days after the draft opinion is transmitted.
- (i) The withdrawal must be submitted in writing.
- (ii) If the request is withdrawn, the immunity in Charter Section 705(a) does not apply.
- (iii) If the request is withdrawn, the Executive Director may continue the opinion process and the members of the Ethics Commission may adopt the opinion, as long as the requestor and the persons on whose behalf the opinion was originally requested are not identified.
- (C) If the opinion process continues, the draft opinion shall be made available to the public posted on the Ethics Commission's web site at least 14 calendar days prior to the hearing. Copies of the draft opinion shall be transmitted to the members of the Ethics Commission and the City Attorney. If the requestor withdrew the original request, the draft opinion shall first be modified to remove reference to the requestor and the persons on whose behalf the opinion was originally requested.

- ~~(3) Any interested person may submit memoranda, briefs, arguments, or other relevant material regarding the opinion no later than five three calendar 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) Ethics Commission staff and the requestor may each provide up to 20 minutes of testimony or oral argument at the hearing. Any interested Other persons may also present testimony or oral argument directly related to the opinion 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, subject to the Ethics Commission's standard rules for public comment at public meetings.~~

- ~~(6) The time limits in this subsection may be waived or extended by the Commission.~~

- ~~(d) Opinions shall be adopted by the members of the Ethics Commission at a public meeting.~~

- ~~(1) Opinions adopted by the Commission shall be, are effective upon adoption, and shall be published along with any dissenting or concurring opinions by Commissioners submitted within 30 days after the adoption posted on the Ethics Commission's web site.~~

- ~~(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.~~

~~(f) Acting in accordance with opinions adopted by the Ethics Commission is evidence of good faith for similarly situated persons, as long as the opinion remains in effect and the underlying laws remain unchanged. However, the immunity in Charter Section 705(a) extends only to the persons identified in the opinion request and on whose behalf the opinion was requested.~~

~~(eg) Petition for Rehearing~~An opinion may be rescinded by the members of the Ethics Commission at a public meeting.

~~(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 members of the Ethics Commission must state the reasons for rescinding the request opinion, which may include but are not limited to a change in the law, previously unforeseen circumstances, and the interests of justice.~~

~~(2) Whenever the Commission grants a petition for rehearing an opinion is rescinded, the Ethics Commission staff shall suspend the opinion pending transmit written notice to the rehearing original requestor.~~

~~(3) Subsection (f) applies to an opinion from the date of adoption until the date of rescission.~~

~~(f)~~

Sec. 24.13

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.~~

~~(2a) Formal Written Advice.~~

~~(A1) FA person may ask the Ethics Commission to issue formal written advice may be requested in writing pursuant to Charter Section 705(b) by any regarding that person whose's duties under the Charter or, any City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, or governmental ethics are in question or by. The authority to request formal advice extends to 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.).~~

~~(B2) Requests for formal written advice will not be acted upon unless the following requirements are met: all required information has been provided.~~

~~(A) Required information is all of the following:~~

~~(i) The name, title or position, mailing or email address, and telephone number, of the person whose duties are in question are provided by or for whom the formal advice was requested.~~

~~(ii) In addition, if the request is submitted by an authorized representative, it shall contain a specific statement that such authorization has been made.~~

~~(iii) All the facts material to the consideration of the question or questions presented have been provided, stated in a as clear andly, concise mannerly, and completely as possible.~~

~~(CB) The time period specified in Charter Section 705(b) or Los Angeles Municipal Code Section 49.5.10B does not commence begin to run until the requirements of Paragraph (B) have been satisfied all required information has been received.~~

~~(DC) If a formal written advice request for formal advice does not meet the requirements in Paragraph (B) contain all required information, the requestor shall promptly be notified of that fact in writing and shall be provided with a copy of this regulation.~~

~~(E3) When a complete request for formal written advice is received which complies with the requirements in Paragraph (B), a written acknowledgement of the request shall promptly be acknowledged in writing transmitted to the requestor.~~

~~(A) 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.~~

~~(B) If the requestor is from an authorized representative, a copy of the foregoing acknowledgement shall also be sent transmitted to the person on whose behalf the advice is being was requested.~~

~~(C) If the request is received directly from an officer official or employee of a City agency, a copy of the request and the acknowledgement may also be sent transmitted to the agency's general manager or other executive chief administrative 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.~~

~~(F4) The Executive Officer is hereby authorized to Director may extend the period of time for response deadline 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 that reasonably prevents an answer within the 21 business days specified by the Charter Section 705(b).~~

~~(A) The Executive Officer-Director may extend the time for whatever period he deadline to any date the Executive Director believes is reasonable.~~

~~(B) The requestor may appeal the Executive Officer's-Director's decision on to extending time the deadline to the members of the Commission, which who shall decide the appeal at its their next regular meeting which occurs at least three business days after the receipt of the appeal. The members of the Commission shall may uphold the Executive Officer's-Director's decision, overturn the decision, or extend the period for response deadline to a different period than that extended by the Executive Officer, based on the above criteria date without stating the reasons for their decision.~~

~~(G5) Formal written advice shall be drafted by the Executive Officer of the Commission ~~(or by Ethics Commission staff)~~, or, at the Executive Officer's Director's request, by the City Attorney. Such Formal advice shall be approved by the Executive Officer-Director prior to release.~~

~~(H6) Copies of the advice request and the formal written advice shall be are public records, subject to the following:~~

~~(A) However, when the request relates to whether a person is required to disclose a specific private economic interests, and the advice is that any such the interest is need 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 on whose behalf the advice was requested.~~

~~(B) Any information that is confidential by law Summaries of the advice provided may be published from time to time will be redacted before the request or the advice is disclosed to members of the public.~~

~~(I7) The Commission may decline to provide A request for formal written advice may be declined.~~

~~(A) 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-A request may be declined in for any of the following circumstances reasons:~~

~~(i) The question raised is expressly covered by the Charter, an ordinance, a Commission opinion, or Commission regulations.~~

~~(ii) The requestor is seeking advice relating to regarding past conduct.~~

- (iii) The requestor is seeking advice about another person's duties and has not been authorized to do so by that person.
- (iv) The person on whose behalf the advice was requested does not have sufficient interest (standing) in the question to justify formal advice being issued.
- (iiiiv) It appears that the material facts provided in the request may be inaccurate, incomplete, or in dispute.
- (vi) The request does not present a question within the Ethics Commission's jurisdiction.
- (vii) ~~The request does not presents a question under the Charter or related ordinances, or that is purely hypothetical. However, requests for advice will be granted if the hypothetical facts and does not represent an intended course of conduct contingent upon such advice.~~
- (viii) The request presents issues requiring a policy interpretation best made through a ~~Commission~~ On opinion, a policy, informal advice, or by adoption of a regulation pursuant to Charter Section 703.
- (vix) ~~A response to~~ Rendering formal written advice would be inappropriate or otherwise not in the public interest.

(B) If a request is declined, written notice shall be transmitted to the requestor and the immunity in Charter Section 705(b) does not apply.

- (J8) A request for formal ~~written~~ advice may be treated as a request for an opinion, or as a request for informal ~~assistance~~ advice.
- (K9) ~~Formal or informal written advice does not constitute an~~ Ethics Commission opinion of the Commission nor a declaration of Ethics Commission policy by the Commission.
- (10) ~~Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this Formal advice may provide guidance to others for as long as the underlying law remains unchanged. However, formal advice is not a defense for anyone other than the person on whose behalf the formal advice was requested.~~
- (11) ~~§The immunity provided by in~~ Charter Section 705(b) is limited to the requestor person on whose behalf the formal advice was requested and, to the specific facts contained in the formal written advice, and to the law in effect at the time the formal advice was issued.

(3b) Informal Assistance Advice.

- (A1) A person may ask the Ethics Commission for informal assistance may be requested by any person whose advice regarding that person's duties under the

City Charter or, a City ordinance, or an opinion or policy adopted by the Ethics Commission relating to campaign finance, conflicts of interests, lobbying, 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.). The authority to request informal advice extends to that person's authorized representative. Informal assistance advice may also be requested by any City agency whose members, officers-officials, or employees are subject to the provisions of such laws.

- (B2) Informal assistance advice may be requested or and rendered orally verbally or in writing.
- (C3) Informal assistance advice rendered pursuant to this regulation does not provide the requestor with the immunity set forth in Charter Section 705(b).
- (D4) The Executive Officer may decline to provide. A request for informal assistance advice may be declined or may limit such assistance to the a general explanation, in general terms, of the requirements of the law in. A request may be declined or limited for any of the following circumstances reasons:
 - (iA) Assistance or The requestor is seeking advice is being sought regarding past conduct, unless the advice or assistance sought is related to the possible amendment of previously filed reports filed by the person requesting the advice.
 - (iiB) The requestor is seeking advice anonymously.
 - (iiiC) 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 request is being sought made.
 - (ivD) The question presented is purely hypothetical and does not reflect an intended course of action.
 - (vE) The question presented is too complex or is otherwise inappropriate for resolution by informal assistance advice.
 - (F) and should be resolved by The question presented is best addressed through formal written advice, a policy, or an Opinion.
 - (viG) The facts presented are insufficient or, incomplete, too vague to render specific informal assistance advice, or appear to be inaccurate or in dispute.

(H) The facts presented do not appear to present a question under the Charter or City ordinance relating to campaign finance, conflicts of interest or governmental ethics within the Ethics Commission's jurisdiction.

(vii) Rendering informal assistance advice would be inappropriate or otherwise not in the public interest.

(5) Requests for informal advice and any informal advice provided in response are confidential as required to preserve the confidentiality mandated by Charter Section 706.

(6) Informal advice does not constitute an Ethics Commission opinion or a declaration of Ethics Commission policy.