

April 17, 2024

Ad Hoc Committee on City Governance
200 North Spring Street
City Hall, Room 340
Los Angeles, California 90012



Re: Ethics Commission Charter Reform

Dear Council President and Councilmembers:

California Common Cause is pleased to see Ethics Commission reforms before the Ad Hoc Committee on City Governance. We believe that Council President Krekorian's proposed charter reforms¹ are an excellent start. LA City Council has needed strengthening of its ethics, conflict of interest, and lobbying rules for several decades, and a stronger Ethics Commission is a step in that direction. While we are generally supportive, we request the following amendments to Council President Krekorian's proposal.

Secured Ethics Commission Budget

Guaranteed Budget that Adjusts Appropriately: We request Section 1(a)(i) of Council President Krekorian's proposal to update Charter sections 702(k) and 711 be amended to ensure that the L.A. City Ethics Commission's (hereafter "Commission") minimum secured budget increases with new Commission mandates or duties. We also request that the minimum secured budget account for salary increases and changes to collective bargaining agreements. A baseline minimum is positive, but one that does not adjust to new duties, salary increases, or collective bargaining agreements will inevitably underfund future Commissions.

City Revenue vs. CPI: We would like clarification on why adjusting the Commission's minimum annual budget by City revenue is a better alternative than adjusting it to the Consumer Price Index.

Commission Authority to Place Policies on the Ballot

In addition to a guaranteed minimum budget, Commission authority to place reforms directly on the ballot is the best way to ensure Commission independence and fluid ethics laws that adapt to deficiencies. For this reason, California Common Cause is very supportive of Commission authority to place measures directly on the ballot, but the Commission must be granted

¹ Paul Krekorian, L.A. City Council President. 2024. "Re: Ethics Commission Reform Recommendations 23-1027." April 12, 2024. <https://lacity.primegov.com/Portal/viewer?id=0&type=7&uid=521b14d8-514d-4abb-b0f6-9e0560bf196b>.

meaningful, independent authority. To that end, California Common Cause urges multiple amendments to Council President Krekorian's proposed language.

Commission and Council Dual Consent and Council Inaction: We request that Section 1(b) of Council President Krekorian's proposal to update Charter section 703 be amended in two ways. 1) To require dual consent from the Council *and* the Commission for amendments made to proposed Commission policies, instead of the current proposal to grant the Council unimpeded authority to amend Commission policy proposals. And 2) to clarify that if the Council or Mayor do not act on proposed Commission policies within 120 days, then those policies will become law.

Parameters for Commission Ballot Placement: We request that Section 1(c) of Council President Krekorian's proposal to update Charter section 703 be amended in two ways. 1) To clarify that "policy" includes proposed ordinances, and 2) to clarify that "disapproved" policies, for the purpose of the Commission placing policies/ordinances on the ballot, includes policy clauses that were removed or significantly altered from Commission proposals without Commission consent.

These amendments ensure that this important reform functions as intended by establishing Commission independence and greater City Council accountability. If these amendments are not included, then the door is open for bad-faith engagement and politically strategic Council amendments that would prevent the Commission from placing ordinances directly before voters. For example, as worded now, Section 1(b-c) of the proposal creates the possibility that a gutting of the Commission's proposed policies/ordinance, via Council amendments, prevents the Commission from placing the removed or disagreeably amended policies directly before the voters — because the Council did not technically "disapprove" the Commission's package of reforms, but instead *amended* them, possibly to irrelevance. Such a loophole defeats the purpose of this crucial check on the elected officials who are policed by the Commission.

Commission Due Process and Adjudication

Imposed Enforcement Costs: In order to provide the Commission with guiding parameters when imposing enforcement costs on violators, we recommend defining "egregious cases" in Section 1(f) of Council President Krekorian's proposal to update Charter section 706(c)(4). For example, it could include violations that were willful, involved significant funds or deception, as well as violators who were uncooperative and significantly delayed the adjudicative process.

Independent Outside Counsel: In Section 1(g) of Council President Krekorian's proposal to update Charter section 708, we recommend defining the "limited circumstances" in which the Commission may hire outside counsel. For example, when a conflict of interest — real or perceived — arises. This is particularly relevant when the City Attorney's office is advising both the Commission and government officials under investigation by the Commission. We recommend granting the Commission significant discretion on when outside counsel is

employed. We believe such an amendment will increase fairness and independence of the Commission's quasi-judicial authority.

Commissioner Criteria

Commissioner Removal: We urge that Section 1(i) of Council President Krekorian's proposal to update Charter section 700(e) require just cause for commissioner removal by Council, as well as a confirming super-majority vote of the Council. This will help ensure that commissioners are not removed for political reasons.

Commission Functionality

Commission Vacancies: We request that Section 1(m) of Council President Krekorian's proposal to update Charter section 700(f) be amended to stipulate that if a commission vacancy remains unfilled for 120 days, then the Commission shall fill the vacancy in the same manner that an expanded Commission would appoint non-political appointees to the Commission. This will ensure that vacancies are filled in a timely manner and that the Commission can consistently function with a quorum.

Non-political Appointees: We request multiple amendments to Section 1(p) of Council President Krekorian's proposal to update Charter section 700(a).

First, to ensure Commission independence during the proposed application-based commission-driven appointment process, we recommend an ex parte communications ban on communications between sitting commissioners and elected City officials during the Commission's application vetting and appointment process. Elected officials, like members of the public, would still be free to voice their opinions publicly.

Second, *all* commissioners on an expanded Commission, including Commission-appointed commissioners, should be able to vet applications and vote on vacancies for Commission-appointed seats, as opposed to the current proposal that only allows politically appointed Commissioners to seat those commissioners. This is a matter of basic fairness, avoids power imbalances between commissioners, and increases Commission independence.

Ultimately, these amendments will help ensure Commission independence in what is meant to be a non-political appointment process.

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In closing, we hope that this Committee and the City Council will work to place meaningful Ethics Commission charter reforms on this year's ballot, which will go a long way in addressing trust and accountability at City Hall. These reforms, if amended as we recommend, can increase the independence of the Ethics Commission, secure adequate funding for the Commission's mission of ensuring integrity in city government, guarantee that Commission recommendations

receive timely consideration, and give the Ethics Commission the authority to take much-needed future reforms directly to the voters. Ultimately, these reforms build the infrastructure needed to have a fully functioning watchdog for LA city politics, a critical need.

We look forward to engaging with the City Council on this matter to ensure that meaningful Ethics Commission reforms are on the November 2024 ballot.

Sincerely,
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