

Audit Policy

Los Angeles City Ethics Commission

Effective August 9, 2016

Los Angeles City
ETHICS COMMISSION

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Audit Policy

Adopted August 2, 2004
Amended June 13, 2013
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Amended August 9, 2016

A. Introduction.

In 2004, the Ethics Commission adopted an audit policy to promote timely campaign audits. The Ethics Commission continues and reaffirms its commitment to efficient audits and the fullest possible enforcement of the laws within its jurisdiction.

The Ethics Commission recognizes that most audit findings are a result of administrative errors or unintentional oversights. This policy is designed to allow participants to resolve audit findings outside of any enforcement proceedings and is based on the following premises:

1. City campaigns involve increasingly more contributions and expenditures, which requires increasingly more time and resources to audit and be audited;
2. The expedient and accurate resolution of audits is the best use of scarce public resources that can be used to investigate other cases that involve significant or intentional misconduct;
3. Voluntary cooperation with Ethics Commission staff is a factor that must be considered when framing a penalty under Los Angeles Administrative Code § 24.27(f)(3)(a)(vi)); and
4. Prompt admission of violations benefits the public, whereas delay and false denial undermines the public trust.

This policy, therefore, provides for the early resolution of audit findings when a participant clearly demonstrates acceptance of responsibility for its violations by complying with the terms below. This policy provides only guidance and does not create any substantive or procedural rights, nor does it limit any enforcement prerogative of the Ethics Commission.

B. Definitions.

1. “**Board of Education office**” means the office of a member of the Board of Education of the Los Angeles Unified School District.
2. “**City office**” means the office of mayor, controller, city attorney, or councilmember of the City of Los Angeles.
3. “**Early resolution audit (ERA)**” means an audit that may be resolved under Section D because the participant has complied with the requirements of this policy.

4. **“Participant”** means either of the following:

- An individual who seeks, holds, or has sought or held City or Board of Education office; or
- A committee controlled by an individual who seeks, holds, or has sought or held City or Board of Education office.

C. Timelines.

The goal of this policy is to complete each campaign audit within a reasonable amount of time without compromising quality, oversight, or public policy.

1. A participant who does all of the following may be eligible for an early resolution audit (ERA):
 - a. Attends a candidate training conducted by the Ethics Commission for the election that triggers an audit cycle for the participant.
 - b. Files all campaign reports using the Ethics Commission’s electronic filing system.
 - c. Maintains all financial data and records for the committee in an organized manner and makes them available by the target audit start date in an electronic format prescribed by the Ethics Commission.
 - d. Provides to the Ethics Commission an original or an easily readable paper copy of any record or other documentation regarding committee activity, including but not limited to credible and contemporaneous third-party records, within seven calendar days after the Ethics Commission makes the request.
 - e. Has 10 or fewer audit findings during a single audit cycle.
2. If a participant is not eligible for an ERA or is disqualified or removed from ERA eligibility, the participant’s audits may not start when originally scheduled, and the guidelines identified in paragraph 3 may not apply.
3. An audit of a single committee will be completed according to the following guidelines:
 - a. For committees that raised or spent up to \$500,000, the audit should be completed within 45 calendar days after the audit start date.
 - b. For committees that raised or spent more than \$500,000, the audit should be completed within 60 calendar days after the audit start date.
 - c. For any committee, the completion date may be extended for good cause by the Director of Audits up to 180 calendar days after the audit start date.

4. Ethics Commission staff will provide as much notice as possible of target audit start dates, to assist participants in preparing their financial data and other Audit Policy 3 of 5 August 2016 records. Every effort will be made to follow the target audit schedules, but they may be revised by Ethics Commission staff at any time.
5. When draft audits of all of a participant's committees for a single audit cycle have been completed, the following apply:
 - a. Ethics Commission staff will issue to the participant a draft audit report for each committee, and the participant will have 21 calendar days to respond to all of the draft audit reports.
 - b. For each committee audited, Ethics Commission staff will issue to the participant a final audit report within 14 calendar days after the later of the deadline for the participant to respond to the draft audit report or the date the Ethics Commission has addressed all of the participant's timely responses to the draft audit report.
 - c. If an audit is eligible for early resolution, the participant must comply with the requirements in Section D within 45 calendar days after the date the final report is issued in order to resolve audit findings under this policy. If the participant fails to comply within 45 calendar days, the audit report will automatically become ineligible for early resolution.
 - d. If an audit is not eligible for early resolution solely because the participant exceeded the threshold in Section C(1)(e), the Ethics Commission's Enforcement Division may subsequently determine that one or more findings do not support action in an administrative enforcement proceeding. If the number of findings is lowered as a result of that determination and, therefore, meets the threshold in Section C(1)(e), the participant's audit may become eligible for early resolution, despite the fact that a final audit report has been issued. An explanatory addendum will be added to all final audit reports that become eligible for early resolution after they are issued.
 - e. Audit reports will be publicly released after they become final.

D. Resolution of Findings.

1. If a participant properly complies with all of the requirements of this policy, the participant is not subject to Ethics Commission enforcement proceedings for findings in an ERA report, including a probable cause report, a probable cause determination, a public accusation, and an administrative hearing.
2. This policy has the following minimum requirements and applies only to a participant who complies with all of the following:
 - a. Full Admission. The participant must execute a written ERA agreement fully admitting all findings identified in the ERA reports. The terms of the ERA agreement are not subject to modification, and the participant may not strike or interlineate any portion

of the ERA agreement. The ERA agreement will be signed by the Ethics Commission's Executive Director or the Executive Director's designee, will be incorporated into all related final audit reports and will be a public record.

- b. Payment. The participant must make a payment to resolve all findings identified in the ERA reports. The amount of the payment is \$1,000 per audit finding. Payment must be made by cashier's check, must be payable to the City's general fund, and must be delivered to the Ethics Commission.
 - c. Deadline. Within 45 calendar days after Ethics Commission staff issues an ERA report, the participant must return the original executed ERA agreement and cashier's check to the Ethics Commission. All of the participant's ERA reports for that audit cycle will become final and will be publicly released after the earlier of the date Ethics Commission staff receive the original executed ERA agreement and cashier's check or 45 calendar days after Ethics Commission staff issues the ERA reports to the participant. Until the original executed ERA agreement and cashier's check are received, Ethics Commission staff may revoke the ERA agreement and limit or deny participation in this policy.
 - d. Waiver of Procedural Rights. The participant must waive all procedural rights under Los Angeles City Charter § 706 and Los Angeles Administrative Code §§ 24.21–24.29. These rights include but are not limited to the right to receive a probable cause report, a determination of probable cause, and a public accusation; the right to have an administrative hearing held to determine liability; the right to personally appear at an administrative hearing, to subpoena and cross-examine witnesses, and to have the Ethics Commission or an administrative law judge hear the case.
 - e. Waiver of Judicial Review, Appeal, and Collateral Attack. The participant must waive, to the full extent of the law, any right to seek judicial review of, appeal, or collaterally attack the findings identified in the ERA reports, the related payment, or any action by the Ethics Commission or Ethics Commission staff with respect to the audit findings. If the participant breaches the ERA agreement at any time, in any way, including but not limited to seeking judicial review of, appealing, or collaterally attacking the audit findings, the Ethics Commission may commence enforcement proceedings for audit findings that were the subject of the ERA agreement. Additionally, the Ethics Commission may use any factual admissions made by the participant in the ERA agreement in any such enforcement proceeding.
3. Ethics Commission staff determine whether audit findings may be resolved under this policy in cases in which the requirements are met. Audit findings may not be resolved under this policy if, in the judgment of Ethics Commission staff, extenuating circumstances exist. Extenuating circumstances include but are not limited to evidence of egregious conduct, including but not limited to money laundering; evidence of intentional conduct; a pattern of audit findings regarding the same or similar issues; a pattern of violating laws within the Ethics Commission's jurisdiction; the amount of money at issue; the enforcement history of a participant; a failure to cooperate during the audit process; and the overall interests of justice.

4. Ethics Commission staff retain the discretion to impose additional procedural requirements for ERA agreements.
5. If a participant enters into an ERA agreement and evidence emerges of other violations not set forth in an ERA report, the participant may be subject to Ethics Commission enforcement proceedings for those other violations. If evidence emerges that the participant was not truthful regarding audit findings in the ERA agreement, the participant may be subject to Ethics Commission enforcement proceedings for those findings. A penalty assessed through the Ethics Commission's enforcement process for audit findings will be reduced by any payment made for those findings under this policy.
6. An ERA agreement is limited to the Ethics Commission and the participant only and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authority. The Ethics Commission will bring an ERA agreement to the attention of other authorities if requested by the participant.

E. Effective Date.

This revised policy is effective as of August 9, 2016, and may only be applied, if at all, to mandatory or discretionary Ethics Commission audits completed after that date.