

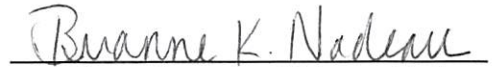



1 
2 Chairman Phil Mendelson

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5 Councilmember Charles Allen

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8 Councilmember Elissa Silverman


Councilmember David Grosso


Councilmember Brianne Nadeau


Councilmember Mary Cheh

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A BILL

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15

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

16

17

To reform campaign financing and to provide for publically funded political campaigns.

18

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
19 act may be cited as the "Citizens Fair Election Program Amendment Act of 2015".

20

Sec. 2. Definitions.

21

For the purposes of this act, the term:

22

(1) "Oversight Office" means the Citizens Fair Election Oversight Office,
23 established by section 3 of this act.

24

(2) "Candidate" means an individual who seeks nomination or election for Mayor,
25 Attorney General, or member of the Council, whether or not the person is elected. An individual
26 is deemed to be a candidate if the individual has received political contributions or made
27 expenditures or has consented to another person receiving contributions or making expenditures
28 with a view to bringing about the individual's nomination or election

1 (3) "Election cycle" means the period beginning on the day after the date of the
2 most recent general election for the office and ending on the date of the next general election for
3 that office.

4 (4) "Elections Fund" means the Elections Fund established by section 13.

5 (5) "Immediate family" means, with respect to a candidate:

6 (A) The candidate's spouse;

7 (B) A child, stepchild, parent, grandparent, brother, half-brother, sister, or
8 half-sister of the candidate or the candidate's spouse; and

9 (C) The spouse of any individual described in subparagraph (B) of this
10 paragraph.

11 (6) "Participating candidate" means a candidate who is certified under section 9 as
12 eligible to receive benefits under this act.

13 (7) "Qualifying small dollar contribution" means, with respect to a candidate, a
14 contribution that is:

15 (A) In an amount that is not:

16 (i) Greater than or equal to \$5 or the amount determined under
17 section 3(e)(3), and

18 (ii) More than the greater of \$100 or the amount determined under
19 section 3(e)(3);

20 (B) Made by an individual:

21 (i) Who has a primary residence in the District of Columbia, and
22 (ii) Who is not otherwise prohibited from making a contribution
23 under District of Columbia law;

24 (iii) Is made during the elections qualifying period; and

25 (iv) Meets the requirements of section 8.

26 (9) "Qualifying period" means, with respect to any candidate, the 120-day period
27 (during the election cycle for such office) which begins on the date on which the candidate files a

1 statement of intent under section 7(a)(1) except that such period may not continue after the date
2 that is 60 days before the date:

3 (A) Of the primary election; or

4 (B) Prescribed by as the last day to qualify for a position on the general
5 election ballot.

6
7 (10) "Uncontested Election" means an election where not more than a single
8 candidate has raised or spent campaign funds from any sources, including payments from the
9 Elections Fund established by section 13 of this act, in an amount equal to or greater than 10
10 percent of the base amount for such election if this paragraph did not apply.

11 Sec. 3. Citizens Fair Election Oversight Office.

12 (a) There is established as an office within the Board of Ethics and Government
13 Accountability, an entity to be known as the Citizens Fair Election Oversight Office.

14 (b) The Citizens Fair Election Oversight Office shall administer all the laws and
15 regulations currently administered by the Office of Campaign Finance, which is under the
16 District of Columbia Board of Elections.

17 (c) The Office of Campaign Finance is abolished and all of its functions, duties and
18 responsibilities are transferred to the Citizens Fair Election Oversight Office.

19 (d) Each regulation, standard, rule, notice, order, and guidance promulgated or issued by
20 the Mayor pursuant to this act and in effect before the effective date of this act shall remain in
21 effect according to its terms unless superseded.

22 (e) (1) After each regularly scheduled general election, the Oversight Office shall
23 conduct a comprehensive review of the elections financing program under this act,
24 including:

25 (A) The qualified small dollar contributions;

26 (B) The amount of allocations that candidates may receive;

27 (C) The overall satisfaction of participating candidates and the District of

1 Columbia public with the program; and

2 (D) Such other matters relating to the financing of campaigns as the
3 Oversight Office determines are appropriate.

4 (2) In conducting the review under paragraph (1) of this subsection, the
5 Oversight Office shall consider the following:

6 (A) Whether the number and dollar amount of qualified small dollar
7 contributions strikes a balance regarding the importance of voter involvement, the need to assure
8 adequate incentives for participation and fiscal responsibility, taking into consideration the
9 number of primary and general election participating candidates, the electoral performance of
10 those candidates, program cost, and any other information the Oversight Office determines is
11 appropriate.

12 (B) Whether the totality of the amount of funds allowed to be raised by
13 participating candidates, allocations under section 5, and payments under section 6 are sufficient
14 for voters in the District of Columbia to learn about the candidates to cast an informed vote,
15 taking into account the historical amount of spending by winning candidates, media costs,
16 primary election dates, and any other information the Oversight Office determines is appropriate.

17 (3) Based on the review conducted under paragraph (1) of this subsection, the
18 Oversight Office shall provide for the adjustments of the following amounts:

19 (i) The maximum dollar amount of qualified small dollar
20 contributions under section 8;

21 (ii) The number and value of qualifying contributions a candidate is
22 required to obtain under section 8 to be eligible for certification as a participating candidate;

23 (iii) The base amount for candidates under section 5(b); and

24 (iv) The maximum amount of matching contributions a candidate may
25 receive under section 6(b).

26 Sec. 4. Benefits for participating candidates.

1 (a) If a candidate is a participating candidate, the candidate shall be entitled to the
2 following payments:

3 (1) Allocations from the Elections Fund, as provided in section 5; and

4 (2) Payments from the Elections Fund to match certain small dollar contributions,
5 as provided in section 6.

6 (b) The payments made under this act shall be used only in connection with the election.

7 Sec. 5. Allocations from the Elections Fund.

8 (a)(1) Except as provided in paragraph (2) of this subsection, an allocation from the
9 Elections Fund for a participating candidate in a primary and general election shall be made to
10 the candidate:

11 (A) With respect to a primary election in an amount equal to 60% of the
12 base amount.

13 (B) With respect to a general election in an amount equal to 40% of the
14 base amount; and

15 (C) If there is a recount of an election, for expenses relating to the recount
16 in an amount equal to 25% of the amount the participating candidate was eligible to receive
17 under this section for the election involved.

18 (2) In the case of a primary election or a general election that is an uncontested
19 election, an allocation from the Elections Fund shall be made to a participating candidate in an
20 amount equal to 25% of the allocation for that election with respect to such candidate. If a race
21 becomes competitive, an allocation from the Elections Fund shall be made to a participating
22 candidate in an amount equal to 40% of the base amount.

23 (3) Remaining allocations from the Elections Fund for a participating candidate in
24 a primary election may be carried over to support a general election.

25 (b) The base amount is an amount equal to 20% of the city wide average disbursements
26 of the cycle by winning candidates for the office of Mayor or Councilmember in the last 2
27 election cycles.

1 (c)(1) An allocation from the Elections Fund for a participating candidate in a special
2 election shall be made to the candidate:

3 (A) In an amount equal to 40% of the base amount for a special election
4 upon certification under section 9; and

5 (B) In an amount equal to 60% of the base amount for a special election
6 when the candidate qualifies to be placed on the ballot.

7 (2) The base amount for a special election is an amount equal to 30% of the
8 average disbursements of the cycle by winning candidates for the office in the last 2 election
9 cycles.

10 (d) Allocations shall be made as required under subsection (a) of this section to a
11 participating candidate for a:

12 (1) Primary election, not later than 48 hours after the date on which the candidate
13 is certified as a participating candidate;

14 (2) General election, not later than 48 hours after the date of the certification of
15 the results of the primary election; or

16 (3) Recount, not later than 48 hours after the District of Columbia Board of
17 Elections orders the holding of the recount.

18 (e) Funds shall be distributed to participating candidates under this section through the
19 use of an electronic funds exchange or a debit card.

20 Sec. 6. Matching payments for qualified small dollar contributions.

21 (a) Each participating candidate shall be paid an amount equal to 500% of the amount of
22 qualified small dollar contributions received by the participating candidate.

23 (b) The maximum payment under this section shall be the greater of:

24 (1) 700% of the allocation under section 5(a); or

25 (2) The percentage of the allocation determined by the Oversight Office under
26 section 3(e)(3).

1 (c) Payments under this section shall be made not later than 2 business days after the
2 receipt of a report made under subsection (d) of this section.

3 (d) Each participating candidate shall file reports, pursuant to §1-1163.09 of the D.C.
4 Official Code, of receipts of qualified small dollar contributions at such times and in such
5 manner as prescribed by the Oversight Office.

6 (e) A written explanation shall be provided with respect to any denial of any payment
7 under this section and shall provide for the opportunity for review and reconsideration within 5
8 business days of such denial.

9 (f) Funds shall be distributed to participating candidates under this section through the
10 use of an electronic funds exchange or a debit card.

11 Sec. 7. Eligibility.

12 (a) A candidate is eligible to be certified as a participating candidate with respect to an
13 election if the candidate meets the following requirements:

14 (1) During the election cycle for the office involved, the candidate files a
15 statement of intent to seek certification as a participating candidate.

16 (2) The candidate meets the qualifying requirements of section 8.

17 (3) Not later than the last day of the qualifying period, the candidate files, with the
18 Oversight Office, an affidavit signed by the candidate and the treasurer of the candidate's
19 principal campaign committee declaring that the candidate:

20 (A) Has complied and, if certified, will comply with the
21 contribution and expenditure requirements of section 10;

22 (B) If certified, will comply with the debate requirements of
23 section 11;

24 (C) If certified, will run only as a participating candidate for all
25 elections for the office that such candidate is seeking during the election cycle; and

26 (D) Has either qualified or will take steps to qualify to be on the
27 ballot.

1 (b) Notwithstanding subsection (a) of this section, a candidate shall not be eligible to
2 receive an allocation from the Elections Fund for a general election unless the candidate's party
3 nominated the candidate to be placed on the ballot for the general election or the candidate is
4 otherwise qualified to be on the ballot.

5 Sec. 8. Qualifying requirements.

6 (a) A candidate meets the requirement of this section if, during the qualifying period, the
7 candidate for Mayor obtains a:

8 (1) Single qualified small dollar contribution from a number of individuals equal
9 to or greater than the lesser of:

10 (A) One quarter of one percent of the voting-age population (as reported in
11 the most recent decennial census), or

12 (B) 1,500 individuals; and

13 (2) Total dollar amount of qualified small dollar contributions equal to or greater
14 than \$50,000.

15
16 (b) A candidate meets the requirements of this section if, during the qualifying period, the
17 candidate for Attorney General or Council Chair obtains a:

18 (1) Single qualified small dollar contribution from a number of individuals equal
19 to or greater than the lesser of:

20 (A) One quarter of one percent of the voting-age population (as reported in
21 the most recent decennial census), or

22 (B) 750 individuals; and

23 (2) Total dollar amount of qualified small dollar contributions equal to or greater
24 than \$30,000.

25 (c) A candidate meets the requirements of this section if, during the qualifying period, the
26 candidate for an At-Large Council seat obtains a:

1 (1) Single qualified small dollar contribution from a number of individuals equal
2 to or greater than the lesser of:

3 (A) One quarter of one percent of the voting-age population (as reported in
4 the most recent decennial census), or

5 (B) 500 individuals; and

6 (2) Total dollar amount of qualified small dollar contributions equal to or greater
7 than \$15,000.

8 (d) A candidate meets the requirements for this section if, during the qualifying period,
9 the candidate for a Ward Council seat obtains a:

10 (1) Single qualified small dollar contribution from a number of individuals equal
11 to or greater than the lesser of:

12 (A) One quarter of one percent of the voting-age population of the District
13 involved (as reported in the most recent decennial census), or

14 (B) 150 individuals whose primary residence is within the same Ward
15 which they are running to represent; and

16 (2) Total dollar amount of qualified small dollar contributions equal to or greater
17 than \$5,000.

18 (e) Each qualifying contribution:

19 (1) May be made by means of a personal check, credit card, or electronic payment
20 account;

21 (2) Shall be accompanied by a signed statement containing:

22 (A) The contributor's name, occupation and the contributor's address
23 which is the primary residence of the contributor; and

24 (B) An oath declaring that the contributor:

25 (i) Understands that the purpose of the qualifying contribution is to
26 show support for the candidate so that the candidate may qualify for public financing;

1 (ii) Is making the contribution in his or her own name and from his
2 or her own funds;

3 (iii) Has made the contribution willingly; and

4 (iv) Has not received anything of value in return for the
5 contribution; and

6 (3) Shall be acknowledged by a receipt that is sent to the contributor with a copy
7 kept by the candidate for the election authorities in the District of Columbia.

8 (f) Procedures shall be established by the Oversight Office for the auditing and
9 verification of qualifying contributions to ensure that such contributions meet the requirements
10 of this section.

11 (g) No person may be paid a commission on a per-qualifying contribution basis for
12 collecting qualifying contributions.

13 Sec. 9. Certification.

14 (a)(1) Not later than 5 days after a candidate files an affidavit under section 7(a)(3), the
15 Oversight Office shall:

16 (A) Determine whether or not the candidate meets the requirements for
17 certification as a participating candidate;

18 (B) Certify the candidate as a participating candidate; and

19 (C) Notify the candidate of the Oversight Office's determination.

20 (2) If the Oversight Office certifies a candidate as a participating candidate with
21 respect to the first election of the election cycle involved, the Oversight Office shall be deemed
22 to have certified the candidate as a participating candidate with respect to all subsequent
23 elections of the election cycle.

24 (b)(1) The Oversight Office may revoke a certification under subsection (a) of this
25 section, if a candidate:

26 (A) Fails to qualify to appear on the ballot at any time after the date of
27 certification (other than a candidate certified as a participating candidate with respect to a

1 primary election who fails to qualify to appear on the ballot for a subsequent election in that
2 election cycle); or

3 (B) Otherwise fails to comply with the requirements of this act, including
4 any regulatory requirements prescribed by the Oversight Office.

5 (2) If certification is revoked under paragraph (1) of this subsection, the candidate
6 shall repay to the Elections Fund established under section 13 an amount equal to the value of
7 benefits received under this act with respect to the election cycle involved plus interest (at a rate
8 determined by the Oversight Office) on any such amount received.

9 Sec. 10. Contribution, expenditure, and fundraising requirements.

10 (a)(1) Except as provided in subsection (c) of this section, a participating candidate with
11 respect to an election shall, with respect to all elections occurring during the election cycle for
12 the office involved, accept no contributions from any source, including an unexpended
13 contribution received by the candidate with respect to a previous election or a contribution made
14 by any political committee or multicandidate committee, other than:

15 (A) Qualified small dollar contributions described in section 6;

16 (B) Allocations under section 5; and

17 (C) Payments under section 6.

18 (2) A political committee of a participating candidate that is not a principal
19 campaign committee of the candidate or a political party may accept contributions other than
20 contributions described in paragraph (1) of this section from any person or business entity only
21 if:

22 (A) The aggregate amount of the contributions from such person for any
23 election during the election cycle does not exceed \$100; and

24 (B) No portion of such contributions is disbursed in connection with the
25 campaign of the participating candidate.

26 (b) Except as provided in subsection (c), a participating candidate shall, with respect to
27 all elections occurring during the election cycle for the office involved make no expenditures:

1 (1) From any amounts other than:

2 (A) Qualified small dollar contributions described in section 6;

3 (B) Allocations under section 5; and

4 (C) Payments under section 6; and

5 (2) From personal funds or the funds of any immediate family member of the
6 candidate (other than funds received through qualified small dollar contributions).

7 (c)(1) A candidate who has accepted contributions that are not qualified small dollar
8 contributions, or contributions described in subsection (a)(2) of this section before the date the
9 candidate files a statement of intent under section 7(a)(1) is not in violation of subsection (a) of
10 this section, but only if all such contributions are:

11 (A) Returned to the contributor;

12 (B) Submitted to the Oversight Office for deposit in the Elections Fund
13 established under section 13; or

14 (C) Spent in accordance with paragraph (2).

15 (2) If a candidate has made expenditures prior to the date the candidate files a
16 statement of intent under section 7(a)(1) that the candidate is prohibited from making under
17 subsection (b) of this section, the candidate is not in violation of such subsection if the aggregate
18 amount of the prohibited expenditures is less than 20% of the amount of an initial allocation to a
19 candidate under section 5(a)(1).

20 (3) Notwithstanding paragraph (1) of this subsection, unexpended contributions
21 received by the candidate or an authorized committee of the candidate with respect to a previous
22 election may be retained, but only if the candidate places the funds in escrow and refrains from
23 raising additional funds for or spending funds from that account during the election cycle in
24 which a candidate is a participating candidate.

25 (4) Contributions received and expenditures made by the candidate or an
26 authorized committee of the candidate prior to the effective date of this title shall not constitute a
27 violation of subsection (a) or (b) of this section. Unexpended contributions shall be treated the

1 same as campaign surpluses under paragraph (3) of this subsection, and expenditures made shall
2 count against the limit in paragraph (2) of this subsection.

3 (d) For purposes of this section, a payment made by a political party in coordination with
4 a participating candidate shall not be treated as a contribution to or as an expenditure made by
5 the participating candidate.

6 Sec. 11. Debate requirement.

7 A participating candidate shall, during an applicable election cycle, participate in at least:

8 (1) One public debate before the primary election, if the primary election is not an
9 uncontested election, with other participating candidates and other candidates from the same
10 party and seeking the same nomination as the participating candidate; and

11 (2) Two public debates before the general election, if the general election is not an
12 uncontested election, with other participating candidates and other willing candidates seeking the
13 same office as the participating candidate.

14 Sec. 12. Remitting unspent funds after election.

15 (a) Not later than 30 days after the last election, in an election cycle, for which a
16 participating candidate qualifies to be on the ballot, the participating candidate shall remit to the
17 Oversight Office for deposit in the Elections Fund established under section 13 an amount equal
18 to the lesser of the:

19 (1) Amount of money in the participating candidate's campaign account; or

20 (2) Sum of the allocations received by the participating candidate under section 5
21 and the payments received by the candidate under section 6.

22 (b)(1) Subject to subsection (a) of this section, a participating candidate may withhold
23 from the amount required to be remitted under subsection (a)(1) of this section, the amount of
24 any authorized expenditures that were incurred in connection with the participating candidate's
25 campaign but that remain unpaid as of the deadline applicable to the participating candidate
26 under subsection (a) of this section, except that any amount withheld pursuant to this paragraph

1 shall be remitted to the Oversight Office not later than 30 days after the date of the election to
2 which subsection (a) of this section applies.

3 (2) A participating candidate may withhold an amount of expenditure pursuant to
4 paragraph (1) of this subsection only if the participating candidate submits documentation of the
5 expenditure and the amount to the Oversight Office not later than the deadline applicable to the
6 candidate under subsection (a).

7 Sec. 13. Elections Fund.

8 (a) There is established as a special fund the "Elections Fund", which shall consist of the
9 following sources:

10 (1) Voluntary contributions;

11 (2) Amounts deposited into the Elections Fund under:

12 (A) Section 10(a) (relating to exceptions to contribution requirements);

13 (B) Section 12 (relating to remittance of allocations from the Elections
14 Fund);

15 (C) Section 14 (relating to violations); and

16 (D) Any other section of this act.

17 Sec. 14. Violations and Penalties.

18 (a) If a participating candidate accepts a contribution or makes an expenditure that is
19 prohibited under section 10(b), the Oversight Office shall assess a civil penalty against the
20 candidate in an amount that is not more than three (3) times the amount of the contribution or
21 expenditure. Any amounts collected under this subsection shall be deposited into the Elections
22 Fund established under section 13.

23 (b) If the Oversight Office determines that any benefit made available to a participating
24 candidate was not used as provided for in this law or that a participating candidate has violated
25 any of the dates for remission of funds contained in this act, the Oversight Office shall so notify
26 the candidate and the candidate shall pay to the Elections Fund an amount equal to:

27 (1) The amount of benefits so used or not remitted, as appropriate; and

1 (2) Interest on any such amounts at a rate determined by the Oversight Office.

2 Sec. 15. Fundraising for independent expenditures.

3 No candidate, whether or not a participating candidate, shall solicit funds, appear at a
4 fundraising event, or engage in other fundraising activity for any person making independent
5 expenditures that can reasonably be expected to support the candidate.

6 Sec. 16. Rulemaking.

7 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,
8 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules
9 to implement the provisions of this act.

10 Sec. 17. Applicability.

11 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved
12 budget and financial plan.

13 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect
14 in an approved budget and financial plan, and provide notice to the Budget Director of the
15 Council of the certification.

16 (c)(1) The Budget Director shall cause the notice of the certification to be published in
17 the District of Columbia Register.

18 (2) The date of publication of the notice of the certification shall not affect the
19 applicability of this act.

20 Sec. 18. Fiscal impact statement.

21 The Council adopts the fiscal impact statement in the committee report as the fiscal
22 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
23 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-8.02(c)(3)).

24 Sec. 18. Effective date.

25 This act shall take effect following approval by the Mayor (or in the event of veto by the
26 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
27 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

- 1 24, 1973 (87 Stat. 813; D.C. Official Code § 1-8.02(c)(1)), and publication in the District of
- 2 Columbia Register.