



GEORGIA GOVERNMENT TRANSPARENCY & CAMPAIGN FINANCE COMMISSION

Advisory Opinion No. 2017-02

In response to numerous informal requests to Commission staff, the Georgia Government Transparency and Campaign Finance Commission advises that a public officer who is term barred from seeking re-election should follow the non-election year filing schedule for filing campaign contribution disclosure reports ("CCDR"s) and a personal financial disclosure statement ("PFDS") pursuant to O.C.G.A. §§ 21-5-34(c)(1), 21-5-50(a)(1).

Question Presented

What filing schedule for filing campaign contribution disclosure reports and/or a personal financial disclosure statement should a public officer follow during their final year in office when said public officer is not permitted to seek re-election to the same office due to a term limit on that office?

Factual Background

After receiving numerous inquiries from state, county and municipal public officers, Commission staff seek guidance as to what campaign contribution disclosure report and personal financial disclosure statement filing schedule a public officer who is term barred should follow during their final year in office.

Discussion

The Campaign Finance Act, O.C.G.A. § 21-5-1, *et. seq.*, requires every public officer and candidate for public office to file periodic campaign finance disclosures and personal financial statements with the Commission in the form of CCDRs and PFDS, respectively. *See* O.C.G.A. §§ 21-5-2, 21-5-34(a)(1)(A), and 21-5-50(a)(1). While state level public officers and candidates for public office are required to electronically file directly with the Commission, local public officers and candidates for local public office are required to first file their disclosures with a local government agency which then serves as the officer's/candidate's proxy by transmitting those disclosures to the Commission. O.C.G.A. §§ 21-5-34(a)(1)(B)(3)-(4) and 21-5-50(a)(3)-(3.1).

The Act imposes different filing schedules for these reports for election years, non-election years, and subsequent supplemental reports after a campaign has ended.¹ With respect to the filing of

¹ An "election cycle" is defined by the General Assembly as "the period from the day following the date of an election or appointment of a person to elective public office through and including the date of the next such election

CCDRs, the Act requires elected public officers and candidates for public office who are raising and/or expending campaign contributions during a non-election year (*i.e.* a year in which no primary and/or general election will be held) must file CCDRs on January 31 and June 30. O.C.G.A. § 21-5-34(c)(1). Conversely, the Act requires more reporting during an election year (*i.e.* a year in which a primary and/or general election will be held), requiring filing of CCDRs on January 31, March 31, June 30, September 30, October 25, and December 31. O.C.G.A. § 21-5-34(c)(2)(A).

The main purpose for the increased disclosures during an election year is so that members of the general public can ascertain a public officer's/candidate's sources of contributions and end-recipients of campaign expenditures prior to voting for said persons in a primary and/or general election. Contributions and expenditures often increase substantially both in number and amount shortly before an election, making increased reporting with shorter reporting periods appropriate.

The facts presented, however, involve elected public officers who are term barred and so prohibited by law from seeking re-election to the office that they hold. The Act does not explicitly address such a situation. Since the officials cannot be candidates for the office they hold, there is no heightened public policy rationale to require them to file an additional four CCDRs for an election that they are not permitted to participate in and, ostensibly, for which they are not receiving contributions or making expenditures to run in.² See O.C.G.A. § 21-5-2. Thus, the Commission advises that public officers, who are term barred from seeking reelection to their present office should file CCDRs pursuant to the non-election year filing schedule contained at O.C.G.A. § 21-5-34(c)(1).

Likewise, in addition to the filing of CCDRs, the Act requires all public officers to file financial disclosures in the form of a PFDS for each calendar year that they seek and/or hold office. Unlike the CCDR, the requirement to disclose personal finances was implemented by the Georgia General Assembly so that members of the public could identify any potential "self-dealing" on the part of public officers and candidates for public office. The only major difference in the PFDS filing schedule in an election year and a non-election year is whether a public officer will file their PFDS on or before July 1 or within 15 days from the date they qualify for reelection to their current office. In fact, the CFA clearly holds that "[E]ach public officer...shall file with the commission not before the first day of January nor later than July 1 of each year in which such public officer holds office other than an election year a financial disclosure statement for the preceding calendar year[.]" O.C.G.A. § 21-5-50(a)(1). However, a public officer who has not qualified for election to succeed himself or herself in an election year is not required to file a PFDS during their final year in office pursuant to O.C.G.A. § 21-5-50(a)(6). In the case of a public officer who is term barred from seeking re-election, the Commission advises that such a public officer, who by law cannot qualify to succeed themselves, is not required to file a PFDS during the last calendar year of their final term in office.

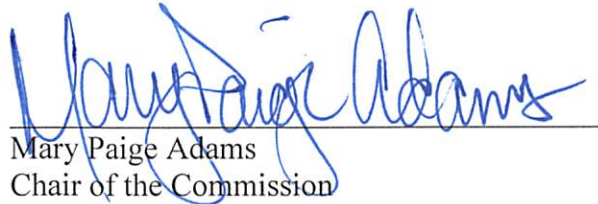
of a person to the same public office and shall be construed and applied separately for each elective office." O.C.G.A. § 21-5-3(10).

² Term barred public officers may seek another office, apart from their term barred office, and thus have a different filing schedule for the new office that is being sought.

Conclusion

The Georgia Government Transparency and Campaign Finance Commission advises that a public officer who is term barred from seeking re-election should follow the non-election year filing schedule for filing campaign contribution disclosure reports ("CCDR"s) and is not required to file a personal financial disclosure statement ("PFDS") pursuant to O.C.G.A. §§ 21-5-34(c)(1), 21-5-50(a)(6).

Advisory Opinion 2017-02 is hereby adopted by the Commission in conformity with O.C.G.A. § 21-5-6(13) on **September 21, 2017**.



Mary Paige Adams
Chair of the Commission

AO 2017-02 prepared by Stefan Ritter and Robert S. Lane.
May 12, 2017.