

**NOTICE OF INTENT TO ADOPT AN ADVISORY OPINION OF THE  
GEORGIA GOVERNMENT TRANSPARENCY AND  
CAMPAIGN FINANCE COMMISSION**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Government Transparency and Campaign Finance Commission (hereinafter "Commission") proposes to adopt:

**Advisory Opinion No. 2017-02**

This notice, together with an exact copy of the proposed advisory opinion is being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the advisory opinion may be reviewed during normal business hours of 8:30 a.m. to 4:30 p.m. Monday through Friday, except official State holidays, at the Georgia Government Transparency and Campaign Finance Commission, 200 Piedmont Avenue SE, Suite 1402 - West Tower, Atlanta, Georgia 30334. These documents will be available for review on the Georgia Government Transparency and Campaign Finance Commission website ([www.ethics.ga.gov](http://www.ethics.ga.gov)). Copies may be requested by contacting the Commission at 404-463-1980.

**A public hearing is scheduled to begin at 10:00 AM on June 14, 2017 in Room 606 at the Coverdell Legislative Office Building, 18 Capitol Square SW, Atlanta, GA 30334** to provide the public an opportunity to comment upon and provide input into the proposed advisory opinion. At the public hearing anyone may present data, make a statement, comment, or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to five (5) minutes per person. Written comments are welcome. Such written comments must be legible and signed, and should contain contact information from the maker (address, telephone and/or facsimile number, etc.). To ensure their consideration, written comments must be received on or before June 13, 2017. Written Comments should be addressed to Nancy Sandberg, Legal Administrative Assistant, Georgia Government Transparency and Campaign Finance Commission, 200 Piedmont Avenue SE, Suite 1402 – West Tower, Atlanta, Georgia 30334. Fax: 404-463-1988.

**The proposed advisory opinion will be considered for adoption by the Commission at its meeting scheduled to begin at 10:00 a.m. on June 14, 2017, at the Coverdell Legislative Office Building, Room 606, 18 Capitol Square SW, Atlanta, GA 30334.**

The Georgia Government Transparency and Campaign Finance Commission has the authority to adopt this advisory opinion pursuant to authority contained in O.C.G.A. § 21-5-6(b)(13).

This 12 day of May, 2017.

  
Stefan Ritter, Executive Secretary



## GEORGIA GOVERNMENT TRANSPARENCY & CAMPAIGN FINANCE COMMISSION

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### Advisory Opinion No. 2017-02

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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.<sup>1</sup> With respect to the filing of

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<sup>1</sup> 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.<sup>2</sup> 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). In the case of a public officer who is term barred from seeking re-election, the Commission advises that such a public officer must file a PFDS on or before July 1 during the last calendar year of their final term in office as said officer is not permitted to qualify for reelection and thus is not holding office in an "election year."

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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).

<sup>2</sup> 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 a personal financial disclosure statement ("PFDS") pursuant to O.C.G.A. §§ 21-5-34(c)(1), 21-5-50(a)(1).

Advisory Opinion 2017-02 is hereby adopted by the Commission in conformity with O.C.G.A. § 21-5-6(13) on **June 14, 2017**.

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Chair of the Commission

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