



CHARTER REVISION PLATFORM

New York City Charter Revision
September 2019

NKD recommends a “Yes” vote on all ballot questions.

In the November 2019 general election, New York City voters will have the opportunity to vote on five ballot questions, each of which will contain several proposed changes to the New York City Charter. There are 19 proposals grouped into five ballot questions and voters vote on each ballot question, not on each individual proposal. To help navigate these lengthy Charter revisions, NKD created a platform with an explanation of each of the questions to help inform voters.

Ultimately, **NKD is recommending a “YES” vote on all ballot questions.** For the most part, these proposals are insignificant: The criminal justice-related reforms are not harmful but do not go nearly far enough. The governance, ethics, and land use proposals are inconsequential and the budget proposals are technical adjustments. The ballot question most worth advocating for is the first, which institutes ranked choice voting, which would make crowded primary elections fairer and more democratic. More details on each of the proposals can be found [here](#). Ballot question language can be found [here](#).

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The New York City Charter

The New York City Charter is a document that outlines core powers and responsibilities for the City's elected and appointed officials, departments, and agencies. The Charter can be amended at any time through the regular legislative process and is amended frequently. Certain changes, however, require a public referendum (e.g., changes to create or eliminate an elected position) under New York State's Municipal Home Rule Law. A Charter Revision Commission is one method to generate these ballot initiatives. Once convened, the Commission is not limited to proposals that require public referendum, and it is not clear if any of the proposal produced by the 2019 Charter Revision Commission do.

BALLOT QUESTION #1: ELECTIONS AND REDISTRICTING

Proposals 1-3

NKD Recommendation: Vote Yes

Proposal 1: Ranked Choice Voting

If this proposal is approved by voters, all primary and special elections for New York City offices would use ranked choice voting, starting in 2021. Voters would be able to rank their top five choices in these elections. If no candidate wins a majority of the first-choice votes, voters' second (and sometimes third through fifth) choices would come into play [in a series of "instant runoffs,"](#) where last-place candidates are eliminated and votes are redistributed until one candidate gets over 50 percent of the vote. General elections and elections for federal and State offices, like Governor or Assembly, would keep using the current first-past-the-post system.

Elections that **WILL** use ranked choice under Proposal 1

Primary or Special Election for:

Mayor
Comptroller
Public Advocate
Borough President
City Council

Elections that **WILL NOT** use ranked choice under Proposal 1

Primary or Special Election for:

U.S. Congress, Senate, President
Governor, Lt. Gov., Attorney General
Assembly, State Senate
District Attorney

*November General Election:
for any office*

Arguments for:

- Ranked choice is a fairer way to decide elections with more than two candidates. Voters would not need to worry about wasting their vote on a less-well-known candidate, or about a similar candidate acting as a spoiler against their favorite.
- New York City would save money by eliminating costly, low-turnout runoff elections like the 2013 Public Advocate runoff.
- Ranked choice could encourage more positive campaigns, as candidates may not want to lose second-choice votes by attacking other candidates. ([Election lawyer Jerry Goldfeder made this argument in City & State.](#))



- Common Cause NY, the League of Women Voters, and others argue for Ranked choice in [their testimony for the Charter Revision Commission](#).
- NKD has used ranked choice for years in all our endorsement votes.

Arguments against:

- Some progressives worry that [ranked choice favors moderate candidates](#). Ranked choice demands that candidates reach out to all voters rather than just to a particular bloc. This could hurt any group that depends on a motivated minority of voters to win.
- Ranked choice elections are “a more cognitively difficult task than a single choice election,” especially in down-ballot races where it’s hard to know enough about the candidates to rank five of them ([Craig Burnett of Hofstra University](#))
- “Racial minorities tend to have lower rates of ballot completion,” though this seems to lessen over time ([Craig Burnett of Hofstra University](#))

Proposal 2: Timing of Special Elections

This proposal would extend the time between when a special election is announced and when it is held from 45 days to 80, allowing enough time to implement the new early voting requirements in State law and federal requirements for military voting.

Arguments for:

- This is a common-sense adjustment to election procedure that will ensure everyone gets a chance to vote.

Arguments against:

- None.

Proposal 3: Timing of Redistricting

This proposal changes the timeline for redrawing City Council districts based on the 2020 census, so that the new districts will be established in time for the 2023 primary elections. Recent changes to State law moved primaries to earlier in the year, necessitating this adjustment.

Arguments for:

- Like Proposal 2, this is a common-sense measure that keeps the City in compliance with State election law.

Arguments against:

- None.



BALLOT QUESTION #2: CIVILIAN COMPLAINT REVIEW BOARD

Proposals 4-8

NKD Recommendation: Vote Yes

Proposal 4: Structure of the Civilian Complaint Review Board

Currently, the Mayor effectively appoints all 13 members of the Civilian Complaint Review Board (CCRB), the entity with oversight of the NYPD. This proposal would add two additional seats to the board: one to be appointed by the Public Advocate and one to be jointly appointed by the Mayor and the Speaker of the Council. The latter appointee would serve as chair. The Council would be able to directly appoint members to the board without the need for mayoral approval.

Arguments for:

- This proposal would more equitably distribute power on the CCRB among elected officials, with the balance still residing with the Mayor. The Mayor, as executive, is in charge of the NYPD. The proposal might result in increased CCRB independence.

Arguments against:

- The CCRB has not been given the resources and statutory powers it needs to effectively serve as an oversight entity to the NYPD. Altering the balance of powers on the board does not improve these shortcomings and might distract from the larger policing reforms that need to take place.

Proposal 5: Guaranteed CCRB Budget

This proposal would require that the City provide the CCRB with enough funds to employ a staff equal to 0.65% of the number of uniformed police officers. The planned Fiscal Year 2020 NYPD uniform headcount is 36,113, 0.65% of which is 234. The current Fiscal Year 2020 headcount for the CCRB is 219.

Arguments for:

- The CCRB is intended to be an independent body, so it should have protections against defunding as political retaliation by the Mayor or City Council. A guaranteed budget can also improve the planning and efficiencies of the CCRB.

Arguments against:

- The [volume of complaints](#) to CCRB has been declining over time. In 2018, the CCRB received 3,412 complaints, a 28% decline over the prior year. If the number of complaints continues to decrease, a guaranteed budget reduces flexibility to adjust the CCRB's size.

Proposal 6: Deviation from Disciplinary Recommendations

Currently, the CCRB only has the authority to recommend discipline against officers it finds to have violated rules and policies; it is the police commissioner who must impose the recommended discipline. This proposal would require the commissioner to explain in writing to the CCRB why they chose to deviate from the CCRB's recommendation if they do so.

Arguments for:

- If a police commissioner chooses to ignore an independent body's disciplinary recommendation, the public should be made aware, and the commissioner should be compelled to provide an explanation.

Arguments against:

- The proposal does not go far enough.

Proposal 7: False Official Statements in CCRB Matters

Currently, the CCRB is not empowered to commence an investigation or recommend discipline against an officer who lies to the board in the course of its investigating police misconduct. This proposal would give the CCRB the power to do so.

Arguments for:

- Disciplinary actions are necessary to discourage police officers from being untruthful.

Arguments against:

- None.

Proposal 8: Delegation of Subpoena Power

Currently, only the CCRB board has the power of subpoena. This proposal would enable the CCRB to, by majority vote, extend subpoena power to the CCRB's executive director. The CCRB board could also vote to withdraw that power.

Arguments for:

- This proposal would allow for more efficient and nimble investigations into police misconduct.

Arguments against:

- The Charter intends for the CCRB to be guided by its board members. By delegating such an important power to the Executive Director, board members' roles may be seen as diminished.



BALLOT QUESTION #3: ETHICS + GOVERNANCE

Proposals 9-13

NKD Recommendation: Vote Yes

Proposal 9: Post-Employment Appearance Ban for Elected Officials and Senior Appointed Officials

Extend the prohibition on City officials appearing, including in an employment or lobbying capacity, before the branch of government in which they served from one year to two.

Arguments for:

- Former City officials have leveraged personal relationships from their time working in government when subsequently moving into the private sector. This proposal would extend the time former City employees are prohibited from doing so.

Arguments against:

- Extending the limit by a year may not make a discernible difference in this form of pernicious influence.

Proposal 10: Conflict of Interest Board Structure

Currently the Conflict of Interest Board has five members, all of which are appointed by the mayor. This proposal would allow the Comptroller and the Public Advocate to appoint one member each, leaving the mayor with three appointees. It would also require major decisions be approved by at least three members of the COIB (currently only requires two).

Arguments for:

- This would bring a more diverse set of perspectives to the issue of what constitutes a conflict of interest, with the Comptroller likely to bring an appointee more sensitive to financial conflicts of interest, and the Public Advocate acting as a voice for the elected “ombudsman”.

Arguments against:

- It is possible that the mayor, now only having a majority to appoint, will pack the board with loyalists.

Proposal 11: Campaign Contributions by Members of COIB

Reduce the maximum amount of money members of the Conflict of Interest Board are allowed to donate to local elections and prohibit them from otherwise participating in campaigns for local elected office.

Arguments for:

- Members of the board charged with overseeing conflicts of interest should not be providing financial support to the people they are supposed to be supervising.

Arguments against:

- None.



Proposal 12: M/WBE Citywide Director and Office

Enshrine in the Charter that there be a Minority and Women Owned Business (M/WBE) office within the Mayor's office and require that its director report directly to the Mayor. This is currently the case, however, as the office and position are not required by law, the next Mayor could do away with it.

Arguments for:

- Requiring an M/WBE director, and one that reports directly to the Mayor, theoretically elevates the importance of M/WBE contracting opportunities and ensures at least one person is working to ensure that M/WBEs have adequate access to contracting opportunities in every administration.

Arguments against:

- This is potentially only a cosmetic change. It is unclear how imposing an organizational reporting line would necessarily alter things materially if M/WBE was not a priority for a Mayor.

Proposal 13: Appointment of the Corporation Counsel

Currently the Mayor appoints the City's [Corporation Counsel](#), which in turn heads the City's law department. This proposal mandates that the City Council provide 'advice and consent' for the Mayor's choice.

Arguments for:

- Provides a check on the Mayor's selection of the lawyer that will represent the City, and ensures the City's interested are considered.

Arguments against:

- Constricts the Mayor's ability to form a team, and the Mayor may spend time persuading or negotiating with the City Council to consent to their original pick, and possibly have to "horse trade" with Council members.



BALLOT QUESTION #4: FINANCE

Proposals 14-17

NKD Recommendation: Vote Yes

Proposal 14: “Rainy Day” Fund

New York City is precluded from establishing a Rainy Day Fund (RDF) by its Charter and State law. This proposal would eliminate the restriction in the Charter so that if/when State law changes, the City could establish an RDF.

Arguments for:

- Having savings is an important part of financial management; it allows the City to save money in good economic times in order to buffer against service cuts and tax increases during economic slowdowns or contractions.

Arguments against:

- Won't have an immediate impact because the City is still limited by State law; the City has other mechanisms by which it can cushion the budget.

Proposal 15: Guaranteed Budgets for the Public Advocate and Borough Presidents

Currently, the budgets for the offices of the Public Advocate and Borough Presidents are set through the normal budgetary process. This proposal would guarantee that, at a minimum, their respective budgets would be set at or above the Fiscal Year 2020 levels and adjusted each fiscal year by the lesser of (i) inflation or (ii) percentage change in the City's total budget.

Arguments for:

- The current process allows political calculations to factor into the setting of the budgets.

Arguments against:

- Government is not static: an entity's usefulness and workload today is not necessarily what it will be in the future and so its continued funding should not be enshrined in the City's Charter.

Proposal 16: Revenue Estimate

While the City Council adopts the spending budget, it's the Mayor's responsibility to forecast tax, grant, and other revenues (i.e., to determine how much money there is to be spent). This proposal would require the Mayor to submit this revenue estimate earlier in the budget adoption process, by April 26 instead of June 5, with the option of updating in on May 25.

Arguments for:

- This proposal will allow the Council to have a better understanding of what monies are available for the coming year and adopt a spending plan in accordance.

Arguments against:

- By making the revenue estimate available earlier in the process, it is possible the estimate will become part of the budget negotiating process -- typically the Mayor is more conservative in their revenue estimates, while Council is less so. The City Council might therefore try to negotiate the revenue estimate upwards.



Proposal 17: Budget Modification Timing

This proposal would require the Mayor to submit budget modifications to the City Council for approval periodically throughout the fiscal year instead of all at once at the end of the fiscal year.

Arguments for:

- Would allow for periodic oversight over changes to the City's financial plan and ensure that the City's approved spending plan aligns with what's in the budget.

Arguments against:

- Adds administrative burdens on the Executive branch.



BALLOT QUESTION #5: LAND USE

Proposals 18-19

NKD Recommendation: Vote Yes

Proposal 18 ULURP Pre-Certification Notice Period

ULURP is a standardized process for reviewing certain zoning changes and dispositions. The goal is to let the relevant governmental bodies (City Planning Commission, Community Board, Borough Board, and other stakeholders) assess the impact of the proposed changes, make recommendations, and give community stakeholders an opportunity to have a say. The proposal specifically calls for a developer to provide a “project summary, sufficient in detail so as to put the affected community on notice of impending land use action” 30 days before the ULURP process begins to create a pre-certification notice period.

Arguments for:

- The “plain English” intent seems to exist to force a developer to state clearly the intent of their application and make it easily accessible to the public. Whatever your stance on development, it seems difficult to object to the requirement to clarity and transparency.

Arguments against:

- It’s not clear that a lack of transparency is the main shortcoming of the ULURP process, which tends to attract limited interest and is often co-opted by property owners at the Community Board level.

Proposal 19: Additional ULURP Review Time for Community Boards

This proposal would give Community Boards extra time to review land use proposals submitted to them in June and July for review in July and August, when they are not in session. Normally Community Boards have 60 days to complete their whole review.

Arguments for:

- Community Boards will have more time to solicit the opinion of their constituents.

Arguments against:

- The ULURP (Land Use) review process is already lengthy.



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