



October 28, 2008

VIA USPS AND EMAIL TO info@nyccfb.info

Sue Ellen Dodell
General Counsel, NYC Campaign Finance Board
40 Rector Street, 7th Fl
New York, NY 10006

Re: Draft Guidelines in Response to Potential Extension of Term Limits

I write regarding the Campaign Finance Board's (the Board) draft guidelines issued in response to the potential extension of term limits, which has since been passed by the New York City Council in Intro 845-A. Common Cause agrees with the Board's Chairman, Joseph P. Parkes, S. J., who stated in an Oct. 2 release:

"If the [term limits law] is changed... [w]e need to make it practical for candidates who wish to join the Campaign Finance Program to do so. We need to make sure we treat both incumbents and potential challengers fairly. And any solution should encourage—not discourage—competitive races for all offices covered by the Program."

Common Cause is concerned about various aspects of the draft guidelines, but we have not had adequate time to properly reflect on these complex matters. We therefore ask that the Board extend the deadline for comment submission to at least November 7, 2008. In the intermediary, however, please find out preliminary concerns below.

Common Cause holds two primary concerns regarding the draft guidelines:

- 1) **"Double- Dipping"** – Under Option A, candidates who had been running for higher office but now elect to run for their current office and freeze their higher office account, in essence, get to "double dip" with their funders. I.e., the candidates have the potential to raise significantly more money from an individual donor than would be permitted if they had only been running for their current office. Under Option A of the proposal, they are permitted to raise and keep contributions up to the higher limit under the higher office, freeze that money in the higher office account, and then, after the date of the advisory opinion, start a new account and go

back to the same contributors and get more money from them. While the candidate cannot spend the frozen money, they have obtained it and are most likely aware of the identity of the larger donors who are willing to "max out" twice in their support. This would seem to encourage the public perception that the larger donors, contributing twice in a relatively short period of time, are seeking to purchase influence or access with their cumulatively larger campaign contributions. This is problematic.

We are perplexed as to why Option A exists at all. We can easily see its advantage to incumbent candidates, who get to amass more campaign dollars. We fail to see the public policy advantage of Option A to the voter or the policy purposes of the campaign finance act which are to enhance the role of New York City residents in the electoral process, to amplify the impact of small contributions, and to enable more citizens to compete for public office.

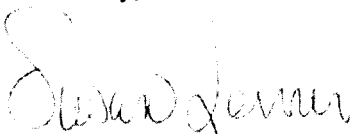
2) **Prior expenditures ignored** – We are concerned that amounts spent before the date of the advisory opinion do not count against any spending limit under either Option A or Option B. We believe that not applying any portion of the amounts spent prior to the date of the advisory opinion, other than the 15% fundraising allocation, overlooks the real practical and political benefit which the expenditures are likely to have for the candidate, irrespective of the office they ultimately run for in 2009. We believe that some portion of the amounts expended prior to the date of the advisory opinion should be allocated against the 2009 spending limit, in order to be fair to all 2009 challenger candidates. An allocation of between 15-25% of the amount actually spent should be made against the 2009 spending limit.

We believe Option B is the preferred option.

If the guidelines would permit both Option A and Option B, a course of action which we would not support, there should be an increase in the spending limit in 2009 equal to 5% of the monies refunded, as recognition of the increased book-keeping costs.

As stated above, we do not believe we have had adequate time to properly reflect on the implications these draft guidelines and we therefore ask that the Board extend the deadline for comment submission to at least November 7, 2008.

Sincerely,



Susan Lerner

Executive Director

Common Cause/New York