



## **New York City Campaign Finance Board**

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### **Testimony of Amy Loprest Executive Director New York City Campaign Finance Board**

**Charter Revision Commission  
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I am Amy Loprest, Executive Director of the New York City Campaign Finance Board.

Thank you for your service to the City, and for the invitation to appear before you here today. The review of the structure of our City government is a meaningful and vital task, and the Board and I are encouraged by the seriousness this Commission has brought to its early work.

The topic before you tonight is public integrity.

There is a clear link between the integrity of our public officials and campaign finance law. Any time elected officials or candidates solicit or receive funds from private sources, there is the potential for influence-seeking behavior to enter the political process. Justified or not, the public often perceives that political fundraising is itself inherently corrupt.

The Campaign Finance Program helps to mitigate the threat of actual or perceived corruption in City elections. By matching small contributions from City residents with public funds, the Program ensures that candidates for public office are not reliant on large private contributions. In addition to administering the Campaign Finance Program, the Board has two other key mandates: public disclosure, and voter education.

I'll start by speaking about how the Board was established, and its current structure. I will briefly talk about the work of the Board, and close with a proposal about how our work might be enhanced through changes to the Charter.

## **Board History and Structure**

The Campaign Finance Program was originally created with the enactment of Local Law 8 of 1988. Our system of public financing was created the same way that most significant campaign finance reforms are enacted in jurisdictions across the United States: as a response to scandal—specifically in this case, as a response to a scandal in the Parking Violations Bureau that had nothing at all to do with campaign finance.

The scandals of the mid-1980's did, however, highlight the potential for corruption when private money, politics, and governance converge. They eroded the trust New Yorkers had invested in their elected leaders. The leaders who created a public financing system for elections in New York City—the first of its kind in a jurisdiction this size—hoped that the reform would enhance ethics and promote greater public confidence in City government.

To administer the Program, the Campaign Finance Board was created by a 1988 Charter revision, approved by the voters with a 79 percent majority.

As you consider how best to approach further reforms to the structure of city government with the aim of enhancing public integrity, there are two principles governing the CFB's structure that have helped make our work successful: the Board is both nonpartisan and independent.

### Nonpartisanship

We are governed by a Board of five members. The Speaker of the City Council makes two appointments, as does the mayor. The two appointees may not be enrolled in the same political party. The Chair of the Board is appointed by the mayor, in consultation with the Speaker.

The arrangement is nonpartisan, as distinct from bipartisan. The Charter does not specify which parties, if any, the appointees must represent. The Board's nonpartisan nature has allowed us to build a staff of qualified professionals regardless of partisan affiliation. It also means that determinations on enforcement matters before the Board do not break down along party lines. Jurisdictions with bipartisan campaign enforcement bodies can often be paralyzed with partisan gridlock.

### Independence

The quality of the original appointments and staff leadership of the Board created a strong foundation for the Board's continued independence. The Board's founding chairman, Father Joseph O'Hare, was a member of the 1988 Commission that created the agency. Along with Nicole Gordon, my predecessor as Executive Director, Father O'Hare established from the start of his tenure that the Board would enforce the Campaign Finance Act for all candidates uniformly, without favor or bias. To illustrate,

the Board found violations of the Act against each of the mayors elected during his tenure as Chairman.

The 1998 Charter Revision Commission made two key proposals that enhanced the independence of the Board. The proposals, which were approved by referendum, established a method for the Board to fill vacancies when appointments are not made in a timely fashion and gave the Board independent budget authority.

The Board presents the mayor with its budget request in March. The mayor is required to include the Board's budget request in the Executive Budget he submits to the Council, without revision. The Commission noted specifically that this proposal was designed to "insulate" the Board from political pressure.

Other independent agencies, such as the Independent Budget Office, receive a fixed percentage of the overall budget. Allowing the Board greater control over its own budget provides it with the flexibility to more accurately budget public funds payments to candidates based on the circumstances of the pending election.

### **Campaign Finance Program**

These two essential qualities—nonpartisanship and independence—help the Board to be as effective as possible at achieving our central mandate, administering the Campaign Finance Program. For participants in the Campaign Finance Program, there are two key elements: matching funds and spending limits.

#### Matching Funds

Unlike other states with public financing programs, such as Arizona or Maine, that provide candidates with a flat grant of public money, New York City's system relies on matching funds. The Program matches the first \$175 of contributions from New York City residents at a rate of \$6 to \$1. The matching funds provide an incentive for candidates to focus their fundraising efforts on small-dollar contributions from individual New Yorkers, rather than relying on large gifts that may create the potential, or perception, of influence-seeking by donors who contribute large sums. As opposed to so-called "clean money" programs, candidates must continue to seek support from small donors throughout the campaign if they wish to realize the full benefits of the Program.

#### Spending Limits

In accordance with the Supreme Court's landmark 1976 ruling in *Buckley v. Valeo*, the public matching funds program is voluntary. Candidates who choose to join the Program agree to limit their overall spending. The spending limits ensure City elections do not become an endless chase for more, and larger, contributions. In a race between participating candidates, the spending limits mean that money will not be the deciding factor.

There are other provisions of the Campaign Finance Act that apply to all candidates, whether or not they choose to join the Program: contribution limits, including “doing business” limits, auditing, enforcement, and disclosure.

### Contribution Limits

To control the influence any single contributor may gain, all candidates must observe reasonable limits on the amounts and sources of contributions they may accept. Candidates for citywide office, for instance, may not accept contributions larger than \$4,950. Candidates may not accept contributions from corporations—a reform initiated by a proposal from the 1998 Commission. Since 2008, candidates have been barred from accepting contributions from limited liability companies and partnerships as well.

### “Doing Business” Limits

The 1998 Charter revision also directed the Board to find a way to regulate contributions from those who do business with city government. That mandate led to legislation enacting strict, low limits on so-called “pay-to-play” contributions that are among the broadest of any jurisdiction in the nation. The limits cover lobbyists, contractors, applicants to the land use review process, and other individuals with an interest in decisions about government resources. The pay-to-play law, enacted in 2007, survived a court challenge last year in *Ognibene v. Parkes*.

### Auditing & Enforcement

To ensure compliance with the requirements of the Act and Board rules, the Board audits every campaign, before, during, and after the election. Each campaign is held to an equally high standard of compliance; candidates know we will enforce the law against their opponent the same way we enforce the law against them.

If public funds are not spent for the purpose the law intends, or if their use is not properly documented, they must be returned to the taxpayers. Violations of the Act may result in financial penalties. Candidates, treasurers, and campaign committees are held liable for penalties and repayments of public funds.

### Candidate Services

Our Candidate Services Unit provides detailed training for campaigns in the requirements of complying with the law and Board rules, and is available daily by phone, by email, or in person to answer any questions candidates may have. In addition, Candidate Services staff trains campaign personnel to use the CFB’s filing software, and provides assistance in completing their disclosure filings.

## Disclosure

Complete, instantaneous public disclosure provides transparency and accountability to the campaign finance system. All candidates must submit regular reports of their fundraising and spending to the CFB, which makes the information available to the public through its website on a real-time basis. The CFB's online public database is regularly updated with current information and is fully searchable. Users can search contributions, for example, by a contributor's name, employer, zip code, or other criteria.

We collect disclosures electronically, through software provided to campaigns without charge. Our proprietary filing software is evaluated and updated after each election to ensure it continues to meet candidates' needs.

In addition to informing the public through disclosure, the Board also provides voter education through its Voter Guide and Debate Program.

## Voter Education

The Campaign Finance Act and the Charter give the CFB significant additional mandates to provide information to voters about candidates, and to encourage educated participation by voters in the political process.

We produce a nonpartisan Voter Guide, which is mailed to every household with a registered voter before the primary and general elections. Along with information about voting, the Guide contains candidates' bios, photos, and answers to questions about issues. The CFB Voter Guide also provides information about ballot questions, including a plain-language summary of the proposals, arguments for and against, and statements submitted by the public. If this Commission places a question before the voters in the fall, we will produce a citywide Guide. The printed Guide is produced in English and Spanish for the entire city, and in Chinese and Korean for selected areas consistent with the Voting Rights Act.

The CFB also produces an interactive online Guide available on our website, which contains links to video statements created by candidates for the Video Voter Guide. The CFB played a significant role with the Voter Assistance Commission in producing the Video Guide, providing staff, budgetary, and organizational support, using our relationships with campaigns to arrange appointments for candidates to record their statements.

The Board also produces a series of debates before the primary and general election. Candidates for citywide office who participate in the Campaign Finance Program and meet a certain financial threshold are required to take part in debates, which are broadcast on television and radio, and streamed live on the internet.

## Participation

In the final analysis, the Program is most effective if candidates believe it can help them run competitive campaigns. It is indeed the case that participation in the Program has increased over time. For the 2009 elections overall, 79 percent of candidates on the ballot joined the Campaign Finance Program. In the primaries, 93 percent of candidates on the ballot opted in, equaling the highest participation rate in the Program's 20-year history.

One reason participation remains high is that the Program has kept up with the rapidly-evolving nature of New York City's political system. The Campaign Finance Act mandates the Board to perform a thorough post-election review of the Program, and make recommendations for further reforms. This regular four-year review helps keep the Act current, and ensures candidates will find it practical to participate.

## **Disclosure of Independent Expenditures**

The Board's mandate to recommend changes to the law allows the Board to propose specific remedies to particular challenges. The recent Supreme Court decision in *Citizens United*, which struck down Federal restrictions on independent spending in elections by corporations and other actors, highlighted a significant disclosure gap in City elections.

The *Citizens United* decision has the potential to further encourage independent spending in elections at every level of government, including in New York City. Yet the Campaign Finance Act does not provide for any disclosure of independent expenditures.

Despite the existing limits on direct contributions, the law allows corporations, unions, wealthy individuals, and other special interests to spend freely to elect or defeat candidates in New York City elections, as long as the spending is independent. The disclosure gap means that this potential source of influence is blocked from public view.

We urge the Commission to consider amending the Charter to require disclosure to the Board of independent expenditures that support or oppose candidates in City elections. There is more information about this proposal in the materials you have been given.

I appreciate your invitation to address the Commission this evening, and I look forward to your questions.