

Testimony by
Deanna Bitetti, Associate Director of Common Cause/New York
to the
Campaign Finance Board of New York City
Re: Charter Requirements for Disclosures of Independent Expenditures

Good morning Chairman Parkes and Executive Director Loprest and members of the New York City Campaign Finance Board. Thank you for the opportunity to speak today. My name is Deanna Bitetti, and I am the Associate Director of Common Cause/New York. Common Cause/NY is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause/New York has been a long-standing advocate for innovative campaign finance and ethics laws in New York, as well as throughout the country. Common Cause has remained a steadfast and ardent supporter of campaign finance reform – including advocating for public financing of elections and greater transparency and disclosure of independent expenditures. We have been involved in supporting, crafting, and ultimately passing, virtually all of the public funding systems that are functioning at the state and national level, as well as numerous municipal level systems, including the highly regarded public funding of elections system in New York City.

Common Cause/NY has also been a long standing supporter of requiring the disclosure of independent expenditures in city elections. As a result of this glaring gap in New York City's Campaign finance laws independent actors –such as corporations, political parties, or labor unions – are able to spend freely in New York City elections, with their actions largely hidden from public view or scrutiny. We welcomed and supported the ballot measure that would require the disclosure of independent expenditures and reporting requirements for all individuals and entities spending \$1000 or more to support or oppose any candidate for municipal office or city referendum, including requiring all literature and communication related expenditures to in the amount of \$1000 or more to identify the source of its funding, as well as any group that makes aggregate independent expenditures in the amount of \$5000 or more.

The current political landscape, which is easily dominated by big money contributors -a situation compounded by the U.S. Supreme Court's Citizens United decision, as we saw in last year's election- has fostered great momentum around the nation in support of increased disclosure of independent expenditures. As heavily documented by good government and other watchdog groups around the nation, spending by independent groups has more than tripled since the last congressional mid-term elections in 2006 after the Citizen United case struck down restrictions

on independent expenditures. The court has decided that corporations and unions have the same right to political free speech as we the people. Now some of America's most powerful special interests are pouring money into television issue advertising to influence America's elections while keeping their identities secret. Groups like Karl Rove's American Crossroads for example spent large amounts of money in independent expenditures to defeat Congressional candidates across the nation. The decision also paved the way for Super PACs—a new breed of an Independent Expenditure Political Action Committee that permit corporations and unions to spend unlimited funds explicitly advocating for or against specific candidates.

We have, over the years, in study after study detailed a deeply disquieting situation. It is one that causes the public to perceive that special interest campaign dollars and not the public interest is a controlling factor in elections. New York City's system of providing public matching funds to candidates mitigates the impact of special interest dollars in our city elections and emphasizes and amplifies the impact of small dollar donations and encourages district and voter directed campaigning over “dialing for dollars” and special interest fund-raising. Requiring reporting and disclosure of independent expenditures increases the transparency in our city elections by providing voters with have more information about persons and groups who spend money to influence the outcome of New York City elections in order that they can make informed decisions on who to vote for and by allowing them to know who paid for the campaign mailings, commercials, and other communications they see and hear during elections.

In regards to the proposal as outlined by the Campaign Finance Board Hearing Notice in requesting suggestions and comments on the specific scope of regulated activity, including what information should be required of those who must disclose and what exemption, if any, should be made for groups and/or individual donors Common Cause/NY continues to review many aspects of the proposal. The rules governing communications expenditures as already defined by the Campaign Finance Board are comprehensive and we believe that utilizing a combination of all of the outlined requirements would be a more robust reporting system. In regards to expenditures for other electioneering activities, the rationale behind a robust independent expenditure reporting system is **not** to capture that of grassroots activism. Actions by volunteers for example should not be ascribed as in-kind donation, but out of pocket expenses or staff time by any group or individual in the amount of the outlined proposal of \$1000 or more on materials or staff time should be disclosed.

Common Cause/NY believes that the Campaign Finance Board should require as much information as needed in order to check whether the materials comply with the charter requirements for disclosure and to insure that the information adequately allows for as much transparency to the voter. This includes detailed expenditures, including the name of the payee/vendor receiving the independent expenditures, if the expenditure was made to support or

in opposition to a specific candidate or ballot measure and the purpose or explanation of the expenditure, in addition to of course such information as date of expense, address of the groups and website as well as other identifying information so to allow the voter to identify the group who is making these expenditures.

In regards to reporting of expenditures, FEC rules for Federal elections mandate that when independent expenditures that are broadcast up to and including the 20th day before an election are made, the activity, including the purpose of the expenditure and the name of the candidate supported or opposed must be disclosed within 48 hours. Common Cause/NY agrees with an expedited reporting timeframe for reporting expenditures. If the expenditure for the campaign literature or advertisements by a political committee is an independent expenditure, Common Cause/NY feels strongly that the political committee, in addition to the disclosures required, should include on the literature or advertisement the names and telephone numbers and websites if applicable of the **three political committees making the largest contributions** to the political committee making the independent expenditure. If an acronym is used to name any political committee the name of any sponsoring organization of the political committee should also be printed or spoken. This is similar to the current law in California and do not believe that it creates an onerous or burdensome requirement for groups. A two tiered approach as outlined by the Campaign Finance Board for creating a reasonable time frame by which groups must provide a comprehensive list of funders is sensible and we look forward to working further with the Board to establish what can be deemed reasonable.

Common Cause/NY agrees with the exemptions spelled out for media and press and further believes that monies earmarked for non political spending by small donors should be exempt from disclosure. We assume that independent expenditures should be made by committees formed for this specific purpose. Therefore any monies not specifically allocated to PACs or committees formed will not be required to be disclosed.

We remain leery of the CFB proposing any rules to establish an exemption prior to litigation by groups that seek to prevent disclosure or by the agency attempting to compel a group to disclose. These occurrences are situational and it is too difficult to create a meaningful standard by which groups would be exempted. The language would either be way too broad or way too specific. One alternative suggestion is to think about a possible petitioning procedure whereby groups would petition the CFB for exemption, allowing for testimony from groups and witnesses attempting preventing disclosure. But any process would have to be careful vetted and thought out.

In regards to outreach measures, the board should insure that constant trainings are provided for elected officials, political action committees, groups such as labor organizations, and campaign directors, political consultants and any individual that is interested in running for office. In addition an easy to understand training manual should be provided for download on the website, in addition to providing information about reporting of independent expenditures in the 2013

Voter Guide. In the meeting notice the CFB referenced that it “has little contact with potential independent actors.” One approach to increase outreach among independent actors is to provide trainings at public places, such as City University schools, local community board or civic group meetings and highlighting the changes to the reporting requirements on local news media stations.

In regards to the enforcement mechanisms the Board should investigate both complaints of violations as well as initiate investigations of unreported activity, reviewing as stated existing rules that govern campaigns and third-party expenditures. Disclaimer and identifiers should be standardized. Certain communications may be exempted from such requirements, such as small items.

Common Cause/NY is once again extremely supportive of requiring the disclosure of independent expenditures and thanks the Campaign Finance Board for hosting this hearing. We look forward to continuing to work with the CFB to strengthen and enhance independent expenditure reporting requirements. Thank you once again for providing me with the opportunity to speak today.